

Town Of Clarkton
Charter and Code of Ordinances

Adopted : August 5th, 2025

Jerome Myers, Mayor
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Prepared by:

Lumber River Council of Governments
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The Town of Clarkton was incorporated as a municipality under the laws of the State of North Carolina in 1861 through Chapter 129 of the *Private Laws*.

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CHARTER

CHAPTER 129 of the PRIVATE LAWS of 1887, as amended by CHAPTER 8 of the PRIVATE LAWS of 1921, CHAPTER 310 of the PRIVATE LAWS of 1967.

SECTION 1. INCORPRATION

That the Town of Clarkton, in the county of Bladen is hereby incorporated by the name of Clarkton, and shall be subject to all the provisions of law now existing in reference to incorporated towns.

(Sess. Laws 1901, Section 1, Ch. 299.)

SECTION 2. CORPRATE LIMITS

The corporate limits of the town shall be as follows: Beginning at a post by Whiteville Road near Mears tobacco barn, and runs east to the southwest corner of Currie Bros. Farm : thence with their Northeast line to S.A.L.R.R., at Cromartles brickyard, and continuing the same course to the public road near J. M Johnstons: thenceforth north with this road to G. L. Clarks and A.S. McCullum's corner, on the Elizabethtown Road: thence west in a direct line to a post by the road in front of Pruneys Brown's house, near J. M. mcleods corner; thence south west to a post by the Abbottsburg Road, about fifty yards north of Gaston Hester's house; thence southwest to Sandy Burney's south corner; thence south east to the beginning corner, near Mears Tobacco Barn.

(Sess. Laws 1901, Section 2, Ch. 299.)

SECTION 3. ELECTIONS

An election shall be held in the Town of Clarkton on the Tuesday after the first Monday in November 1985, and biennially thereafter for a mayor and three commissioners according to the nonpartisan plurality method of election pursuant to Articles 23 and 24 of Chapter 163 of the General Statues.

(Sess. Laws 1985, Section 3, Ch. 36.)

SECTION 4. MAYOR, BAORD OF COMISSIONERS

That the Mayor and Commissioners shall form a council, and may make, publish and enforce ordinances for the government of said town, not inconsistent with the Constitution and laws or North Carolina, or of the United States.

(Sess. Laws 1901, Section 4, Ch. 299.)

SECTION 5. EFFECTIVE DATE

That this act shall be force from and after its ratification. In the general assembly read three times, ratified this the 9th day of March, A.D. 1901.

(Sess. Laws 1901, Section 5, Ch. 299.)

CODE OF ORDINANCES

TITLE I – USE OF CODE**CHAPTER 1. – GENERAL PROVISIONS****SECTION 1-1. - HOW CODE DESIGNATED AND CITED.**

The provisions in the following chapters and sections shall constitute and be designated "Code of Ordinances, Town of Clarkton, North Carolina," and may be so cited. Such code may also be cited as the Clarkton Town Code.

(Code 1991, § 1 1.01)

SECTION 1-2. - INTERPRETATION.

- (a) Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of the General Statutes of North Carolina.
- (b) Where a section of this code is followed by a reference to the General Statutes of North Carolina, the reference indicates that the section is analogous or similar to the cited sections in the General Statutes of North Carolina. Footnotes, cross-references, and other comments are by way of explanation only and should not be deemed a part of the text of any section.
- (c) Nothing herein contained is intended to conflict with or supersede applicable state or federal laws.
- (d) Code, title, chapter, and section headings do not constitute any part of the law as contained in the code.

SECTION 1-3. - CAPTIONS.

The captions of the several sections of this code 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 thereof, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the captions, are amended or reenacted.

SECTION 1-4. - DEFINITIONS AND RULES OF CONSTRUCTION.

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the Board of Commissioners or the context clearly requires otherwise.

BOARD OF COMMISSIONERS. The governing body of the Town of Clarkton, North Carolina.

COMPUTATION OF TIME. In computing any period of time prescribed or allowed by this Code or by order of court, the day of the act, event, default or publication after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half-holiday shall be considered as other days and not as a holiday. Eastern Standard Time shall be the official time except during that period when what is commonly known as "daylight saving time" is in effect through adoption by the Board of Commissioners or otherwise.

State Law Reference— *Computation of time, N.C. GEN. STAT. § 1-593.*

COUNTY. Bladen County, North Carolina.

DELEGATION OF AUTHORITY. Whenever a provision of this Code requires or authorizes an officer or employee of the town to do some act or perform some duty, it shall be construed to authorize the officer or employee to designate, delegate and authorize subordinates to perform the act or duty unless the terms of the provision designate otherwise.

IN THE TOWN. Any territory jurisdiction of which for the exercise of its regulatory power has been conferred on the town by public or private law.

MONTH. A calendar month.

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

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

PERSON. A corporation, firm, partnership, association, organization, and any other group acting as a unit, as well as an individual.

PERSONAL PROPERTY. Every species of property, except real property as herein defined.

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

PROPERTY. Real and personal property.

REAL PROPERTY. Lands, tenements, and hereditaments.

SCHEDULE OF FEES AND CHARGES. The official list maintained in the office of the collector of revenue, compiled in accordance with the provisions of N.C. GEN. STAT. Section 150B-77, which establishes rates for utility or other public enterprises in addition to fees of any nature as determined from time to time by the Board of Commissioners.

SHALL and **MAY.** The word **SHALL** is mandatory, and the word **MAY** is permissive.

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

SIGNATURE or **SUBSCRIPTION.** A mark when a person cannot write.

STATE. The State of North Carolina.

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

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

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

TOWN. The Town of Clarkton in the County of Bladen and the State of North Carolina.

WRITING or **WRITTEN.** Shall include printing and any other mode of representing words and letters.

YEAR. A calendar year.

State Law Reference— *Rules for construction of statutes, N.C. GEN. STAT. § 12-3.*

SECTION 1-5. - AMENDMENTS TO CODE.

Any chapter, section, or division amended or added to this code by ordinances passed subsequent to this code may be numbered in accordance with the numbering system of this code and printed for inclusion herein. Any chapter, section, or division repealed by subsequent ordinances may be excluded from this code by omission from reprinted pages. Subsequent ordinances as printed or omitted shall be prima facie evidence of the subsequent ordinances until the legislative body of the town adopts a new code of 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 of this Code and printed for inclusion in the Code. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such 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 of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the board of commissioners.
- (b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section or subsection number of this Code in the following language: "That section (or subsection) _____ of the Code of Ordinances, Town of Clarkton, North Carolina, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.
- (c) If a new section or subsection not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, Town of Clarkton, North Carolina, is hereby amended by adding a section (or subsection), to be numbered _____, which said section (or subsection) shall read as follows:" The new section shall then be set out in full as desired.
- (d) 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 1991, § 1.1.08)

SECTION 1-6. – CONFLICTING PROVISIONS.

If the provisions of different codes, chapters, or sections of the codified ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be construed so as to be consistent with the meaning or legal effect of the subject matter taken as a whole.

SECTION 1-7. – REFERENCES TO OTHER SECTIONS.

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

SECTION 1-8. – REFERENCES TO OFFICES.

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

SECTION 1-9. – ERRORS AND OMISSIONS.

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

SECTION 1-10. – OFFICIAL TIME.

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

SECTION 1-11. – REASONABLE TIME.

- (a) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.
- (b) In computing any period of time prescribed or allowed by this code, by order of any court, or by any applicable statute, such computation shall be in the manner prescribed by Rule 6 of the North Carolina Rules of Civil Procedure.

SECTION 1-12. – EXTRATERRITORIAL JURISDICTION.

In conformity with N.C. GEN. STAT.160D, Art. 19, the town shall henceforth exercise planning and zoning jurisdiction of an area surrounding the town, which shall not extend beyond the town line a distance greater than one mile. The legal description of the extraterritorial area and a map of same shall be prominently displayed in the town hall.

(Ord. passed 2-14-72)

Statutory reference: *Extraterritorial jurisdiction for enforcement of planning and development regulations, see N.C. GEN. STAT. § 160D-360*

SECTION 1-13. – TOWN SEAL.

The Town Clerk shall be custodian of the Town Seal, and shall affix such seal to all documents which by law are required to bear such seal, when directed to do so by competent authority.

SECTION 1-14. - WHEN ORDINANCES EFFECTIVE.

Every ordinance enacted by the Board of Commissioners shall be in force and effect as soon as passed, published or posted, unless otherwise ordered.

SECTION 1-15. - RECORDING OF ORDINANCES.

Every ordinance passed by the Board of Commissioners shall be immediately recorded in a book provided for this purpose by the Board, which book shall be known as the "Original Code of the Town of Clarkton," under the proper chapter and article or shall be recorded in its entirety in the minutes, according to context, and shall be placed and assigned the proper section number.

SECTION 1-16. - SUPPLEMENTATION OF CODE.

- (a) By contract or by town personnel, supplements to this Code shall be prepared on a regular basis. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the Board of Commissioners during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the 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, the 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 the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive 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 subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings and titles;

- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other non-substantive changes necessary to preserve the original meanings of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

SECTION 1-17. - 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 Board of Commissioners, which will cause the law of the town to be misrepresented thereby.

SECTION 1-18. - LIABILITY OF CORPORATE OFFICERS, AGENTS AND EMPLOYEES FOR VIOLATION OF CODE.

For a violation of any provision of this Code or other ordinance of the town by a corporation, the officer, agent or employee thereof who performs the act constituting the violation or procures, aids or abets the performance of such act shall be subject to the same penalties as if they themselves had committed such violation.

SECTION 1-19. - PENALTIES AND REMEDIES FOR CODE VIOLATIONS.

- (a) Unless otherwise specifically provided, violation of any provision of this code or any other town ordinance shall be a misdemeanor, as provided by N.C. GEN. STAT. §14-4.
- (b) Any provision of this code or any other town ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the town for equitable relief that there is an adequate remedy at law.
- (c) 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, and the general court of justice shall have jurisdiction to issue such orders. When a violation of such a provision occurs, the town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the State Rules of Civil Procedure in general and Rule 65 in particular.
 - a. In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. 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 code or the ordinance.

- i. 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.
 - ii. 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.
- b. 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. 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. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.
- (d) The provisions of this code and any other town ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.
- (e) Except as otherwise specifically provided, each day's continuing violation of any provision of this code or any other town ordinance shall be a separate and distinct offense.
- (f) Any violation of any provision of this code or any other town ordinance shall subject the offender to a civil penalty in the amount set by the Board of Commissioners. Violators shall be issued a written citation, which must be paid within ten days. Each day's continuing violation shall be a separate and distinct offense. The Town Attorney is hereby authorized to file suit on behalf of the town to collect any unpaid citations and the Town Clerk is hereby authorized to verify and sign complaints on behalf of the town in such suits.

State Law Reference— *Violation of town or town ordinances declared a misdemeanor punishable by fine not exceeding \$50.00 or imprisonment not exceeding 30 days, N.C. GEN. STAT. § 14-4.*

SECTION 1-20. - ORDINANCES NOT AFFECTED BY CODE.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the town or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness;
- (3) Any contract or obligation assumed by the town;
- (4) Any ordinance fixing the salary of any town officer or employee;
- (5) Any right or franchise granted by the town;
- (6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., 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 therefore;
- (10) Any zoning ordinance;
- (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 in this Code;
- (15) Any ordinance establishing or prescribing street grades in the town;
nor shall such ordinance be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this chapter; and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

SECTION 1-21. - EFFECT OF REPEAL OR EXPIRATION OF ORDINANCES.

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.

- (a) The repeal of an ordinance or its expiration by virtue of any provision contained therein shall not affect any right accrued, any offense committed, any penalty or punishment incurred or any proceeding commenced before the repeal took effect or the ordinance expired.
- (b) When an ordinance which repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

State Law Reference— *Effect of repeal, N.C. GEN. STAT. § 12-2.*

SECTION 1-22. - PROVISIONS CONSIDERED AS CONTINUATIONS OF EXISTING ORDINANCES.

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

SECTION 1-23. - SEVERABILITY OF PARTS OF CODE.

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 or otherwise invalid by the judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since they would have been enacted by the board of commissioners without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

SECTIONS 1-24.- CORPORATE LIMITS

Whereas the Town of Clarkton has previously received annexation petitions by the owner of the property described herein; and, Whereas, after investigation of the sufficiency of said petitions by the Clerk, the Board

hereby gave notice of its intention to annex said property into the Town limits of the Town of Clarkton; and, Whereas, after due notice and a public hearing as required by N.C. Gen. Stat. §160D-58.2 the Board of Commissioners voted to annex the property described herein into the Town Limits of the Town of Clarkton; NOW THEREFORE, BE IT ORDAINED that the Corporate Limits of the Town of Clarkton are hereby extended to include the following tracts of land adjacent to the existing corporate limits: Being all of the tract owned by Timothy Creech, identified as tax Parcel 1207-14-42-2826 and being more fully described as tract one in a deed recorded in Book 590, page 147 of the Bladen County Registry, as being in Brown Marsh Township, Bladen County, NC and more particularly described as follows: Lots One-A (1-A), Three (3), and Two-B (2-B) as shown on a map, entitled "Map No. 1, The W. E. Allen Land" by Stuart Gooden, Registered Surveyor, Dated September, 1960, and duly recorded in Book of Maps Number 6, at page 110, Office of the Register of Deeds for Bladen County, to which map reference is made for greater certainty of description. Lot 1-A contains 8.22 acres; Lot 2-B contains 4.90 acres, and Lot 3 contains 8.33 acres as shown on the aforesaid map of survey.

BEING all that tract of land containing a gross area of +/- 21.39 acres (931,542 square feet) located in Brown Marsh Township, Bladen County, North Carolina; said tract being Lot 1-A, Lot 2-B and Lot 3 as shown on Map Book 6, Page 150 and described in Deed Book 590, Page 147 of the Bladen County Registry and being more particularly described by courses based on North Carolina Grid Coordinate System (NAD83/2011) and distances according to a survey entitled "ALTA/ACSM Land Title Survey for Gainey Farm, LLC for Cypress Creek Renewables, LLC" prepared by McKim & Creed, Inc. dated March 3, 2015 and being more particularly described as follows: COMMENCING at a Rebar/Cap set having NC Grid (NAD83/11) coordinates of Northing = 272,864.72 feet, Easting = 2,104,975.27 feet; thence as a line south 35 deg. 28 min. 02 sec. east 313.31 feet to a P. K. Nail set in the center of U.S. Hwy. 701 Business, said point being the northeastern corner of Lot 3 as shown on Map Book 6, Page 150, the POINT OF BEGINNING; thence with the eastern property line of Lot 3 the following two calls: (1) south 53 deg. 29 min. 27 sec. west 39.47 feet to an iron pipe found and (2) south 53 deg. 29 min. 27 sec. west 288.58 feet to an iron pipe found in the property line of Sue Pigott and Jill Collins (Plat Book 6, Page 134); said iron pipe found being the southwestern corner of Dixie Victoria Britt property (Map Book 6, Page 110); thence with northern and western property lines of Sue Pigott, Jill Collins and Edmund Mackey Bleich the following two calls: (1) north 68 deg. 07 min. 01 sec. west 155.47 feet to an iron rod set and (2) south 17 deg. 35 min. 46 sec. west 289.93 feet to an iron rod set; thence with the northern property line of the Bladen County Board of Education and Marlowe Farm, LLC north 48 deg. 10 min. 23 sec. west 1311.29 feet to an iron rod set; thence north 09 deg. 20 min. 00 sec. east 164.68 feet to an iron rod set in the center of a ditch; thence with the center of a ditch, said ditch being the southern property line of Marlowe Farm, LLC (Deed Book 606, Page 801) and Samantha Elkins Mix (Deed Book 653, Page 847) the following four calls: (1) north 80 deg. 21 min. 54 sec. east 452.22 feet to an iron rod set, (2) north 80 deg. 49 min. 08 sec. 231.61 feet to an iron rod set, (3) north 51 deg. 51 min. 27 sec. east 172.88 feet to an iron rod set and (4) north 51 deg. 51 min. 27 sec. east 29.19 feet to an iron rod set in the centerline of U.S. Hwy. 701 Business; thence with the centerline of U.S. Hwy 701 Business (allowing 60' feet for the right-of-way) the following six calls: (1) south 37 deg. 13 min. 09 sec. east 641.20 feet to a P. K. Nail set, (2) south 37 deg. 01 min. 32 sec. east 100.00 feet to a P. K. Nail set, (3) south 36 deg. 10 min. 02 sec. east 100.00 feet to a P. K. Nail set, (4) south 34 deg. 25 min. 33 sec. east 100.00 feet to a P. K. Nail set, (5) south 34 deg. 45 min. 02 sec. east 100.00 feet to a P. K. Nail set and (6) south 23 deg. 25 min. 51 sec. east 137.37 feet to a P. K. Nail set; the Beginning Point and containing +/- 21.39 acres (931,542 square feet). This being the same property as described in Deed Book 590, Page 147 and shown on Plat Book 6, Page 110.

SECTIONS 1-25. – 1-26. - RESERVED.

TITLE 2 – ADMINISTRATION**CHAPTER 1: BOARD OF COMMISSIONERS****SECTION 2-1. – MEETINGS**

- (a) The Board of Commissioners shall meet in the town hall at 6:00 p.m. on the first Tuesday of each month; provided, that when the first Tuesday of any month falls upon a holiday then, for that month, the regular meeting shall be at 6:00 p.m. on the following Tuesday.
- (1) The Mayor, Mayor Pro Tempore, or any two Commissioners may call a special meeting of the Board of Commissioners by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the Mayor and each Commissioner or left at his usual dwelling place at least six hours before the meeting.
- (2) At any special meeting of the Board of Commissioners only such business shall be-transacted as stated in the call for the meeting unless all members are present or have signed a written waiver of notice.

Statutory reference: *Meetings, see N.C. GEN. STAT. § 160D-71*

SECTION 2-2. – ATTENDANCE AT MEETINGS

It shall be the duty of the Mayor and each Commissioner, the Town Clerk, Town Attorney, Town Finance officer, to attend every meeting of the Board of Commissioners unless excused by the Board.

('70 Code, 2009 S-5 Supplement, § 2-12) (Ord. passed 1912; Am. Ord. 1, passed 7-1-59)

SECTION 2-3 – OATH OF OFFICE.

The Mayor, each member of the Board of Commissioners and each member of every Town Board or Commission shall take the oath prescribed by the state constitution and the Charter.

State Law Reference— *N.C. Constitution, Article. 6, Section 7.*

SECTION 2-4. – RULES OF PROCEDURES

- (a) Opening of meeting. At the hour appointed for the meeting of the Board of Commissioners, the Mayor shall take the chair and direct a call of the members by the Town Clerk, who shall note the absentees. If a quorum be not present the Mayor shall send for absentees, and, upon the appearance of a quorum, shall call the meeting to order and proceed to business; but, if a quorum fail to attend, the meeting shall stand adjourned to a time agreed on by a majority of the members present.
- (b) Appointment of committees. The Mayor shall appoint all standing and special committees, except when the Board shall otherwise direct.
- (c) Order of business. When a regular meeting shall be organized the order of business shall be as follows:
1. Reading of proceedings of the last regular meeting and other special meetings, if any.
 2. Correction of the minutes, if necessary, and approval.

3. Reports of regular committees.
 4. Reports of special committees.
 5. Reports of officers.
 6. Unfinished business.
 7. Communications and petitions.
 8. Motions, resolutions, and ordinances.
- (d) Exception. If the Board of Commissioners directs any matter to be the special business of a future meeting, then such matter shall have precedence over all other business at such meeting.
- (e) Previous question; ayes and noes. The previous question may be called at any time by a majority of the members present. The ayes and noes may be called by three members.

SECTION 2-5. – MOTIONS TO RECONSIDER

No question decided by the Board of Commissioners shall be reversed at any subsequent meeting, except by two-thirds vote of the members present. A motion to reconsider a vote shall not be in order, except at the same or any adjourned meeting to that at which the vote is taken; or upon due notice given by one voting with the majority, that a motion to reconsider will be made at the next regular meeting.

SECTION 2-6. – MOTIONS TO ADJORN

A motion to adjourn shall always be in order, and shall be decided without debate.

('70 Code, 2009 S-5 Supplement, § 2-15) (Ord. passed 1912; Am. Ord. 1, passed 7-1-59)

SECTION 2-7. – ADDITIONAL RULES OF GOVERNEING BOARD. ROBERTS RULES OR ORDER

The Board of Commissioners may, by resolution, adopt such additional rules not inconsistent with state law, the town Charter or this code as may be necessary for the orderly and expeditious trans-action of business, the implementation of the powers vested in the Board by law, and the duties and conduct of members; and the current edition of Robert's Rules of Order shall govern as to all matters not otherwise provided.

SECTION 2-8. – COMMIIITTIES

- (a) At the first meeting in December or as soon thereafter as practical each year the Mayor shall appoint all standing committees of the Board of Commissioners. The Board of Commissioners may, by resolution, create such standing committees as may be desirable for the expeditious transaction of business of the Board and to facilitate execution of its powers and duties, and define the composition, jurisdiction as to subject matter, powers, and duties of the committees so created.
- (b) The Board of Commissioners may, by resolution, create such special committees as may be desirable from time to time to assist the Board with respect to matters not of a permanent nature, and define the composition, jurisdiction as to subject matter, powers and duties of the committees so created, unless otherwise provided in any such resolution, the Mayor shall appoint the members of special committees.

- (c) All standing and special committees in existence on the effective date of this code shall continue in effect and shall continue to have their then duly authorized powers and duties until such time as contrary resolutions are adopted pursuant to the provisions of this section.

SECTION 2-9. – VOTING ON ELCTIONS

All elections and appointments by the Board of Commissioners shall be made by ballot, if required by as many as two members present; provided, that no election, appointment, or motion shall be valid or adopted unless a quorum be present and voting.

'70 Code, 2009 S-5 Supplement, § 2-18) (Ord. passed 1912; Am. Ord. 1, passed 7-1-59)

SECTION 2-10. - BOND OF OFFICERS, EMPLOYEES.

It shall be the duty of each officer or employee of the town, when so required by the Board of Commissioners before entering upon the discharge of his duties, to enter into a bond with sureties in such sum as the Board shall require, such bond to be payable to the town and conditioned upon the faithful performance of such officer's or employee's duties; provided, however, the town shall pay all premiums which become due upon such bond.

SECTION 2-11. - ADDITIONAL DUTIES OF OFFICERS, EMPLOYEES.

The Board of Commissioners shall have the power to require, from time to time, further and other duties of all officers and employees of the town beyond those prescribed therefore and to define and prescribe powers and duties of all officers elected or appointed to any office provided for by the Charter.

SECTION 2-12. - CONFLICT OF INTEREST.

It shall be unlawful for any officer or employee of the town, directly or indirectly, to become a contractor for work done for the town or to become directly and personally interested in or receive profits from any purchase of supplies for any department of the town. In addition to any other penalty which may be imposed for the violation of this section, any such person so offending shall be removed from office.

State Law Reference— *Conflicts of interest, N.C. GEN. STAT. § 160D-415.*

SECTION 2-13. – MEETINGS – OPEN TO PUBLIC.

All meetings of the Board of Commissioners, whether regular, special or adjourned, shall be open to the public.

State Law Reference— *Official meetings of public bodies to be open to public, N.C. GEN. STAT. § 143-318.10.; executive sessions, N.C. GEN. STAT. § 143-318.11.*

SECTION 2.14. – MEETINGS – MAYOR TO PRESIDE

The Mayor shall preside over all meetings of the Board of Commissioners, and in his absence the Mayor Pro Tem shall preside.

State Law Reference— *Mayor to preside at meetings, N.C. GEN. STAT. § 160D-69.*

SECTION 2.15. – MEETINGS – MINUTES.

A complete and accurate account of all the proceedings of the Board of Commissioners shall be kept, and all ordinances shall be filed in a book especially provided for that purpose by the Board. Every resolution adopted or made by the Board and every petition submitted to it which is not set out in full in the minutes shall be filed in an exhibit book and, by proper reference, shall be made a part of the minutes. The minutes of each meeting shall be read at the subsequent meeting and, upon being approved by the Board, shall be signed by the Mayor and the Clerk.

State Law Reference— *Keeping of minutes of meetings, N.C. GEN. STAT.§ 160D-72.*

SECTION 2.16. – RESIGNATION OF BOARD MEMBER.

Resignation of any member of the Board of Commissioners shall be tendered in writing and such resignation shall lie on the table until the next regular meeting of the Board.

SECTION 2.17. – FILLING OF VACANCIES.

The Board shall fill all vacancies caused by death, resignation or failure to act or otherwise in the Board of Commissioners or offices filled by the appointment of the Board.

State Law Reference— *Vacancies in elective office, N.C. GEN. STAT.§ 160D-63.*

SECTIONS 2-18.—2-26. - RESERVED.

CHAPTER 2: TOWN OFFICIALS

SECTION 2-27. - TAX COLLECTOR.

The board of commissioners shall provide for the appointment of a tax collector, whose duties shall be to:

- I. Collect all taxes and assessments due to the town;
- II. Make an accounting to the finance officer at the end of each month;
- III. Pay over to the finance officer such money as is collected for the account of each separate fund according to the tax levy;
- IV. Deliver a list of all unpaid taxes with the reason therefor as ascertainable to the board of commissioners;
- V. Supply the mayor and board of commissioners with any information as they may require relative to the performance of his duties;
- VI. Make periodic reports to the board of commissioners listing therein all funds collected; and perform other

duties required by law, or as the board of commissioners may direct.

(Code 1991, § 2.2.03)

SECTION 2-28. - TOWN ATTORNEY.

The board of commissioners shall appoint a town attorney, whose duties shall be to:

- (1) Prosecute or defend any suits or actions at law or equity to which the town may be a party, or in which it may be interested, or which may be brought against, or by, any officer of the town, or in the capacity of the person as an officer of the town;
- (2) See to the full enforcement of all judgments or decrees rendered or entered in favor of the town;
- (3) See to the completion of special assessment proceedings and condemnation proceedings;
- (4) Draft or review any contract, lease, or other document or instrument of which the town may be a party, and approve all ordinances and resolutions of the board of commissioners as to form;
- (5) At the request of the board of commissioners, draft ordinances covering any subjects within the power of the town;
- (6) Attend meetings of the board of commissioners on request; and
- (7) Perform any other duties required of him by N.C. GEN. STAT. 160D-173 and other laws and ordinances.

(Code 1991, § 2.2.02)

SECTION 2-29. - TOWN CLERK.

The board of commissioners shall appoint a clerk. It shall be the duty of the clerk to:

- (1) Act as secretary to the board of commissioners;
- (2) Keep a true record of all the proceedings of the board of commissioners;
- (3) Keep the original of all ordinances in a book especially provided for that purpose;
- (4) Act as custodian for all the books, papers, records, and journals of the board of commissioners;
- (5) Perform other duties as may be required by law or by the board of commissioners;

- (6) Perform the duties of the tax collector: and
- (7) Perform the duties of the finance officer.

(Code 1991, § 2.2.01)

State law reference—Duties of town clerk, N.C. GEN. STAT.160D-171.

SECTION 2-30. - FINANCE OFFICER.

The board of commissioners shall provide for the appointment of a finance officer, whose duties shall be to:

- (1) Keep the books and accounts of the town;
- (2) Receive and disburse all monies of the town as required under state law;
- (3) Countersign and pre-audit all checks, drafts, contracts, purchase orders, or other documents obligating town funds.
- (4) Report to the board of commissioners concerning the finances of the town, as it may require;
- (5) Maintain all records of the bonded debt of the town and maintain sinking funds;
- (6) Supervise the investment of idle funds; and
- (7) Perform other duties assigned by the General Statutes, the Charter, or the board of commissioners.

(Code 1991, § 2.2.04)

SECTION 2-31. – 2-45. - RESERVED.

CHAPTER 3: CODE OF ETHICS

SECTION 2-46. – PURPOSE.

The purpose of this Code of Ethics is to establish, in keeping with the General Statutes of the State of North Carolina, guidelines for an ethical standard of conduct for the Clarkton Board of Commissioners (the “Board”) and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a Board member’s best judgment.

State Law Reference— *Ethics Codes and Education Program, N.C. GEN. STAT. § 160D-86.*

SECTION 2-47. – GENERAL PRINCIPLES UNDERLYING THE CODE OF ETHICS.

- a) The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.

- b) Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.
- c) Board members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.
- d) Board members must always remain aware that at various times they play different roles:
 - a. As advocates, who strive to advance the legitimate needs of their citizens;
 - b. As legislators, who balance the public interest and private rights in considering and enacting decisions, ordinances, and resolutions; and
 - c. As decision-makers, who arrive at fair and impartial quasi-judicial and administrative determinations.
- e) Board members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.
- f) Board members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

SECTION 2-48. – OBEY THE LAW.

Board members should obey all laws applicable to their official actions as members of the Board. Board members should be guided by the spirit as well as the letter of the law in whatever they do.

SECTION 2-49. – ACT WITH CIVILITY.

Board members should feel free to assert policy positions and opinions without fear of reprisal from fellow Board members or citizens. To declare that a Board member is behaving unethically because one disagrees with that Board member on a question of policy (and not because of the Board member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

SECTION 2-50. – MAINTAIN INTEGRITY AND INDEPENDENCE.

Board members should act with integrity and independence from improper influence as they exercise the duties of their office. Characteristics and behaviors consistent with this standard include the following:

- a) Adhering firmly to a code of sound values;
- b) Behaving consistently and with respect toward everyone with whom they interact;
- c) Exhibiting trustworthiness;
- d) Living as if they are on duty as elected officials regardless of where they are or what they [are] doing;
- e) Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner;
- f) Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others;
- g) In a quasi-judicial matter, disclosing contacts and information about issues that they receive outside of public meetings to the extent required by law;

- h) In a quasi-judicial matter, refraining from seeking or receiving information about the matter outside of the quasi-judicial proceeding itself to the extent required by law;
- i) Treating other Board members and the public with respect and honoring the opinions of others even when the Board members disagree with those opinions;
- j) Not reaching conclusions on issues until all sides have been heard;
- k) Showing respect for their office and not behaving in ways that reflect badly on those in office;
- l) Recognizing that they are part of a larger group and acting accordingly; and
- m) Recognizing that individual Board members are not generally allowed to act on behalf of the Board but may only do so if the Board specifically authorizes it, and that the Board must take official action as a body.

SECTION 2-51. – AVOID IMPROPER ACTS.

- a) Board members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. Although opinions may vary about what behavior is inappropriate, this Board will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the Board member's action would conclude that the action was inappropriate.
- b) If a Board member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the Town's attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the attorney).

SECTION 2-52. – FAITHFULLY PERFORM THE DUTIES OF OFFICE.

Board members should faithfully perform the duties of their office. They should act as especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned. Board members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them, and in quasi-judicial matters they should be mindful of the need not to engage in communications outside of meetings. They should demand full accountability from those over whom the Board has authority. Board members should be willing to bear their fair share of the Board's workload. To the extent appropriate, they should be willing to put the Board's interests ahead of their own.

SECTION 2-53. – CONDUCT THE BUSINESS OF GOVERNMENT IN AN OPEN AND PUBLIC MANNER.

Board members should conduct the affairs of the Board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to Board members or their employees. In order to ensure strict compliance with the laws concerning openness, Board members should make clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps to make

certain that any closed sessions held by the Board are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

SECTIONS 2-54. - 2-55. – RESERVED.

CHAPTER 4 – PERSONNEL

ARTICLE 1. GENERAL PROVISIONS

SECTIONS 2-56. – PURPOSE.

The purpose of this chapter is to establish a personnel system, under the direction of the Town Clerk which will provide for the recruitment, selection, development and maintenance of an effective and responsible work force. This chapter is established under the authority of GS Chapter 160D, Article 7, Part 4.

SECTIONS 2-57. – COVERAGE.

This chapter shall cover all regular and probationary employees except as specifically exempted. Temporary employees will be exempted except in sections where specifically included. The mayor, members of town council and members of advisory boards and commissions are not employees of the town but are covered by certain sections of this chapter where specifically included.

SECTIONS 2-58. – DEFINITIONS.

For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

Completed month: Any month in which an employee is not on nonpaid status for four or more scheduled workdays of that month.

Completed year: A period of 12 calendar months in which the employee is in active pay status or is receiving worker's compensation payments while on leave without pay.

Full-time employee: A person who is regularly scheduled to work the number of hours in a standard workweek.

Part-time employee: A person who is regularly scheduled to work less than the number of hours in a standard workweek.

Probationary employee: A person appointed to serve in a position who has not yet completed the probationary period.

Regular employee: A person appointed to serve in a position who has successfully completed the probationary period.

Temporary employee: A person appointed to serve in a position for a definite duration.

SECTIONS 2-59. – MERIT PRINCIPLE

All appointments, promotions and other personnel actions shall be made solely on the basis of merit and fitness.

SECTIONS 2-60. – RESPONSIBILITY OF THE TOWN BOARD.

The town board shall establish personnel policies, including the classification and pay plan, and shall make and confirm appointments when so specified by law.

SECTIONS 2-61. – RESPONSIBILITY OF TOWN CLERK.

The board of commissioners shall appoint a clerk. It shall be the duty of the clerk to:

- (1) Act as secretary to the board of commissioners;
- (2) Keep a true record of all the proceedings of the board of commissioners;
- (3) Keep the original of all ordinances in a book especially provided for that purpose;
- (4) Act as custodian for all the books, papers, records, and journals of the board of commissioners;
- (5) Perform other duties as may be required by law or by the board of commissioners;
- (6) Perform the duties of the tax collector: and
- (7) Perform the duties of the finance officer. (Code 1991, § 2.2.01)

SECTION 2-62. – PROMULGATION OF PERSONNEL REGULATIONS PERMITTED.

The Town Clerk may promulgate personnel rules and regulations, not inconsistent with state law, the Town Charter, or this code, governing such matters as vacations, sick leave, working hours, compensatory time, time off for overtime and holiday work, discipline, position classification, and subjects of a similar nature. Such rules and regulations, when approved by the Board of Commissioners and placed on file in the office of the Town Clerk, shall be binding on all personnel to whom they are made applicable.

SECTION 2-63. – POLITICAL ACTIVITY RESTRICTED.

All appointive officers and all employees of the town shall refrain from taking an active part in any political campaign or making statements favoring or opposing any candidate or issue to be voted upon during working hours.

SECTION 2-64. – SERVICE IN NATIONAL GUARD AND ARMED FORCES.

(a) Appointive officers and employees.

- (1) Appointive officers and employees of the town who are members of the National Guard or any reserve component of the armed forces of the United States shall be allowed time off from their town duties, without prejudice to their seniority, status, or earned vacation time, during such periods as they may be on active duty or active duty for training under competent state or federal orders; provided, that time served in the armed forces shall not count in determining vacation time to be allowed by the town.
- (2) Appointive officers and employees of the town who are members of the National Guard or any reserve component of the armed forces of the United States who are on active duty for training only, under competent state or federal orders, shall be paid by the town the difference, if any, between their

armed forces pay and their higher town pay; provided, that no person shall be paid by the town for a period in excess of two weeks per year by reason of division (A)(2).

- (b) Elective officers. The Board of Commissioners may grant time off to any elective officer of the town who, by competent federal or state orders, is absent from his or her town duties while on active duty or active duty for training with any component of the armed forces of the United States, including the National Guard, and for the period of such absence may designate any qualified citizen of the town as the acting official in place of the absentee, and such acting official shall have all the authority, duties, perquisites, and emoluments of his principal; provided, that this section shall not operate to extend the term of office of any person beyond the period for which he or she was elected.

SECTION 2-65. – SERVICE TO COUNTRY DURING HOSTILITIES OR NATIONAL EMERGENCIES.

Any appointive officer or employee of the town who, during any period of national emergency declared by the Congress or proclaimed by the President or during any period of war or hostilities in which the United States is a belligerent, leaves the service of the town to serve in any of the armed forces of the United States or any organization such as, for example, the American Red Cross, which provides services in the field to the armed forces of the United States, shall be allowed time off from his town duties, without prejudice to his seniority, status, or earned vacation time, during his period of service in one of the armed forces or other organization as aforesaid while such state of national emergency or period of war or belligerency continues and until three months following the first opportunity for him or her to obtain relief from active duty after the termination of the national emergency or period of war or belligerency; provided, that no person shall be entitled thereby to reinstatement in the town service who is dishonorably discharged from the armed forces, and no vacation time or town pay shall accrue during such period of service to the United States.

SECTION 2-66. – RESIDENCY OF EMPLOYEES.

- (a) Pursuant to authority contained in N.C. GEN. STAT. § 160D-281, police officers may reside in places other than within the town limits, provided approval for such domicile privilege is obtained from the Town Clerk.
- (b) The Town Clerk may grant authority to such other employees to reside in places which are outside the town limits, as he or she deems appropriate and desirable.

(Res.72-004, passed 2-1-72)

SECTION 2-67. – PUBLIC COURTESY AND CONDUCT.

- (a) Town officers and employees shall be courteous in their official transactions with the public, and they shall conduct themselves in the performance of their official duties so as not to knowingly deprive any person, at the time and under the circumstances then and there existing, of any lawful right or benefit to which such person may be entitled. Any person who feels aggrieved by the conduct of any town officer or employee in violation of this division is hereby invited to bring the matter to the attention of such officer's or employee's department head or to the Town Clerk, without prejudice to any other recourse to which such aggrieved person may be entitled.
- (b) Members of the public, in turn, should be courteous in their transactions with town officers and employees, and it shall be unlawful for any person to knowingly taunt, deride, jeer or otherwise debase, whether by act, word or gesture, any town officer or employee at any time or place while such town officer or employee is lawfully engaged in the performance of any official duty.

SECTION 2-68. – BOND REQUIRED OF CERTAIN TOWN OFFICERS, EMPLOYEES, AND AGENTS

- (a) Every officer, employee, or agent of the town who handles or has custody of more than a cash value set by the Board of Commissioners of the town's funds at any time shall, before assuming their duties as such, be required pursuant to N.C. GEN. STAT.§ 159-29, to enter into bond with good sureties, in an amount sufficient to protect the town, payable to the town, and conditioned upon the faithful performance of their duties and a true accounting for all funds of the town which may come into their hands, custody, or control, which bond shall be approved by the Mayor and Board of Commissioners and deposited with the town, except that such bond of any employee may, in the discretion of the governing body, be conditioned only upon a true accounting for funds of the town.
- (b) The bond of the Finance Officer shall be more than a cash value set by the Board of Commissioners; the bond of the Town finance Officer shall be in the amount of more than a cash value set by the Board of Commissioners; the bond of the Assistant Town finance Officer shall be in the amount of more than a cash value set by the Board of Commissioners; the bond of the Tax Collector shall be in the amount of more than a cash value set by the Board of Commissioners; and the amount of the Tax Collector's shall be as established by the town. Bond amounts will be established in consultation with the Town's insurance carrier. All other persons required to be bonded under the provisions of division (a) of this section shall be bonded under a system of blanket faithful performance or honesty bonding in the amount of more than a cash value set by the Board of Commissioners.
- (c) Every officer, employee, or agent of the town who, in the discharge of his official duties is authorized to carry a firearm, shall, before assuming his duties as such, be required to enter into bond with good sureties, in the amount of more than a cash value set by the Board of Commissioners, payable to the town and conditioned upon payment of any judgment or decree for damages rendered against him for unlawful or negligent use of such firearm, which bond shall be approved by the Mayor and Board of Commissioners and deposited with the town.
- (d) All bonds required by this section shall be approved as to form by the Town Attorney, and the sureties thereon shall be bonding or casualty companies licensed to do business in the state.

Statutory reference: Bonds, see N.C. GEN. STAT.§ 159-29

SECTION 2-69. – CIVIL LIABILITY; PURCHASE OF INSURANCE

As permitted under N.C. GEN. STAT.§ 160D-485, the town is authorized to purchase error and omission insurance for both employees and elected officials.

SECTION 2-70. – 2-80. – RESERVED**ARTICLE 2 – COMPENSATION AND ALLOWANCES****SECTION 2-81. - COMPENSATION**

Town officers and employees shall be paid such compensation as shall be provided from time to time by ordinance, subject to applicable provisions of state law, the Town Charter, and this code.

SECTION 2-82. – REIMBURSEMENT FOR EXPENSES INCURRED

- (a) Town officers and employees who, in the course of their official duties, necessarily incur reasonable expenses, shall be reimbursed therefor upon voucher approved by their immediate supervisors and the Town Clerk. Such vouchers shall be substantiated by receipted bills or other evidence of expense incurred, except as to tips, parking meter and pay telephone deposits and other items for which no bill is rendered or receipt given.
- (b) When, of necessity or upon authority of their immediate supervisor, a town officer or employee uses a privately-owned vehicle on official town business, he or she shall be allowed an amount per mile as established by the appropriate town official necessarily traveled while on official town business.
- (c) Reimbursement for expenses such as hotel or motel rooms, garage space, meals, hospitality, and other items shall be within such daily limits as may be prescribed in advance by the Town Clerk.

SECTION 2-83. – CASH ADVANCEMENTS

The Town Clerk may authorize advancement of cash in reasonable amounts to town personnel who, under the provisions of § 2-82 are required to incur expenses in the discharge of their official duties. All such cash advancements shall be accounted for on substantiated vouchers as provided in §2-82 and any excess over expenditures shall be paid promptly to the Town finance Officer.

SECTIONS 2-84. – 2-100. – RESERVED

ARTICLE 3 – PERSONNEL ORDINANCE

SECTION 2-101. – ADOPTION BY REFERENCE

Printed herein is the personnel ordinance, as adopted by the town board on December 12, 1988. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

ARTICLE I. ORGANIZATION AND PERSONNEL SYSTEM

Section 1. Purpose.

The purpose of this policy is to establish a personnel system which will recruit, select, develop and maintain an effective and responsible workforce. This policy is established under the authority of N.C. GEN. STAT.160D-164.

It is also the purpose of this policy to fulfill minimum wage, overtime compensation recordkeeping requirements and child labor laws as established by the Fair Labor Standards Act.

Section 2. Coverage.

This policy will cover all employees of the town except:

- a. Elected officials, except as specifically designated;
- b. Town attorney, members of advisory and special boards;
- c. Temporary employees, except that they will be subject to sections authorized by the town board of commissioners.

Section 3. Employee definitions.

- a. Probationary employee: A person appointed to a permanent position but who has not yet completed the probationary period.
- b. Part-time employee. A:n employee, either permanent or temporary, who is regularly scheduled less than the number of hours per workweek designated by the commissioners as full time.
- c. Full Time employee. An employee, either permanent or temporary, who is regularly scheduled to work the number of hours per workweek designated by the commissioners as full time.
- d. Permanent employee. A person appointed to serve in a position for an indefinite duration and who has served a period of more than 12 calendar months.
- e. Temporary employee. A person appointed to serve in a position for a definite duration.

Section 4. Responsibility of board of commissioners.

The board of town commissioners (hereafter referred to as the commissioners) shall establish personnel policies and rules, including the classification and pay plan, and shall make and confirm appointments.

ARTICLE II. THE PAY PLAN

Section 1. Salaries.

At no time will employees be paid less than the required federal hourly minimum wage. Employees will normally have 52 pay periods per year and will be normally paid on the Friday of the end of their weekly pay period.

An applicant hired or an employee promoted to a position in a higher classification, who does not meet all the established requirements of the position, may be appointed at a rate in the pay plan below the minimum established for the position. An employee will remain on the trainee step until the department head certifies that the trainee is qualified to assume the full responsibilities of the position and the administrator approves the certification.

Established rates are for full-time permanent employees. Temporary employees and employees working less than full time receive benefits and pay as authorized by the commissioners.

Section 2. Overtime hours and compensation.

Hours required by the employer in excess of the normal workweek shall be compensated in a manner determined by the town board in accordance with the Fair Labor Standards Act which requires compensation for hours worked above 40 per week at 1/ ½ times (either time or money) for each hour worked more than 40. Whenever possible, employees should be given an hour off per hour worked basis within the same workweek to prevent overtime occurring.

When overtime is required, the overtime will be distributed as equally as possible among employees in the job class, department and shift without regard to age, sex, color, creed, religion, national origin or physical handicap.

Employees will receive overtime compensation in accordance with this policy and the Fair Labor Standards Act provided that:

The work is of an unusual and necessary or emergency basis;

The employee has obtained prior approval from their department head, or in the event of an emergency, the employee has filed a report of the emergency situation during their next regular duty shift; and

Such overtime is reported to the finance officer during the work period in which the overtime occurs and such overtime is properly documented on an approved town time sheet.

Under no circumstances will overtime hours exceed limits established by the Fair Labor Standards Act.

Manner of accumulation of compensatory time.

Whenever possible, department heads will use a time off plan during the employee's normal workweek to minimize overtime hours and ensure the employee does not exceed his or her normal workweek hours. The time off plan will be on an hour off per hour worked. Department heads should anticipate and schedule work requirements in order to limit overtime hours.

Section 3. Call-back pay.

If an employee is called back to work after the scheduled hours have ended, the employee will be guaranteed a minimum of two hours' work time for pay purposes.

Section 4. Payroll deductions.

Federal and state income taxes, social security, life and health insurance and other authorized deductions will be deducted at each pay period from each employee's pay, as authorized by law.

ARTICLE III. RECRUITNIENT AND EMPLOYMENT**Section 1. Statement of equal employment opportunity policy.**

It is the policy of the town to foster, maintain, and promote equal employment opportunity. The town will select employees on the basis of applicants' qualifications and without regard to age, sex, race, color, creed, religion, national origin, or disability.

Section 2. Hiring.

It is the policy of the town to employ according to merit and fitness. To that end, the town will use all available means to attract qualified candidates for employment. The board of commissioners shall approve hiring and other personnel actions.

Section 3. Probationary period of employment.

An employee selected for a full-time permanent position will serve a probationary period of 12 months or until any licensing and/or certification necessary for the position has been obtained by the employee.

An employee serving a probationary period following initial employment in a permanent position will receive all benefits provided in accordance with this policy.

Section 4. Promotions

Candidates for promotion will be chosen on the basis of existing or anticipated job openings on their qualifications, and on their work record without regard to age, sex, race, color, creed, religion, national origin or disability.

Section 5. Demotion.

Any employee whose work in their present position is unsatisfactory or whose personal conduct is unsatisfactory may be demoted by the department head provided the employee shows promise of becoming a satisfactory employee in another position. An employee who wishes to accept a position with less complex duties and responsibilities may be demoted for reasons other than unsatisfactory performance or failure in personal conduct by the commissioners.

If the demotion is for failure in performance of duties or failure in personal conduct, the employee, and the commissioners will be provided with written notice citing the recommended effective date and reasons for demotion.

Section 6. Type of separation.

Employees shall be separated from employment with the town through resignation, retirement, dismissal or death.

A minimum of two weeks' notice is expected of all resigning personnel. Such notice should be given to the department head.

Disciplinary actions.

An employee may be suspended by the department head. An employee may be demoted or dismissed by the commissioners because of failure in performance of duties or failure in personal conduct. After any suspension, the department head will provide any suspended employee and the town commissioners with a written notice of the suspension including the effective date and reasons for the action. Any suspension will be considered by the commissioners at the next regularly scheduled meeting unless prior action is taken pursuant to a special meeting.

Failure in performance of duties

An employee whose work is unsatisfactory over a period of time will be notified by the supervisor in what way the employee's work is deficient, and what must be done if the work is to be satisfactory.

An employee who is suspended, demoted or dismissed for unsatisfactory performance of duties will normally receive at least three warnings before disciplinary action is taken by the commissioners. First, oral and written warning must be issued by the employee's supervisor. Second, an oral warning with a follow-up letter to the employee which sets forth the points covered in their discussion must be issued by the supervisor. Third, a written warning must be issued by the supervisor serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion or dismissal. The supervisor must record the dates of their discussions with the employee, the performance deficiencies discussed and the corrective action recommended, and must file the information in the employee's personnel folder.

The employee must be allowed to respond to the charges before determination is made by the commissioners concerning the employee's dismissal or demotion. Following any suspension, the employee shall be allowed to appear at the next regularly scheduled meeting to contest the action of their supervisor. If the matter of the suspension is considered at a special meeting of the commissioners, the employee shall be given sufficient notice to allow them to be present to respond to any charges against them.

The following causes relating to failure in the performance of duties are representative of those considered to be adequate grounds for suspension, demotion, or dismissal:

- a. Inefficiency, negligence or incompetence in the performance of duties;
- b. Careless, negligent or improper use of town property or equipment;
- c. Physical or mental incapacity to perform duties;
- d. Discourteous treatment of the public or other employees;
- e. Absence without approved leave;
- f. Habitual improper use of leave privileges; and
- g. Habitual pattern of failure to report for duty at the assigned time and place.

Failure in personal conduct.

An employee may be suspended, demoted or dismissed for causes relating to personal conduct detrimental to town service (1) in order to avoid undue disruption of work, (2) to protect the safety of persons or property, or (3) for other serious reasons.

The following causes relating to failure in personal conduct are representative of those considered to be adequate grounds for suspension, demotion or dismissal:

- a. Fraud in securing appointment;

- b. Conviction of a felony or of a misdemeanor which would adversely affect performance of duties, or the entry of a plea of "no contest" to either;
- C. Misuse of town funds;
- d. Falsification of town records for personal profit or to grant special privileges;
- e. Reporting to work under the influence of alcohol or narcotic drugs or partaking of such things while on duty or while on public property, except that prescribed medication may be taken within the limits set by a physician so long as medically necessary. Employee must notify supervisor of any use of prescribed medication.

An employee suspended, demoted or dismissed for causes relating to personal conduct must (before the disciplinary action) be given a statement of the charges, be allowed to respond in writing, and be given a prompt written statement of the decision by the department head and the town commissioners.

Section 7. Suspension.

Disciplinary suspension.

An employee who is suspended for disciplinary reasons will be relieved temporarily of all duties and responsibilities and will receive no compensation for the period of suspension.

Immediate disciplinary suspension.

An employee may be suspended without notice by the department head for causes related to personal conduct in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. When a department head suspends an employee, they shall tell the employee to leave town property at once and remain away until further notice. A written summary giving the circumstances and facts leading to the suspension shall be prepared; one copy shall be delivered to the employee by certified mail, and one copy shall be filed in the employee's personnel folder. Following any suspension for disciplinary reasons, the department head shall give notice to the town clerk of the employee's suspension. The town clerk shall then notify the town commissioners of the same.

Non-disciplinary suspension.

During the investigation, hearing or trial of an employee on any criminal charge or during the course of any civil action involving an employee, the department head may suspend the employee without pay for the duration of the proceeding as a non-disciplinary action. However, the investigation, hearing, trial, or civil action must involve matters that may form the basis for disciplinary suspension, demotion or dismissal in order for the non-disciplinary suspension to be allowed.

Full recovery of pay and benefits for the period of non-disciplinary suspension will be authorized by the town commissioners, if the suspension is terminated with full reinstatement of the employee.

Section 8. Dismissal.

All dismissals shall be preceded by an automatic three-day suspension without pay pending completion of an investigation. If the town commissioners determine that a dismissal action is appropriate, such dismissal shall be effective at the end of the three-day suspension.

If a dismissal is made at the end of this period, a written summary giving the circumstances and facts leading to the dismissal shall be prepared. A copy of the summary shall be delivered to the employee by certified mail and one copy shall be filed in the employee's personnel folder.

Section 9. Substance abuse testing for applicants.

(a) Scope and application of section 1 of this section. For purposes of this policy, an "applicant" is defined as any person seeking employment with the town to whom an offer of employment has been made. Any current employee of the town who may seek employment by the town in another position (which shall not include transfers or demotions made by the town) shall be considered an applicant within the meaning of this policy.

(b) Applicant drug testing. All applicants must undergo a pre-employment drug screening test as part of their routine pre-employment examination. Failure to cooperate in such a test will be considered a withdrawal of the town's offer of employment.

(c) Contingent employment. Any offer or acceptance of employment is contingent upon the applicant successfully completing a drug screening test. No applicant shall be required to submit to a drug test until after the applicant has been offered a job. Employment will be denied when the test results are positive for illegal drugs or for the presence of prescription drugs (such as barbiturates, amphetamines, opiates, etc.) unless the applicant has a current prescription, a valid medical reason for using such drugs, and is using such drugs in the prescribed manner. No one shall be permitted to begin work until the results of the test have been obtained.

(d) Release. Before taking the drug screening test, applicants must sign a consent form. Failure to sign the form or cooperate in the test procedure as requested shall be deemed a withdrawal of the individual's application for employment.

(e) Method of drug screening test; urine sample collection procedure. The drug screening test shall consist of laboratory analysis of an applicant's urine. Procedures established by the town's designated testing laboratory collecting the urine sample and such additional procedures as may be required by federal and state law (shall be followed].

(f) Communication of test results by the medical review officer.

(1) Negative test results. If the drug screening test result is negative, the laboratory will so advise the mayor. The applicant is then permitted to begin work.

(2) Adulterated or unreadable samples. If a drug screening test cannot be accurately performed because a urine sample is not authentic, or has been adulterated, contaminated or otherwise made impossible to analyze properly the following procedures shall be used, unless otherwise dictated by applicable law:

(a) If a urine sample is obviously not authentic (as example, when an applicant substitutes cold tap water for urine), the laboratory will so inform the town. The town then shall inform the applicant that the sample is not acceptable and the offer of employment will be withdrawn.

(b) If the urine sample cannot be properly analyzed because of contamination or adulteration, the laboratory will so inform the town. The town shall then inform the applicant that he or she cannot be determined to be qualified for work and is requested to discuss the test with the mayor. The mayor will ask the applicant to provide an explanation for the contaminated or adulterated sample.

i. If the mayor advises the town that the applicant failed to provide a satisfactory explanation, the town shall advise the applicant that the offer of employment has been withdrawn.

ii. If the mayor advises the town that the applicant provided a satisfactory explanation, the applicant will be permitted to repeat the drug screening test, in which a new urine sample will be collected and analyzed.

iii. Positive test results. In the event a drug screening test is positive (positive test results must be confirmed by the laboratory using gas chromatography/mass spectrometry hereinafter referred to as "GCMS"), the following procedures should be followed:

(a) The laboratory will inform the mayor that the drug screening test is positive, and will convey such details of the test as the mayor deems necessary. The mayor will consult with the applicant to determine whether or not there is a satisfactory explanation for the positive test result.

(b) If a satisfactory explanation is provided, the mayor will advise the board of commissioners that the applicant's test was negative, and the applicant will be permitted to begin employment.

(c) If a satisfactory explanation is not provided, the mayor will so advise the board of commissioners. The board of commissioners will advise the applicant that the offer of employment has been withdrawn.

(4) Confidentiality. Because of the sensitive nature of drug screening test, extreme caution shall be exercised to maintain the confidentiality of the results. No statement nor any other information concerning the applicant's drug screening results shall be made available to other members of management except those having a need to know. No other person, including friends, and/or members of the applicant's family, shall be notified nor given information concerning the applicant's drug screening results.

(Motion of 4-8-1996)

Editor's note—A motion of 4-8-1996 amended the personnel policy by adding §§ 8 and 9 to art. III. Inasmuch as art. III already contained a section 8, the new provisions have been redesignated by the editor as §§ 9 and 10.

Section 10. Substance abuse testing for existing employees.

(a) Scope and application of this section. This section of this policy applies to all current permanent and volunteer employees of the town. Its policies and procedures are effective immediately for all current employees, and for all former applicants once they have successfully completed the drug screening test and started employment with the town.

(b) Voluntary referral for counseling and /or rehabilitation.

(1) Policy. The town recognizes and accepts that early treatment is the key to rehabilitation for substance abusers. Therefore, employees are encouraged to voluntarily request help. All reasonable attempts will be made by management to protect an employee's job security when such a good-faith effort is made. Management may take into account, among other matters, the prevailing risks involved to the employee, fellow employees, citizens, and property. Possibilities of temporary job assignments and other personnel actions may also be taken into consideration by management

(2) Procedure for volunteering for assistance. An employee may volunteer for assistance either by requesting help from the department head, or a supervisor, or by contacting the town's mayor. If an employee contacts a

department head or supervisor concerning a substance abuse problem, the department head or supervisor shall assist the employee in setting up an appointment with the mayor, but shall not attempt to diagnose the problem nor counsel the employee.

(c) Prohibitions for all employees.

(1) Except as provided in paragraph 3 below, the possession, use, distribution, transfer, manufacture or sale of alcohol, illegal drugs, or legal drugs without a valid prescription on town property, in a town vehicle, or on town time, is specifically prohibited. An employee who violates this prohibition is subject to disciplinary action up to and including termination of employment. Any circumstances that indicate the violation of state, federal or local laws may be reported to appropriate law enforcement officials, and the town will cooperate in any criminal prosecution.

(2) Reporting for duty or working with drugs present in the body or while affected by drugs or alcohol is prohibited and will be administered under disciplinary procedures or referral for counseling and/or rehabilitation, as management determines. This prohibition includes prescription drugs, unless the employee has a current legal prescription drug and a valid medical reason for using such prescription drug and is using such drug in the prescribed manner.

(3) Employees shall not consume alcohol during normal business hours or while on standby or call-back status. Employees shall not operate motor vehicles after consuming even a moderate amount of alcohol. Employees who violate the provisions of this paragraph are subject to disciplinary action.

(4) In order to ensure that employees can safely perform their jobs, the town is also concerned with prescription over-the-counter drugs which might have an impact on job performance. Employees using such drugs should notify their supervisor or department head immediately upon reporting to work. Failure to do so may be considered a violation of this policy and is cause for disciplinary action the town will not use this information in a manner that would violate the federal Americans with Disabilities Act.

(d) Searches. When there is reason to believe that an employee or group of employees may possess substances which are prohibited by this policy, the employee or employees may be required, as a condition of continued employment, to submit to a reasonable search of their clothing, personal lockers, purses, lunchboxes or other containers, desks or personal vehicles while on town property. If there is reason for such a search, the matter will be turned over to law enforcement authorities.

(e) Drug and for alcohol screening criteria. The town will consider an employee for a drug screening test under the following circumstances:

(1) Accident or incident. An employee who is involved in an accident or incident, in which there is, or reasonably could have been personal injury or property damage, will be considered for testing. Not every incident nor injury may result in a test. Reasonable determination that action or inaction of the employee contributed to the incident or accident shall be made prior to a request for testing. In making such reasonable determination, the facts listed and applicable under paragraph (e)(2) below may be considered.

(2) Evidence of substance abuse. The town may also test employees on the basis of reasonable cause or suspicion of substance abuse or violation of this policy. While it is impossible to list every factor which might lead to a decision to test an employee, factors, among others, which may be considered, either individually or in concert with one another, include:

Excessive absenteeism or tardiness.

Unexplained significant deterioration in job performance.

Significant change in personality (repeated abusive behavior insolence, insubordination, etc.).

Reliable reports from other employees. Unexplained absences from normal work sites.

Unusual behavior which cannot be readily explained. Changes in appearance or demeanor.

Excessive craving for water or sweets. Reddened eyes or dilated pupils.

Odor of alcohol or drugs. Slurred speech.

Difficulty in motor coordination.

(3) Testing after volunteering for assistance. Any employee volunteering for assistance, who has been referred by the town for counseling and/or rehabilitation under this policy, may be tested without cause at any time for a period of two years after referral.

(4) Employee requests. The town may test an employee who specifically requests to take a test however, the town shall consider the employee's motivation for requesting a test, as well as the test's potential impact on other employees when making a determination of whether or not to test.

(5) Random testing. At such time as the town may decide, the town may conduct a drug and/or alcohol screening test at random of employees deemed by the town to hold safety-sensitive positions. The town may or may not give advance notice of the date of such a test. In selecting employees for random testing, the town will first determine the number of employees to be tested. The town or its designee will then draw names of employees to be tested from a pool consisting of all employees holding safety-sensitive positions. The drawing of names shall be in a manner such that the identity of any employee selected for testing is not known until the full number of employees to be tested has been drawn.

Any employee who refuses to participate in a test, or who fails to participate in a test without an explanation satisfactory to management, is subject to disciplinary action including but not limited to termination of employment. Any employee who fails to participate in a test due to illness, vacation, excused absence or some other reason satisfactory to management, shall be tested as soon thereafter as reasonably possible, and shall be subject to such further testing as the town may decide, in the town's sole discretion.

(f) Testing procedure.

(1) Before an employee is requested by a supervisor or department head to submit to a drug and/or alcohol screening test for post-accident or reasonable cause testing, the concurrence of the director of human resources shall be obtained. The employee shall be confronted in private with at least two members of management present. The employee shall be told that, in accordance with the town's substance use/abuse policy, he or she is being requested to submit to an alcohol or drug screening test. Care shall be taken to ensure that management states no conclusions as to whether the employee is a substance abuser.

(2) A consent for drug and/or alcohol screening shall be completed by each employee to be tested pursuant to any provision of this policy. The employee shall then be referred to the director of human resources, who will ensure that the appropriate examination or test is conducted.

(3) Procedures established by the town's designated testing laboratory and the board of commissioners shall be followed for collection. Where tests are governed by federal and state law, procedures specified therein shall be followed.

(4) The employee may be permitted to continue to work pending the results of the drug and/or alcohol screening test if, in the town's sole discretion, the employee's returning to work will not endanger the employee, fellow employees, or members of the public, nor cause any other problems relating to the town's ability to manage its workplace. If management determines that it is in the town's best interest that an employee not be permitted to return to work pending the results of the examination or test, the mayor or board of commissioners shall make the determination as to whether They/Them shall be suspended with or without pay pending the results of such testing.

(g) If the town believes that an employee may be impaired by drugs or alcohol and appears to be unable to drive safely, the town shall provide or arrange for transportation. If the employee refuses to accept such transportation, and insists upon driving, he or she should be strongly discouraged from doing so, but not forcibly restrained. The employee should be advised that the town will notify local law enforcement authorities if he or she attempts to drive. If the employee does attempt to drive, the proper law enforcement agencies shall be notified immediately. All actions taken to persuade the employee not to drive shall be documented.

(h) Communication of test results by the medical review officer.

(1) Negative test results. If the drug screening test result is negative the laboratory will so advise the director of human resources who will notify the employee of the test result. If the employee has been suspended pending the results of the screening test, the employee may, in the town's sole discretion, be reinstated with back pay and benefits.

(2) Adulterated or unreadable samples. A drug screening test which cannot be accurately performed because a urine sample is not authentic, or has been adulterated, contaminated or otherwise made impossible to analyze properly, shall be considered reasonable evidence of an employee's failure to cooperate with the town in administering this policy. The medical review officer (mayor) will discuss the test with the employee and request an explanation. If the employee provides a satisfactory explanation, a new drug and/or alcohol screening test may be performed in the town's sole discretion. If the employee does not provide a satisfactory explanation, he or she is subject to disciplinary action up to and including termination of employment.

(3) Positive test results. In the event a drug and/or alcohol screening test is positive, the following procedures shall be followed:

(a) The laboratory will inform the town's MRO that the test is positive and the MRO will consult with the employee to determine whether or not there is a satisfactory explanation for positive test result.

(b) If a satisfactory explanation is provided, the MRO will advise the town that the employee's test was negative.

(c) If a satisfactory explanation is not provided, the MRO will so advise the director of human resources, who shall meet with the employee with another member of management to advise the employee of the test results. The employee shall be placed on immediate suspension without pay and given notice of a pre-dismissal hearing.

(d) If the employee agrees to referral for counseling or rehabilitation, the employee shall sign a form to that effect.

(i) Failure of an employee to cooperate. Employee compliance with the town's substance use/abuse policy is a condition of employment. Failure or refusal of any employee to fully cooperate and participate in the program, sign any required document or submit to a drug and/or alcohol screening test will be grounds for termination of employment, unless a compelling, satisfactory reason is provided. Employees who continue employment while undergoing counseling or rehabilitation will be required to meet all established standards of conduct and job performance. Employees who have been referred for counseling or rehabilitation under this policy shall be required to fully cooperate and participate in their rehabilitation and the recommendations of the program administrators. This may include the requirement for regular attendance at therapy sessions. Employees who have been referred to counseling or rehabilitation may be required to undergo drug and/or alcohol screening tests at any time for a period of up to two years. If the town determines that an employee has failed to cooperate under the terms of this substance abuse policy, the employee shall be suspended without pay, pending further investigation and final decision regarding disciplinary action.

Time off or counseling/ rehabilitation and return to work. Work time lost for counseling and/or rehabilitation will be paid according to applicable sick and vacation leave policies of the town to the extent available to the employee. Beyond such benefits, work time lost for counseling and rehabilitation will be without pay. An employee may return to work only after:

(1) They/Them has been certified by the treatment facility as being drug-free and fit for return to duty; and

(2) They/Them has produced a clean urine sample which generates a negative test result.

(k) Medical benefits for counseling and or rehabilitation. Medical benefits for counseling and/or rehabilitation shall be available as provided in the town's medical insurance plan provided for full-time employees. Such benefits available will depend upon the medical diagnosis by the employee's physician in conjunction with the town's benefit plan.

(l) Effects of a positive test after referral. After an employee has been referred for counseling or rehabilitation under this substance use/abuse policy, a condition of continued employment is that the employee promise to remain drug free. A subsequent positive drug test may result in termination of employment.

(m) No test results of the town's drug testing program may be used as evidence in a criminal action against an employee or job applicant tested except by order of a court of competent jurisdiction.

(n) Any employee charged with driving under the influence or while impaired or charged with a drug-related offense shall notify his/her department head no later than five days after such charge. Failure to notify one's department head of such charge shall be grounds for dismissal.

(o) Any employee officially charged with a drug-related offense off the job may be suspended and/or dismissed according to the existing policies and procedures for employees facing civil or criminal charge.

(Motion of 4-8-1996)

Note See the editor's note to § 9 of this article.

ARTICLE IV. CONDITIONS OF EMPLOYMENT

Section 1. Workweek.

All full-time employees will normally have a 40-hour workweek based on eight hours per day Monday through Friday. For FLSA purposes, the workweek will begin at 12:01 a.m. Monday.

Full-time employees are subject to overtime provisions as detailed by the FLSA. Should any employees be exempt from FLSA overtime provisions, they shall work the number of hours necessary to assure the satisfactory work of their department.

Section 2. General conditions.

Gifts & Favors

- a. No official or employee of the town will accept any valuable gift, whether in the form of service, loan, thing or promise from any person who to employee's knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the town.
- b. No official or employee will accept any gift, favor, or thing of value that may tend to influence that employee in the discharge of duties.
- c. No official or employee will grant in the discharge of duties any improper favor, service or thing of value.

Political activity restricted.

Every employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, and may advocate and support the principles or policies of civic or political organizations in accordance with the constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States of America. However, no employee will (1) engage in any political or partisan activity while on duty; (2) use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office; (3) be required as a duty of office or employment or as a condition for employment, promotion, or tenure of office to contribute funds for political or partisan purposes; (4) coerce or compel contributions for political or partisan activity while on duty; (5) use any supplies or equipment of the town for political or partisan purposes. Employees in certain federally aided programs may be covered by the Hatch Act as amended in 1975. This federal act, in addition to prohibiting (2), (3), and (4) above, also prohibits candidacy for elective office in a partisan election.

Any violation of this section shall be deemed improper and shall subject such employee to dismissal or other disciplinary action.

Section 3. Outside employment.

The work of the town shall take precedence over other occupational interests of employees. Conflicting outside employment will be grounds for disciplinary action up to and including dismissal.

Section 4. Leaves of absence.

Holidays.

The following days and such other days as the board may designate are holidays for employees of the town:

<i>When Christmas Day falls on:</i>	<i>The town observes:</i>
Sunday	Friday and Monday
Monday	Monday and Tuesday
Tuesday	Monday, Tuesday, and Wednesday
Wednesday	Tuesday, Wednesday, and Thursday
Thursday	Wednesday, Thursday, and Friday
Friday	Thursday and Friday
Saturday	Friday and Monday

Employees required to perform work on regularly scheduled holidays may be granted compensatory time off.

Vacation Leave.

Vacation leave may be used for rest and relaxation or for medical appointments when sick leave is exhausted. Employees must obtain approval from their supervisor prior to taking any vacation leave.

Employees shall earn vacation leave in the following manner:

Vacation leave is accumulated on a calendar-year basis (January through December), and must be taken within 12 months after accumulation during calendar year such leave was accumulated. Employees receive one week vacation leave during the first year of employment and two weeks per year thereafter.

No employee shall accrue more than 15 days of vacation leave. No more than ten days of vacation leave may be carried into another calendar year.

Sick leave.

Sick leave with pay is not a right which an employee may demand, but a privilege granted by the board for the benefit of an employee or a dependent of the employee when sick.

Each full-time employee earns 12 days of sick leave per year (one day per month). No more than 30 days of sick leave may be accumulated, and no more than 18 days sick leave may be carried into another calendar year.

Sick leave will be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examination or treatment, or exposure to a contagious disease when continuing to work might jeopardize the health of others. Sick leave may be used for death in the employee's immediate family, but may not exceed three days for any one occurrence.

Immediate family shall be deemed to include spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

Notification of the need to take sick leave should be submitted to the employee's supervisor prior to the leave or not later than two hours after the beginning of a scheduled workday.

The employer may require a physician's certificate for absences credited to sick leave of three consecutive days or more.

Leave without pay.

An employee may be granted a leave of absence without pay for up to six months by the board. The leave will be used for reasons of personal or family disability, continuation of education or other reasons approved by the board.

Civil leave.

A town employee called for jury duty or as a witness in any civil or criminal legal proceeding will be entitled to leave with pay for such duty during the required absence. When a town employee attends court in connection with official duties, no leave is required.

FLSA employee record requirements.

The following recordkeeping items will be maintained on each employee and retained as required by the Fair Labor Standards Act:

- (a) Name of employee in full;
- (b) Home address, including zip code;
- (e) Date of birth, if under 19;
- (d) Sex and occupation;
- (e) Time of day and day of week on which employee's workweek begins;
- (f) Regular hourly rate of pay in any workweek in which overtime premium is due; basis of wage payment (such as "\$5.00 hr.," "\$40.00 day," "\$200.00 wk. plus five percent commission");
- (g) Daily and weekly hours of work;
- (h) Total daily or weekly straight time earnings;
- (i) Total overtime compensation for the workweek;
- (j) Total additions to or deductions from wages paid;
- (k) Total wages paid each pay period; and
- (1) Date of payment and the pay period covered by payment.

(Amend. of 11-14-2006)

SECTIONS 2-102. – 2-105. – RESERVED**CHAPTER 5 – MUNICIPAL ELECTIONS****SECTION 2-106. – ABSENTEE VOTING IN MUNICIPAL ELECTIONS OR REFERENDUMS**

Pursuant to a resolution passed by the board of commissioners, the town hereby permits absentee voting according to N.C. GEN. STAT.163-302. (Res. of 2-10-1992)

SECTION 2-107. – 2-120. – RESERVED**CHAPTER 6 – ADMINISTRATIVE PROCEDURES****SECTION 2-121. – AUTHORITY TO CLOSE TOWN OFFICES ON CERTAIN AFTERNOONS**

When it appears to the Board of Commissioners that a majority of the merchants of the town are closing their places of business on certain afternoons during any period of the year, the Board of Commissioners may by resolution or motion duly offered and passed, direct that the town hall and town offices be closed for business on such afternoons during such period.

SECTION 2-122. – DISPOSING OF SURPLUS PERSONAL PROPERTY

- (a) Pursuant to N.C. GEN. STAT.160D-266(c), the Town Clerk or his designee is hereby authorized to dispose of any property declared as surplus personal property by the Board of Commissioners owned by the town.
- (b) The Town Clerk or designee may dispose of any such surplus personal property by any means which he judges reasonably calculated to yield the highest attainable sale price in money or other consideration, including, but not limited to, the methods of sale provided in N.C. GEN. STAT.Ch. 160D, Art. 12. Such sale may be public or private, and with or without notice and a minimum waiting period.
- (c) The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services useful to the town if greater value may be obtained in that manner, and the Town Clerk or designee is hereby authorized to execute and deliver any applicable title documents. If no offers are received within a reasonable time, the Town Clerk or designee may retain the property, obtain any reasonably available salvage value, or cause the property to be disposed of as waste material. No surplus property may be donated to any individual or organization, except by resolution of the town council.
- (d) The Town Clerk or designee shall keep a record of all property sold under authority of this section, and such record shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanges were made, and the amount of money or other considerations received for each sale or exchange.
- (e) The Town Clerk or designee shall submit a report to the town council on a monthly basis, listing all items sold under the provisions of this section, the person/entity to whom the items were sold, and the amount

of each sale. If sold by auction, the name of the auction company will suffice as the entity/person to whom the item was sold.

State Law reference— Power to dispose of property, N.C. GEN. STAT.160D-11.

SECTION 2-123. – USE BY CITIZENS OF CERTAIN TOWN EQUIPMENT AND OPERATING PERSONNEL DISALLOWED.

It shall be the policy of the town to not permit the use of town equipment by anyone other than a town employee unless by explicit permission of the Board of Commissioners.

SECTION 2-124. – ACCESS TO PUBLIC RECORDS AND PROPERTY

No person shall remove any record, document, book, or other paper belonging to the town, or any town property, from the office or place where it properly belongs, without authority of the custodian thereof, who may require a receipt therefor, except on order from the Board of Commissioners, the Mayor, the Town Clerk, or a court of competent jurisdiction. All public records and accounts shall be available to the public for inspection and use during all regular business hours in the offices where maintained.

SECTION 2-125. – AUTHORITY OF TOWN OFFICERS TO ADMINISTER OATHS AND TAKE ACKNOWLEDGEMENTS.

Whenever, for any purpose stated in this code or other ordinance, an instrument in writing is required to be verified under oath or acknowledge as to signature, the town officer to whom such instrument is to be furnished or in whose office it is to be filed shall have authority to administer such oath or take such acknowledgment; and where a verbal oath is required, the appropriate town officer shall have authority to administer such oath.

SECTION 2-126. – 2-140. – RESERVED.

CHAPTER 7. – TOWN FISCAL POLICIES

SECTION 2-141. TOWN DEPOSITORY.

(a) In accordance with the Local Government Budget and Fiscal Control Act, no bill or claim against the town may be paid unless it has been approved by the officer or employee responsible for the function or agency to which the expense is charged. No check or draft of the town shall be valid unless it bears on its face the certificate of the finance officer as follows: "This disbursement has been approved as required by the Local Government Budget and Fiscal Control Act."

(b) No contract, agreement, or purchase order shall be valid unless it bears the finance officer certificate as follows: "This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act."

(Code 1991, § 2.3.02)

SECTION 2-142. – PURCHASE ORDERS.

Before any order is given for items to be purchased for the town by any town officer or employee, a purchase order must first be obtained from the Town Clerk.

State Law reference— Regulation of contracts, N.C. GEN. STAT.§ 160D-16 et seq.

SECTION 2-144. – DEPOSITS OF MONEY RECEIVED FOR TOWN.

The town Finance Officer shall deposit to the credit of the town, in such banks as may be designated by the town board as depositories, all money received by him and belonging to the town, on the same day they shall receive such money or on the following day, unless the following day is a Sunday or legal holiday, in which event they shall deposit such money the first day thereafter which is not a Sunday or a legal holiday.

SECTION 2-145 . – TOWN OFFICIALS CONTRACTING TO PROVIDE SERVICES, FACILITIES, OR SUPPLIES.

The following conditions are applicable to meet the requirements of N.C. GEN. STAT.§ 14-234, as amended.

- (a) The contract or undertaking, or series of contracts or undertakings, must be approved in advance by a specific resolution of the Board of Commissioners adopted in an open and public meeting, and recorded in its minutes.
- (b) The amount of the contract or undertaking may not exceed the amount set by the Board of Commissioners within a 12-month period.
- (c) The official entering into the contract or undertaking with the municipality may not in their official capacity participate in any way or vote upon the resolution, contract, or undertaking.
- (d) The total amounts of contracts or undertakings with each such official must be specifically noted in the audited annual financial statement of the municipality.
 - (a) The Board of Commissioners must have posted in a conspicuous place in the town hall a list of all such officials with whom any contract or undertakings have been made, briefly describing the subject matter and showing the total amount of each; the list must cover the preceding 12 calendar months and must be brought up to date at least quarterly.

SECTION 2-146. – CONSOLIDATION OF FUNCTIONS

The Board of Commissioners may provide for the consolidation of any two (2) or more positions of Town Clerk, Town Tax Collector and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

State Law Reference— Authority to consolidate, etc., offices, N.C. GEN. STAT.§ 160D-146.

SECTIONS 2-147. – 2-160. – RESERVED.

TITLE 3. – BUILDING AND BUILDING REGULATIONS**CHAPTER 1. GENERAL****SECTION 3-1. - PURPOSE.**

The regulations included in this Title shall regulate the construction, modification, or any alteration of residential and non-residential buildings and structures.

SECTION 3-2. - TERRITORY.

Application of this Title shall cover the geographic area within the Town of Clarkton and the extraterritorial jurisdiction of the Town.

SECTION 3-3. – 3-5. - RESERVED.**CHAPTER 2. INSPECTIONS DEPARTMENT****SECTION 3-6. - ORGANIZATION.**

There is hereby established a department to be called the “inspections department”.

- (a) The Inspection Department shall consist of a Code Enforcement Officer, a Plumbing Inspector, a Mechanical Inspector, an Electrical Inspector, and such other inspectors or deputy or assistant inspectors as may be authorized by the Board of Commissioners. The Board of Commissioners may, in its discretion, designate a Department Head.
- (b) On and after the applicable date set forth in the schedule in N.C. GEN. STAT.§ 160D-411, no town shall employ an inspector to enforce the state building code as a member of the town Inspection Department who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to his qualifications to hold such position:
 - i. A probationary certificate, valid for one year only;
 - ii. A standard certificate; or
 - iii. A limited certificate which shall be valid only as an authorization for them to continue in the position held on the date specified in N.C. GEN. STAT.§ 143-151.13(c) and which shall become invalid if they do not successfully complete in-service training specified by the Qualification Board within the period specified in N.C. GEN. STAT.§ 143-151.13(c).
- (c) An inspector holding one of the above certificates can be promoted to a position requiring a higher-level certificate only upon issuance by the Qualification Board of a standard certificate or probationary certificate appropriate for such new position.(N.C. GEN. STAT.§ 160D-411.1)

State Law reference— Building inspection, G.S 160D-411 et seq.

SECTION 3-7. – DUTIES OF DEPARTMENT AND INSPECTORS.

It shall be the duty of the inspection director to enforce the provisions of this chapter, and the inspection director or any duly authorized representative, may enter any building, structure or premises at any time to perform any duty imposed by this chapter.

State Law reference— Duties and responsibilities of inspectors, N.C. GEN. STAT.160D-412.

SECTION 3-8. – INSPECTIONS; INSPECTION PROCEDURE.

- (a) Generally. The inspection department shall inspect all buildings and structures and work therein for which a permit of any kind has been issued as often as necessary in order to determine whether the work complies with this chapter. When deemed necessary by the appropriate inspector, materials and assemblies may be inspected at the point of manufacture or fabrication, or inspections may be made by approved or recognized inspection organizations; provided, no approval shall be based upon reports of such organizations unless the reports are in writing and certified by a responsible officer of such organization. All holders of permits, or their agents, shall notify the inspection department and the appropriate inspector at each of the following stages of construction so that approval may be given before work is continued:
- (1) *Foundation inspection.* To be made after trenches are excavated and the necessary reinforcement and forms are in place, and before concrete is placed. Drilled footings, piles and similar types of foundations shall be inspected as installed.
 - (2) *Foundation wall inspection.* Where crawl space occurs, the foundation wall and spot piers shall be inspected prior to the incorporation of the flooring system.
 - (3) *Framing inspection.* To be made after all structural framing is in place and all roughing-in of the mechanical, plumbing, and electrical has been installed, after all fire blocking, chimneys, bracing and vents are installed, but before any of the structure is enclosed or covered. Poured in place concrete structural elements shall be inspected before each pour of any structural member.
 - (4) *Final inspection.* To be made after building or structure has all doors hung, fixtures set and ready for occupancy, but before the building is occupied.
- (b) Calls for inspection. Requests for inspections shall be made to the office of the inspection department or to the appropriate inspector. The inspection department shall make inspections as soon as practicable after the request is made therefor, provided such work is ready for inspection at the time the request is made. Reinspection's may be made at the convenience of the inspector. No work shall be inspected until it is in proper and completed condition ready for inspection. Equipment that is functioning or operating shall be considered ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate inspector in the form of a sticker or notice posted on the building or given to the permit holder or his agent. Failure to call for inspections or proceeding without approval of each stage of construction shall be deemed a violation of this chapter.
- (c) Street or alley lines. Where the applicant for a permit proposes to erect any building or structure on the line of any street, alley or other public place, he shall secure a survey of the line of such street, alley or other public place, adjacent to the property upon which such building or structure is to be erected before proceeding with construction of such building or structure. It shall be the duty of the appropriate inspector to see that the building does not encroach upon such street, alley or other public place.

- (d) Certificate of occupancy. The inspection department shall issue a certificate of occupancy when, after examination and inspection, it is found that the building in all respects conforms to the provisions of this chapter, the town zoning regulations and all other pertinent regulations for the occupancy intended.

Duties and responsibilities, see N.C. GEN. STAT. § 160D-412

Failure to perform, see N.C. GEN. STAT. § 160D-416

SECTION 3-9. – OVERSIGHT NOT TO LEGALIZE VIOLATION.

No oversight or dereliction of duty on the part of any inspector or other official or employee of the inspection department shall be deemed to legalize the violation of any provision of this chapter or any provision of any related law.

SECTION 3-10. – POWER OF INSPECTION OFFICIALS.

- (a) Authority. Inspectors are hereby authorized, empowered and directed to enforce all provisions of this chapter.
- (b) Right of entry. Inspectors shall have the right of entry on any premises within the limits of the town at reasonable hours for the purpose of inspection or enforcement of the requirements of this chapter and related regulatory laws upon presentation of proper credentials.
- (c) Stop orders. Stop orders may be issued by the inspection director or his designee in accordance with N.C. GEN. STAT. 160D-421.

State Law Reference— *Stop orders, N.C. GEN. STAT. 160D-421.*

SECTION 3-11. – CONFLICTS OF INTEREST.

No member of the Inspection Department shall be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building within the town's jurisdiction or any part or system thereof, or in the making of plans or specifications therefor, unless they are the owner of such building. No member of the Inspection Department shall engage in any work which is inconsistent with their duties or with the interests of the town.

State Law Reference: *(N.C. GEN. STAT. § 160D-415)*

SECTIONS 3-12. – 3-15. – RESERVED.

CHAPTER 3. BUILDING REGULATIONS

SECTION 3-16. – SCOPE OF CHAPTER.

The provisions of this chapter and of the regulatory codes herein adopted shall apply to the following:

- (a) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use, and occupancy of every building or structure or any appurtenances connected or attached to such building or structure.
- (b) 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.

- (c) 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.
- (d) The installation, erection, alteration, repair, use, and maintenance of electrical systems and appurtenances thereof.

SECTION 3-17. – BUILDING CODE ADOPTED BY REFERENCE.

The most current edition of the North Carolina State Building Code, Volume I, General Construction, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference and shall be used by the Town as the basis of authority to regulate building construction.

SECTION 3-18. – PLUMBING CODE ADOPTED BY REFERENCE.

The most current edition of the North Carolina Plumbing Code (North Carolina State Building Code, Volume II, Plumbing), as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the plumbing code for the town.

SECTION 3-19. – HEATING CODE ADOPTED BY REFERENCE.

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

SECTION 3-20. – ELECTRICAL CODE ADOPTED BY REFERENCE.

The most current edition of the North Carolina Electrical Code (North Carolina State Building Code, Volume IV, Electrical), adopting by reference the National Electrical Code of the National Fire Protection Association as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the electrical code for the town.

SECTION 3-21. – RESIDENTIAL CODE ADOPTED BY REFERENCE.

The most current edition of the North Carolina Uniform Residential Building Code, as adopted by the North Carolina Code Enforcement Officers Association and as published by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth herein as the residential building code for one- and two-family residential buildings in the town.

SECTION 3-22. – NONRESIDENTIAL CODE ADOPTED BY REFERENCE.

Adopted by reference is the Nonresidential Code as promulgated by the North Carolina General Assembly and codified as North Carolina General Statute §160D-439.

(NC Gen Stat. §160D-439)

SECTION 3-23. – AMENDMENTS TO CODE.

Amendments to the regulatory codes adopted by reference in this subchapter, 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.

SECTION 3-24. – COMPLIANCE WITH CODES.

- a) All buildings or structures which are constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished, or moved shall conform to the requirements, minimum standards, and other provisions of either the North Carolina State Building Code, General Construction Volume I or the North Carolina Uniform Residential Building Code, whichever is applicable, or of both if both are applicable.
- b) Every building or structure intended for human habitation, occupancy, or use shall have plumbing, plumbing systems, or plumbing fixtures installed, constructed, altered, extended, repaired, or reconstructed in accordance with the minimum standards, requirements, and other provisions of the North Carolina Plumbing Code (North Carolina State Building Code, Volume II, Plumbing).
- 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 North Carolina Heating Code (North Carolina State Building Code, Volume III, Heating).
- d) All electrical wiring, installations, and appurtenances shall be erected, altered, repaired, used, and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina Electrical Code (North Carolina State Building Code, Volume IV, Electrical).

SECTION 3-25. – COPIES FILED WITH THE TOWN CLERK.

An official copy of each regulatory code adopted in this subchapter, and official copies of all amendments thereto, shall be kept on file in the office of the Town Clerk. Such copies shall be the official copies of the codes and the amendments.

SECTION 3-26. – FIRE DISTRICTS.

The town establishes a new primary fire district that includes the area established as follows:

- (1) An area located 135 feet on the east and west sides of a line, being the centerline of College Street, established as follows: beginning at the intersection of the centerlines of College Street and North Carolina Highway 211 and running thence in a northerly direction with the centerline of College Street up to the intersection of the centerline of College Street and the centerline of Railroad Street.
- (2) An area lying 200 feet on the south side of a line, being the centerline of North Carolina Highway 211, established as follows: beginning at the intersection of the centerlines of College Street and North Carolina Highway 211, and running thence in an easterly direction with the centerline of North Carolina Highway 211, a distance of 675 feet.

(Motion of 7-8-1991)

Cross reference—Fire prevention and protection, Ch. 16.

SECTION 3-27. – MINIMUM HOUSING STANDARDS

That the Town of Clarkton hereby adopts as the minimum housing standards of the Town of Clarkton those standards set forth in N.C. GEN. STAT.160D-441 et seq. and specifically those standards set forth in N.C. GEN. STAT.160D-443.I and 160D-444.

(Ord. of 7-10-2000)

SECTION 3-28. – 3-35. – RESERVED.**CHAPTER 4. PERMITS****SECTION 3-36. – PERMITS REQUIRED; APPLICATION.**

- (a) No person shall commence or proceed with the construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure; the installation, extension, or general repair of any plumbing system; the installation, extension, alteration, or general repair of any heating or cooling equipment system; or the installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, without first securing from the Inspection Department any and all permits required by the State Building Code and any other state or local laws applicable to the work.
- (b) A permit shall be in writing and shall contain a provision that the work done shall comply with the state building code and all other applicable state and local laws. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if state law requires that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the state seal of a registered architect or of a registered engineer. When 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 the work is to be performed by such a duly licensed contractor.
- (c) No permit issued under N.C. GEN. STAT. §§ 143-136 through 143-143.2 or §§ 143-151.26 through 143-151.36 shall be required for any construction, installation, repair, replacement, or alteration costing the amount set by the Board of Commissioners in any single-family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement, or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a misdemeanor.

State Law Reference - N.C. GEN. STAT. § 160D-417)

SECTION 3-37. – PLANS AND SPECIFICATIONS.

Detailed plans and specifications shall accompany each application for a permit when the estimated total cost of the building or structure is in excess of the amount set by the Board of Commissioners 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. 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 that the work proposed will conform to the provisions of this chapter and the appropriate regulatory codes. Where plans and specifications are required, a copy of the same shall be kept at the work until all authorized operations have been completed and approved by the appropriate inspector.

SECTION 3-38. – ISSUANCE; LIMITATIONS.

- (A) 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 chapter and the appropriate regulatory codes, he shall issue such permit, upon payment of the proper fee provided in **§3-39**.
- (B) Limitations on issuance.
- (1) No building permit shall be issued for any building or structure, the estimated total cost of which is more than the amount set by the Board of Commissioners, unless the work is to be performed by a licensed general contractor.
 - (2) If state law requires that plans for certain types of work be prepared only by a registered architect or registered engineer, no building permit shall be issued for any building or structure, unless the plans and specifications bear the state seal of a registered architect or a registered engineer.
 - (3) Where any provision of the General Statutes of North Carolina or of any provision of this code or other ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for such work shall be issued, unless it is to be performed by such licensed specialty contractor.
 - (4) Where detailed plans and specifications are required under this chapter, no building permit shall be issued, unless such plans and specifications have been provided.

SECTION 3-39. – FEES.

Fees for permits shall be based upon the total estimated cost of the proposed work, including all subcontracts, if any, but in no case shall the total estimated cost be less than the market value of similar completed work in the town, as determined by the appropriate inspector. Permit fees shall be as established from time to time by the Town Clerk in consultation with the Code Enforcement Officer and the Plumbing Inspector. Schedules of such fees shall be maintained on file in the offices of the appropriate inspectors, and the Town Clerk.

SECTION 3-40. – TIME LIMITATIONS ON VALIDITY.

All permits issued under this chapter shall expire by limitation six months after the date of issuance, if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any permit which has expired shall thereafter be performed, until a new permit therefor has been secured.

State Law Reference: NC Gen. Stat. § 160D-418

SECTION 3-41. – CHANGES AFTER ISSUANCE.

After a permit has been issued, no changes or deviations from the terms of the application plans and specifications, or permit, except where changes or deviations are clearly permissible under the state building code, shall be made, until specific written approval of such changes or deviations has been obtained from the Inspection Department.

State Law Reference: NC Gen. Stat. § 160D-419

SECTION 3-42. – REVOCATION.

The appropriate inspector may revoke and require the return of any permit by notifying the permit holder in writing, stating the reason for such revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with requirements of this chapter and the appropriate regulatory codes; or for false statements or misrepresentations made in securing such permits.

State Law Reference: NC Gen. Stat. § 160D-422

SECTIONS 3-43. – 3-50. – PLUMBING CODE ADOPTED BY REFERENCE.

CHAPTER 5. UNSAFE BUILDINGS

SECTION 3-51. – INSPECTION; NOTICE TO OWNER TO CORRECT.

When the Inspector finds any defects in a building, or finds that the building has not been constructed in accordance with the applicable state and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be their duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property they own.

State Law Reference: NC Gen. Stat. § 160D-425

SECTION 3-52. – CONDEMNATION OF ESPECIALLY DANGEROUS BUILDINGS.

- (a) Every building that shall appear to the Inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the Inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of said building.
- (b) If any person shall remove any notice that has been affixed to any building or structure by the Inspector that states the dangerous character of the building or structure, they shall be guilty of a misdemeanor.

State Law Reference: NC Gen. Stat. §§ 160D-426 to 427

SECTION 3-53. – FAILURE OF OWNER TO TAKE CORRECTIVE ACTION.

- (a) If the owner of a building or structure that has been condemned as unsafe pursuant to **§ 3-52.(a)** shall fail to take prompt corrective action, the Inspector shall give them written notice, by certified or registered mail to their last known address or by personal service:
 - (1) That the building or structure is in a condition that appears to constitute a fire or safety hazard or to be dangerous to life, health, or other property;
 - (2) That a hearing will be held before the Inspector at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (3) That following the hearing, the Inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.
- (b) If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least ten days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the town at least once not later than one week prior to the hearing.
- (c) If, upon a hearing held pursuant to the notice prescribed in divisions (a) and (b) above, the Inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or

renders it dangerous to life, health, or other property, they shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or structure or taking other necessary steps, within a period, not less than 60 days, that the Inspector may prescribe. However, where the Inspector finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

State Law Reference: NC Gen. Stat. §§ 160D-428 to 429.

SECTION 3-54. – APPEAL BY OWNER.

Any owner who has received an order under § 3-53.(c) may appeal from the order to the Board of Commissioners by giving notice of appeal in writing to the Inspector and to the Town Clerk within ten days following issuance of the order. In the absence of an appeal, the order of the Inspector shall be final. The Board of Commissioners shall hear an appeal within a reasonable time and may affirm, modify or deny.

State Law Reference: NC Gen. Stat. § 160D-430

SECTION 3-55. – ENFORCEMENT PROCEDURES AGAINST OWNER.

If the owner of a building or structure fails to comply with an order issued pursuant to § 3-53.(c) from which no appeal has been taken, or fails to comply with an order of the Board of Commissioners following an appeal, they shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

State Law Reference: NC Gen. Stat. § 160D-431.

SECTIONS 3-56. – 3-60. – RESERVED.

CHAPTER 6. ABANDONED BUILDINGS

SECTION 3-61. – FINDING; INTENT.

It is hereby found that there exist within the town abandoned structures which the board of commissioners finds to be hazardous to the health, safety and welfare of the residents of the town due to 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. Therefore, pursuant to the authority granted by N.C. GEN. STAT.160D-441, it is the intent of this article to provide for the repair, closing or demolition of any such abandoned structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing or demolition of dwellings unfit for human habitation. (Code 1991, § 9.2.01)

*'Cross reference—Environment, Ch. 14.

SECTION 3-62. – DUTIES OF THE CODE ENFORCEMENT OFFICER REGARDING ABANDONED BUILDINGS.

The code enforcement officer is hereby designated as the town officer to enforce the provisions of this article. Such officer shall be appointed by the board of commissioners. It shall be the duty of the code enforcement officer to:

- (1) Locate abandoned structures within the town and determine which structures are in violation of this article;
- (2) Take such action pursuant to this article as may be necessary to provide for the repair, closing or demolition of such structures;
- (3) Keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this article; and
- (4) Perform such other duties as may be prescribed in this article or assigned to them by the board of commissioners.

(Code 1991, § 9.2.02)

SECTION 3-63. – POWERS OF THE CODE ENFORCEMENT OFFICER

The code enforcement officer is authorized to exercise such powers as may be necessary to carry out the intent and provisions of this article, including the following powers in addition to others granted in this article:

- (1) Investigate the condition of buildings within the town in order to determine which structures are abandoned and in violation of this article;
- (2) Enter upon premises for the purpose of making inspections;
- (3) Administer oaths and affirmations, examine witnesses, and receive evidence; and
- (4) Designate such other officers, agents and employees of the town as he deems necessary to carry out the provisions of this article.

(CODE 1991, § 9.2.03)

SECTION 3-64. – STANDARDS FOR ENFORCEMENT.

- (a) Every abandoned structure within the town shall be deemed in violation of this article whenever such structure constitutes a hazard to the health, safety or welfare of the town citizens as a result of:
 - (1) The attraction of insects or rodents;
 - (2) Conditions creating a fire hazard;
 - (3) Dangerous conditions constituting a threat to children; or
 - (4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.
- (b) In making the preliminary determination of whether or not an abandoned structure is in violation of this article, the code enforcement officer may, by way of illustration and not limitation, consider the presence or absence of the following conditions:
 - (1) Holes or cracks in the structure's floor, walls, ceilings or roof which might attract or admit rodents and insects, or become breeding places for rodents and insects;
 - (2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents and insects;
 - (3) Violations of the state building code, the state electrical code, or the fire prevention code which constitute a fire hazard in such structure;

SECTION 3-65. – PROCEDURE FOR ENFORCEMENT.

- (a) Notice of hearing. 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 their own motion, that any dwelling is unfit for human habitation, the code enforcement officer shall, if their preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that a hearing will be held before the code enforcement officer, or their designated agent, at a place within the county, fixed not less than ten days and not more than 30 days after the serving of the complaint, that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint, and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the code enforcement officer.
- (b) Issuance of order by code enforcement officer. If, after notice and hearing, the code enforcement officer determines that the dwelling under consideration is unfit for human habitation, they shall state in writing their 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 dwelling can be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified, to repair, alter or improve the dwelling in order to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or
 - (2) If the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish such 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 N.C. GEN. STAT.160D-400.14(a).
- (c) *Authority to repair or close structure.* If the owner fails to comply with an 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. The code enforcement officer may cause 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 or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a class 1 misdemeanor.
- (d) *Authority to remove or demolish structure; adoption and recording of ordinance.* If the owner fails to comply with an order to remove or demolish the dwelling, the code enforcement officer may cause

such dwelling to be removed or demolished. The duties of the code enforcement officer set forth in subsections (c) and (d) of this section shall not be exercised until the board of commissioners shall have by ordinance ordered the code enforcement officer to proceed to effectuate the purpose of this article 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 in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This article shall be recorded in the office of the register of deeds of the county and shall be indexed in the name of the property owner in the grantor index.

- (e) lien for costs incurred by town. 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 N.C. GEN. STAT.160D-216 et seq. 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 superior court of the state by the code enforcement officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section 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.
- (f) Removal of occupants. 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 such occupant. 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 such dwelling. The clerk of the superior court of the state shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in N.C. GEN. STAT.42-29. The summons shall be returned according to its tenor, 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 (d) 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. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under N.C. GEN. STAT.42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in N.C. GEN. STAT.7A-228, and the execution of such judgment may be stayed as provided in N.C. GEN. STAT.7A-227. 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 subsection unless such 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 under subsections (c) and (d) of this section to vacate and close or remove and demolish the dwelling.

- (g) Notice to affordable housing organizations. Whenever a determination is made pursuant to subsection (b) of this section that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the code enforcement officer, to allow the opportunity for any organization to negotiate with the owner to make repairs to, lease, or purchase the property for the purpose of providing affordable housing. The code enforcement officer or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the code enforcement officer to wait 45 days before causing removal or demolition.

(Code 1991, § 9.2.05)

SECTION 3-66. – METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

(a) Complaints or orders issued by the code enforcement officer pursuant to an ordinance adopted under this article shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, or the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(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, or if the owners are known but have refused to accept service by registered or certified mail, and the code enforcement officer makes an affidavit to that effect, then the serving of the complaint or order upon the 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 under the provisions of this article. 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 1991, § 9.2.06)

SECTION 3-67. – IN REM ACTION BY THE CODE ENFORCEMENT OFFICER; PLACARDING.

- (a) After failure of an owner of a structure to comply with an order of the Inspector issued pursuant to the provisions of this subchapter, and upon adoption by the Board of Commissioners of an ordinance authorizing and directing him or her to do so, as provided by N.C. GEN. STAT. § 160D-443(5) and **§ 3-65**, the Inspector shall:
- (1) Proceed to cause such structure to be repaired, removed or demolished, as directed by the ordinance of the Board of Commissioners; and

- (2) Cause to be posted on the main entrance of such structure a placard prohibiting the use or occupation of the structure.
- (b) Use or occupation of a building so posted shall constitute a misdemeanor.
- (c) Each such ordinance shall be recorded in the Office of the Register of Deeds of Bladen County , and shall be indexed in the name of the property owner in the grantor index, as provided by N.C. GEN. STAT.§ 160D-443(5).

SECTION 3-68. – COSTS OF LIEN ON PREMISES.

- (a) As provided by N.C. GEN. STAT.§ 160D-446(6), the amount of the cost of any removal or demolition caused to be made or done by the Inspector pursuant to this subchapter shall be a lien against the real property upon which such cost was incurred.
- (b) Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by Article 10, Chapter 160D of the General Statutes.

SECTION 3-69. – ALTERNATIVE REMEDIES.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this article by criminal process, and the enforcement of any other remedy provided in this article or in other ordinances or laws. (Code 1991, § 9.2.09)

SECTION 3-70. – GENERAL RIGHT TO APPEAL.

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of the Inspection Department pertaining to the state building code or other state building laws shall be taken to the Commissioner of Insurance or other official specified in N.C. GEN. STAT.§ 143-139, by filing a written notice with them and with the Inspection Department within a period of ten days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law.

State Law Reference: NC Gen Stat. § 160D-434

SECTION 3-71. – REMEDIES.

Whenever any violation is deemed a misdemeanor under the provisions of this chapter, the town, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

State Law Reference: NC Gen Stat. § 160D-432

SECTION 3-72. – PENALTY.

Whoever violates any provision of this chapter shall be subject to the penalties provided by law.

SECTION 3-73. – 3-80. – RESERVED.**CHAPTER 7. REGULATION TO LICENSE AND PERMIT INSTALLERS OF ENERGY CONSERVATION MATERIALS AND EQUIPMENT****SECTION 3-81. – AUTHORITY.**

This chapter is adopted pursuant to N.C. GEN. STAT. §§ 143-151.26 et seq. and 160D-194.

SECTION 3-82. – REQUIRED LICENSE.

Pursuant to N.C. GEN. STAT. § 143-151.31, no person, firm, or corporation may for a consideration install, alter, or restore within the town any insulation or other materials or energy utilization equipment designed or intended to meet the State Building Code requirements for insulation and energy utilization standards who is not either licensed as a contractor to do the proposed work under N.C. GEN. STAT. Ch. 87, or the holder of an annual license or permit to do such work issued by the town pursuant to N.C. GEN. STAT. §§ 153A-134 or 160D-194. However, this shall not apply to an installer working under the supervision of a registered architect or professional engineer or an owner working upon his own building.

SECTION 3-83. – APPLICATIONS.

Every person desiring a license under this subchapter shall submit an application for such license to the Code Enforcement Officer conforming to the following requirements:

- (a) Form of application. Each application shall be a written statement upon forms provided by the Code Enforcement Officer.
- (b) Contents of application. Each application shall contain the following information:
 - (1) Name and home address of the applicant, if an individual, or home office address, if a corporation or partnership;
 - (2) Names and home addresses of the partners, if a partnership;
 - (3) Names and home addresses of the officers and directors, if a corporation;
 - (4) Place where the proposed business is to be located;
 - (5) Complete record of all convictions of felonies or acts involving dishonesty, fraud, or deceit by the applicant or any employee, partner, officer, or director of the applicant, whether in this or any other state or jurisdiction.
 - (6) Complete record of all licenses held by the applicant or any employee, partner, officer, or director of the applicant authorizing activities of the type authorized herein or other activities involving construction, alteration, or modification of buildings and structures;
 - (7) Information as to the circumstances in which any local, state, or federal government or agency has refused, suspended, or revoked a license of the type described in division (B)(6) to the applicant or any employee, partner, officer, or director of the applicant.
- (c) Fees. Each application shall be accompanied by a fee in the amount set by the Board of Commissioners for such license, such amount to be for the fiscal year and prorated by quarters to the end of such year.
- (d) False statements. False statements on any application for a license shall be grounds for immediate revocation or denial of such license.

SECTION 3-84. – PROCEDURE FOR ISSUANCE.

- (a) Review by town officers. Each application received by the designated officer shall be promptly forwarded to the inspection department, Police Department, or any other interested departments which might have information for review. Such officers shall promptly make any comments and recommendations pertaining to the application and forward those to the officer or board described below.

- (b) Licensing agency. The application and any comments and recommendations relating thereto shall be considered by Code Enforcement Officer, which shall then issue or deny the license pursuant to the following standards.
- (c) Standards. The Code Enforcement Officer shall issue the license unless it shall find that the applicant or any employee, partner, officer, or director of the applicant:
 - (1) Has been convicted within the last three years of a felony or an act involving dishonesty, fraud, or deceit, whether in this or any other state or jurisdiction, which felony or act has some reasonable connection with energy conservation installation;
 - (2) Has been refused a license to do the type of work authorized herein or has had such a license suspended or revoked by any local, state, or federal agency and such government or agency has not subsequently granted or restored such license;
 - (3) Has knowingly made a false statement in the application.
 - (4) Has failed to post the bond or other security required by **§ 3-85**.

SECTION 3-85. – BOND REQUIRED.

- (a) Before a license shall be issued to any applicant, the applicant shall post a bond with the town in the amount set by the Board of Commissioners. In lieu of posting a bond, the applicant may deposit a cashier's check or cash in the same amount.
- (b) The security required by division (A) above shall be available to indemnify any person for any damage which may accrue by reason of the applicant's failure to properly provide or install insulation, energy utilization equipment, or other materials designed or intended to meet the State Building Code standards for insulation and energy utilization.

SECTION 3-86. – TERMINATION AND RENEWAL OF LICENSES.

All licenses issued hereunder shall terminate on the last day of the fiscal year for which issued. Renewal of such licenses shall be pursuant to the same procedures and requirements set forth for initial issuance.

SECTION 3-87. – SUSPENSION; REVOCATION.

- (a) The Code Enforcement Officer may suspend or revoke any license issued hereunder at any time upon a showing that the applicant or any employee, partner, officer, or director of the applicant has knowingly made a false statement in the application for a license, or violated the State Building Code requirements as to insulation or energy utilization equipment or materials, whether in this or any other jurisdiction, or been convicted of an act involving dishonesty, fraud, or deceit with respect to any contract entered into for work requiring this license.
- (c) Any licensee whose license is suspended or revoked may appeal the suspension or revocation to the Town Board of Commissioners. After reasonable notice to the licensee, the Board of Commissioners shall afford the licensee an opportunity to show why its license should not be suspended or revoked.

SECTION 3-88. – CHANGE OF LOCATION.

The location of any licensed business may be changed, provided ten days' notice thereof is given to the town and operation at such new location does not violate any applicable state or local law, ordinance, or regulation.

SECTION 3-89. – REQUIRED PERMIT; FEE.

- (a) No person, firm, or corporation may for a consideration install, alter, or restore any insulation or other materials or energy utilization equipment designed or intended to meet the State Building Code requirements for insulation and energy utilization without first securing a special insulation and energy utilization permit from the Code Enforcement Officer for each item of work, which permit shall evidence compliance with the insulation and energy utilization standards of the State Building Code.
- (b) There shall be a fee in the amount set by the Board of Commissioners for each permit issued.
- (c) The following shall not be required to obtain the permit required by division (A) of this section:
 - (1) An owner working upon his own building; and
 - (2) An installer working under the supervision of a registered architect or professional engineer, when the work is being performed under a general building permit.

SECTION 3-90. – PENALTY.

Any person, firm, or corporation violating the provisions of this chapter shall be subject to all the applicable punishment, penalties, and equitable relief provided for by N.C. GEN. STAT.§ 160D-175 and N.C. GEN. STAT.§§ 143-151.26 et seq.

SECTIONS 3-91. – 3-95. – RESERVED.**CHAPTER 8. FLOOD PLAIN MANAGEMENT****ARTICLE 1. GENERAL PROVISIONS****SECTION 3-96. – PURPOSE AND AUTHORITY.**

The purpose of regulating these flood plains as set forth in this chapter and as authorized by N.C. GEN. STAT.Ch. 143, Art. 21, Part 6 and N.C. GEN. STAT.§ 153A, Art. 6, Part 121 is to help control and minimize the extent of floods by preventing obstructions which inhibit water flow and increase flood height and damage and to otherwise regulate the use of the flood hazard areas to prevent or minimize loss of life, injuries, property damage, and other losses, both public and private, in flood hazard areas and to promote the public health, safety, and general welfare of the citizens of the town.

SECTION 3-97. – INTENT.

This chapter is intended to permit only that development within the flood hazard area which is appropriate in light of the probability of flood damage and presents a reasonable social and economic use of land in relation to the hazards involved. The regulation hereinafter set forth in this chapter shall apply to all property located within the hazard areas as shown on the official flood hazard boundary maps which are incorporated by reference and made a part of this chapter.

SECTION 3-98. – JURISDICTION.

The provisions of this chapter shall be applied within the boundaries of the town.

SECTION 3-99. – DEFINITIONS.

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

AREA OF SPECIAL FLOOD HAZARD. The land in the flood plain within a community subject to a 1% or greater chance of flooding in any given year. The area may be designated as Zone A on the flood hazard boundary map. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AI-99, VO, and VI-30.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

FLOOD or FLOODING.

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) The overflow of inland or tidal waters.
 - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (c) Mudslides (such as, mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in division (1)(a) above.

FLOOD ELEVATION DETERMINATION. A determination by the Federal Insurance Administrator of the water surface elevation of the base flood, that is, the flood level that has a 1% or greater chance of occurrence in any given year.

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Federal Insurance Administrator, where the boundaries of the flood, mudslide (such as, mudflow) related erosion areas having special hazards have been designated as Zone A, M, or E.

FLOOD INSURANCE. The insurance coverage provided under the program.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOOD PLAIN or FLOOD-PRONE AREA. Any land area susceptible to being inundated by water from any source (see **FLOODING**.)

FLOOD PLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plan, flood control works, and flood plain management regulations.

FLOOD RELATED EROSION. The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high-water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

FLOODWAY. See **REGULATORY FLOODWAY**.

REGULATORY FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reversed in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

STRUCTURE. For flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home. **STRUCTURE** for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above

ground and affixed to a permanent site, as well as a mobile home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either, before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred.

SUBSTANTIAL IMPROVEMENT is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SECTION 3-100. – MINIMUM PROVISIONS; MEASURES DESIGNED TO REDUCE FLOOD LOSSES.

(A) The provisions of this chapter apply at a minimum to all areas identified by the Federal Insurance Administrator as flood plain areas having special flood hazards; and

(B) Provide that within the flood plain area having special flood hazards, the laws and ordinances concerning land use and control and other measures designed to reduce flood losses shall take precedence over any conflicting laws, ordinances, or codes.

SECTION 3-101. – APPEALS BOARD.

If the developer or builder desires to appeal the denial of the Enforcement Officer for a permit, they will submit a written request within 30 days of the denial to the Town Board of Commissioners stating their reasons for requesting such appeal. The Board of Commissioners will constitute the Appeals Board or they may appoint such Appeals Board members to act in their stead. The decision of the Enforcement Officer may be reversed by the majority of the members of the Appeals Board.

SECTION 3-102. – LIABILITY.

The granting of a permit shall not constitute a guarantee or warranty of any kind by the town, any officer, employee, or board, as to the safety or practicality of any structure or uses thereof or any other plan proposed and shall create no cause for action against or liability upon the town, any officer, employee, or board for damage to property by flood or otherwise. This chapter does not imply that property inside or outside the flood hazard area will be free from flood damage.

SECTION 3-103. – AMENDMENTS.

The Town Board of Commissioners may from time to time amend the terms of this chapter to effect further compliance with the Federal Flood Insurance Program. This entire chapter may be revoked and rewritten or amended as deemed appropriate by the Board of Commissioners.

SECTIONS 3-104. – 3-110. – RESERVED.

ARTICLE 2. REQUIREMENTS

SECTION 3-111. – GENERAL PROVISION.

All proposed development, new construction, and substantial improvements in the designated flood hazard boundary area will be subject to the requirements found in **Article 2** of this Chapter.

SECTION 3-112. – PERMITS REQUIRED FOR PROPOSED CONSTRUCTION AND OTHER DEVELOPMENTS.

- (a) Permits are required for all proposed and other developments, including the placement of mobile homes and prefabricated buildings, within Zone A on the flood hazard maps or the flood insurance rate maps.
- (b) Permit applications will be reviewed to determine whether the proposed building sites will be reasonably safe from flooding and flood related erosion. If a proposed building site is in a flood-prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and mobile homes) shall:
 - (1) Be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure;
 - (2) Be constructed with materials and utility equipment resistant to flood damage; and
 - (3) Be constructed by methods and practices that minimize flood damage.

SECTION 3-113. – REVIEW OF PERMIT APPLICATION FOR SUBDIVISION PROPOSALS AND OTHER PROPOSED NEW DEVELOPMENTS.

Permit application for subdivision proposals and other proposed new development will be reviewed to determine whether such proposals will be reasonably safe from flooding and flood related reason. If a subdivision proposal or other proposals shall be reviewed to assure that:

- (a) All such proposals are consistent with the need to minimize flood damage within the flood-prone area.
- (b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage.
- (c) Adequate drainage is provided to reduce exposure to flood hazards.
- (d) All proposed development will be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
- (e) All subdivision proposals and other proposed new developments greater than 50 lots or five acres, whichever is the lesser, are required to include with such proposals the base flood elevation data.

SECTION 3-114. – REVIEW OF BUILDING PERMIT APPLICATIONS TO DETERMINE IF BUILDING SITES SAFE FROM FLOOD HAZARD.

The Enforcement Officer shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure; use construction materials and utility equipment that are resistant to flood damage; and use construction methods and practices that will minimize flood damage.

SECTION 3-115. – WATER SUPPLY SYSTEMS.

Within flood-prone areas, new and replacement water supply systems are required to be designed to minimize or eliminate infiltration of flood waters into the systems.

SECTION 3-116. – SANITARY SEWAGE SYSTEMS.

All new and replacement sanitary sewage systems within flood-prone areas are required to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

SECTION 3-117. – ON-SITE WASTE DISPOSAL SYSTEM.

All on-site waste disposal systems within flood-prone areas are required to be located to avoid impairment to them or contamination from them during flooding.

SECTION 3-118. – BASE FLOOD LEVEL DATA.

Any base flood elevation data available from a federal, state, or other source shall be obtained, reviewed, and reasonably utilized until such other data has been provided by the Federal Insurance Administrator, as criteria for requiring that:

- (a) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood level; and
- (b) All new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated or flood-proofed to or above the base flood level.

SECTION 3-119. – DETERMINATION OF APPLICABLE FLOOD INSURANCE RISK PREMIUM RATES.

For the purpose of the determination of applicable flood insurance risk premium rates within Zone A on the flood hazard boundary map, the following information of this chapter will be filed with the Enforcement Officer:

- (a) The elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement; and
- (b) If the structure has been flood-proofed, the elevation (in relation to mean sea level) to which the structure was flood-proofed.

SECTION 3-120. – MOBILE HOMES TO BE ANCHORED.

All mobile homes to be placed within Zone A on the flood hazard boundary maps are required to be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. This will be accomplished in the following manner:

- (a) Over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations. Mobile homes less than 50 feet long will require only one additional tie per side.
- (b) Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points. Mobile homes less than 50 feet long will require only four additional ties per side.

- (c) All components of the anchoring system are required to be capable of carrying a force of 4,800 pounds.
- (d) Any additions to the mobile home shall be similarly anchored.

SECTION 3-121. – EVACUATION PLAN TO BE FILED.

All mobile home parks and mobile home subdivisions located within Zone A on the flood hazard boundary map, are required to have filed an evacuation plan indicating alternate vehicular access and escape routes with the appropriate disaster preparedness authorities.

SECTION 3-122. – NOTIFICATION OF RIVERINE SITUATIONS ADJACENT TO COMMUNITIES.

The Enforcement Officer of this chapter is required to notify, in riverine situations, the adjacent communities and the state coordinating office prior to any alteration or relocation of a watercourse. They will submit copies of such notification to the Federal Insurance Administrator. They also assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

SECTION 3-123. – 3-125. - RESERVED

ARTICLE 3. ADMINISTRATION AND ENFORCEMENT

SECTION 3-126. – ENFORCEMENT OFFICER; DUTIES.

- (a) The Town Clerk shall be the Enforcement Officer and as such shall administer and enforce this chapter.
- (b) The duties of the Enforcement Officer are to:
 - (1) Receive, review, and issue all permits required; and
 - (2) Make inspections of work in progress and at completion; issue orders to correct violations; bring any necessary judicial actions against actual or threatened violations; keep records; and take any other actions required in order to adequately enforce this chapter.

SECTION 3-127. – BUILDING PERMIT.

It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged, wholly, or partly in its use of structure, until a building permit shall have been issued by the Enforcement Officer.

SECTION 3-128. – PLANS AND SPECIFICATIONS.

To determine compliance with this chapter, the Enforcement Officer shall review the plans and specifications that are submitted in conformance with the State Building Code. The plans and specifications shall be accompanied by a certificate prepared by the developer or builder, or their licensed architect, or their licensed engineer to determine that the construction, alterations, repairs, or proposed development complies with the provisions set forth in **Article 2** of this Chapter. Unless the certificate is prepared by a licensed architect or licensed engineer, the Enforcement Officer may deny the permit if it appears there are no reasonable grounds for the certification.

SECTION 3-129. – ASSURANCES AS TO CONFORMANCE.

The Enforcement Officer may deny a permit unless assurance is obtained from the appropriate branch of the Department of Human Resources, the Department of Natural Resources and Community Development, or the local health department that the water supply and sanitary sewage systems are in conformance with this chapter.

SECTION 3-130. – OTHER FLOOD MANAGEMENT PROGRAMS.

The Enforcement Officer shall take into account flood plain management programs, if any, are already in effect in neighboring areas.

SECTION 3-131. – REMEDY.

Any violation of this chapter shall constitute a misdemeanor. The Enforcement Officer shall give any person in violation of this chapter a reasonable opportunity not to exceed 30 days to correct such violation before pursuing any other legal remedy.

SECTION 3-132. - 3-135. – RESERVED.**CHAPTER 9. SOIL EROSION AND SEDIMENTATION CONTROL****SECTION 3-136. – TITLE.**

This chapter may be cited as the “Town Soil Erosion and Sedimentation Control” Chapter.

SECTION 3-137. – PURPOSE.

This chapter is adopted for the purposes of:

- (a) Regulating land-disturbing activities to prevent unnecessary soil erosion and sedimentation in order that water pollution from sedimentation may be controlled, that the obstruction of natural and artificial drainage ways may be prevented, and that flooding may be inhibited.
- (b) Establishing procedures through which these purposes can be fulfilled.

SECTION 3-138. – DEFINITIONS.

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

ANGLE OF REPOSE FOR SATURATED SOIL CONDITIONS. The angle of maximum slope at which a heap of any loose soil, thoroughly soaked with moisture, will stand without sliding.

DISTRICT. The County Soil and Water Conservation District created pursuant to N.C. GEN. STAT.Ch. 139.

EROSION. The wearing of land surface by the action of wind, water, gravity, or any combination thereof.

LAND-DISTURBING ACTIVITY. Any use of the land by any person or persons in residential, industrial, or commercial developments and in street and sidewalk construction and maintenance, or where any ground cover, natural or man-made is removed or existing site elevations are changed that results in a change of natural cover or topography and that may cause or contribute to sedimentation.

PERSON. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, cooperative, or other legal entity.

SEDIMENT. Solid particulate matter, both mineral and organic, that has been moved from its site of origin or is in suspension in water, or is being transported by air, water, gravity, or ice.

WORKING DAYS. Days exclusive of Saturday or Sunday during which weather conditions permit land-disturbing activity to be undertaken.

SECTION 3-139. – SCOPE AND EXCLUSIONS.

This chapter shall apply to land-disturbing activities undertaken by any person, with the following exclusions:

- (a) Land-disturbing activities undertaken on agricultural land but not limited to: forage and sod crops, grain and feed crops, tobacco, cotton and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including the breeding and grazing of any or all such animals; bees and apiary products; fur animals.
- (b) Land-disturbing activities undertaken on forest land for the production and harvesting of timber and timber products.
- (c) Land-disturbing activities undertaken by persons who are otherwise regulated by the provisions of N.C. GEN. STAT. § 74-46 through N.C. GEN. STAT. 74-68, the Mining Act of 1971.
- (d) Land-disturbing activities conducted by the state.
- (e) Land-disturbing activities conducted by the United States.
- (f) Land-disturbing activities conducted by local governments.
- (g) Land-disturbing activities licensed by the United States.
- (h) Land-disturbing activities financed in whole or in part by the state or United States.
- (i) Land-disturbing activities at any one time, at any one site, by any persons that do not exceed a certain amount of square feet in surface area. In determining the area, contiguous lands will be aggregated.

SECTION 3-140. – STANDARDS FOR LAND DISTURBING ACTIVITIES.

No land-disturbing activity subject to the control of this chapter shall be undertaken except in accordance with the following standards:

- (a) No land-disturbing activity 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 the 25% of the buffer zone nearer the land-disturbing activity, provided, that this division (A) shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.
- (b) No slope may be graded to an angle greater than the angle of repose for saturated soil conditions applicable for the type soil involved, unless the soil on such slope is retained by some adequate erosion controlling structure or device. In any event, soil left exposed will, within 30 working days of completion of any phase of grading, be planted or otherwise provided with a ground cover sufficient to restrain erosion.
- (c) Whenever land-disturbing activity is undertaken on a tract comprising more than one acre, if more than one contiguous acre is uncovered, a ground cover sufficient to restrain erosion must be planted or otherwise provided within 30 days on that portion of the tract upon which further active construction is not being undertaken, provided that this division (C) shall not apply to cleared land forming the basin of a reservoir later to be inundated.

SECTION 3-141. – PERMIT REQUIRED; EXCEPTIONS.

No person shall undertake any land-disturbing activity subject to this chapter without first obtaining a permit therefor from the town, except that no permit shall be required for the following land-disturbing activities:

- (a) Those done for the purpose of fighting fires.
- (b) The stock piling of raw or processed sand, stone, or gravel in concrete, asphalt, and material processing plants and storage yards, provided that the slopes of such stock piles are no steeper than the natural angle of repose and that sediment control measures have been utilized to protect against off-site damages.

SECTION 3-142. – EROSION CONTROL PLANS.

- (a) Upon review of an application for a permit, the town may require an erosion control plan for any land-disturbing activity. The power to require an approved erosion control plan for land-disturbing activities on sites of less than five acres shall be exercised only in those cases involving land-disturbing activities posing a substantial risk of erosion and sedimentation, such as those conditions near a stream or lake or those the cumulative impact of which would pose a substantial risk of erosion and sedimentation.
- (b) An erosion control plan shall be developed and be available at all times at the site of the activity whenever a land-disturbing activity is undertaken on a tract comprising more than one acre if more than one contiguous acre is uncovered.
- (c) An erosion control plan must be developed and approved by the town, prior to commencement of the land-disturbing activity whenever a land-disturbing activity is planned on a tract comprising more than five acres if more than one contiguous acre is to be uncovered at any one time.
- (d) An erosion control plan not requiring prior approval shall contain information explaining how the standards established by **§ 3-140** are to be complied with, including but not limited to a simple sketch map of the site (and sufficient narrative statements if necessary) to describe:
 - (1) Any changes of elevation or drainage including culverts, piping, ditches, catch basins, diversions, or other devices which would affect erosion and sedimentation from the site.
 - (2) A nonvegetative protection including mulching, paving, riprap, walls, or other structures or surfaces planned for the site.
 - (3) All areas of vegetation to be removed, location of trees to be retained, and proposed vegetative cover to be established.
 - (4) A development schedule and grading specifications for the site.
- (e) An erosion control plan which requires prior approval shall contain information concerning how the standards established by **§ 3-140** are to be complied with and must include at least the following items:
 - (1) A vicinity map drawn to a scale of not less than 2,000 feet to one inch showing the relationship of the site to its general surroundings.
 - (2) A plan of the site drawn to an appropriate scale showing:
 - (a) The boundary lines of the site on which the work is to be performed, including the approximate acreage of the site.
 - (b) Existing topography including, but not limited to, existing streams, water bodies, structures, road and vegetative cover of the site, and on land adjacent to the site.

- (c) Existing contours with intervals of not more than ten feet where the slope is 20% or greater, and not more than five feet where the slope is from 10% to 20% and not more than two feet where the slope is less than 10%. In any event, the drainage pattern will be indicated.
 - (d) Proposed improvements of the site, including present development and future use, if known, proposed changes to the land surface and vegetative cover, and areas of cuts and fills.
 - (e) All drainage provisions, including culverts, piping, ditches, sediment basins, diversions, or other devices, any nonvegetative protection or support including paving, riprap, walls, or other structures or surfaces, any vegetative measures to be constructed in connection with, or as part of, the proposed work.
 - (f) Facilities for erosion control during construction and during the life of the facility.
 - (g) Title, scale, north arrow, date, and name of person preparing the plan.
- (3) Narrative report including:
- (a) A timing schedule and sequence of operations, stating the expected starting and completion dates of the development sequence.
 - (b) The estimated time of exposure of each area prior to the completion of effective erosion and sedimentation control measures, and other related data such as seeding mixtures and rates, type of sod, seed bed preparation, lime and fertilizer application, and mulching.
 - (c) A general description of the predominant soil types on the site.
 - (d) The name and address of the land owner, the developer, and the person submitting the plan.
 - (e) A statement that the land-disturbing activity shall be conducted in accordance with the plan.
 - (f) A statement giving any applicable engineering assumptions and calculations.
- (f) An erosion control plan which requires approval prior to the commencement of land-disturbing activities shall be submitted to the appropriate Soil and Water Conservation District at the same time it is submitted to the town for approval. Within 20 days after receipt of each proposed plan, or within such additional time as the Board of Commissioners may allow, the District shall review the proposed plan and submit its comments and recommendations. Failure of the Soil and Water District within 20 days or within the prescribed additional time to submit its comments and recommendations shall not delay the final action on the proposed plan by the local government.
- (g) Within 30 days of receipt of each erosion control plan, the town shall notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. A plan shall be approved only if it complies with the provisions of this chapter.
- (h) Application for amendment of an erosion control plan in written or graphic form may be made at any time under the same conditions as the original application. Until such time as the amendment is approved by the town, the land-disturbing activities shall not proceed except in accordance with the erosion control plan as originally approved.

SECTION 3-143. – INSPECTIONS.

- (a) Agents and officials of the town may inspect the sites of land-disturbing activities for which permits have been issued at reasonable times to determine whether the activities are being conducted in accordance with the plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from land-disturbing activities.
- (b) If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a notice to comply shall be served upon that person by registered mail. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activities fails to comply within the time specified, they shall be deemed in violation of this chapter.

SECTION 3-144. – FEES.

A fee in the amount set by the Board of Commissioners shall be charged for each permit.

SECTION 3-145. – APPEALS.

- (a) The disapproval or modification of any proposed erosion control plan by the town shall entitle the person submitting the plan to a public hearing if such person submits written demand for a hearing within 15 days after receipt of written notice of disapproval or modification.
- (b) Hearings held pursuant to this section shall be conducted by the Town Planning Board within five days after receipt of the request.
- (c) The Planning Board shall make recommendations to the Board of Commissioners for the town concerning appeals and other matters related to this chapter. The Planning Board shall make its recommendations to the Board of Commissioners for the town within five days after the date of the hearing on any erosion control plan.
- (d) The Board of Commissioners for the town shall render its final decision on any erosion control plan concerning which a hearing is requested within ten days of receipt of the recommendations from the Planning Board.

SECTION 3-146. – INJUNCTIVE RELIEF.

- (a) Whenever the Board of Commissioners has cause to believe that any person is violating or threatening to violate this chapter or any rule or order adopted or issued pursuant to this chapter, or any term, condition, or provision of an approved erosion control plan, it may, either before or after the institution of any other action or proceeding authorized by this chapter, institute a civil action in the name of the town for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county.
- (b) Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this chapter.
- (c) Nothing in this chapter shall restrict any right which any person or class of persons may have under any statute or common law to seek injunctive or other relief.

SECTION 3-147. – PENALTY.

- (a) Civil penalties.
- (1) Any person who violates any of the provisions of this chapter, or rule or order adopted or issued pursuant to this chapter, or who initiates or continues a land-disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be subject to a civil penalty of not more than the amount set by the Board of Commissioners. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation. Each day of a continuing violation shall constitute a separate offense.
- (2) The Board of Commissioners shall determine the amount of the civil penalty to be assessed under this division (A)(2) and shall make written demand for payment upon the person in violation, and shall set forth in detail as description of the violation for which the penalty has been imposed. In determining the amount of the penalty, the Board of Commissioners shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. If payment is not received or equitable settlement reached within 60 days after demand for payment is made, the matter shall be referred to the Town Attorney for institution of a civil action in the name of the town, in the appropriate division of the general court of justice for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this chapter.
- (b) Criminal penalties. Any person who knowingly or willfully violates any provision of this chapter, or rule or order adopted or issued pursuant to this chapter, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a misdemeanor punishable by imprisonment not to exceed 30 days, or by a fine not to exceed a fee set by the Board of Commissioners, or by both, in the discretion of the court.

SECTIONS 3-148. – 3-150. – RESERVED.**CHAPTER 10. NONRESIDENTIAL BUILDING REGULATIONS****Article 1. General Provisions****SECTION 3-151. – TITLE.**

The rules and regulations prescribed by this article shall be known and be cited as "The Nonresidential Building Code of the Town of Clarkton" and may be referred to in this article as "this code."

SECTION 3-152. – PURPOSE AND AUTHORITY.

Pursuant to N.C. GEN. STAT.160D-439, it is the purpose of this article to establish minimum standards for the maintenance, sanitation and safety of all nonresidential buildings and structures within the corporate limits of the town. This article does not replace or modify requirements or standards otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities, except as provided in this article.

SECTION 3-153. – SCOPE AND APPLICABILITY.

- (a) The provisions of this article shall apply to all nonresidential buildings or structures which are now in existence or which may be built within the corporate limits of the town.
- (b) Every nonresidential building or structure and the property on which it is situated shall comply with the provisions of this article, whether or not such building or structure shall have been constructed, altered, or repaired before or after the enactment of this article, and irrespective of any permits or licenses which have been issued for the use or occupancy of the building or structure or for the installment or repair of equipment or facilities.

SECTION 3-154. – 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:

Alteration, as applied to a building or structure, means a change or rearrangement in the structural parts or in the exit facilities; as enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another; and the term "alter" in its various moods and tenses and its participle refers to the making of an alteration.

Approved, as applied to a material, device or mode of construction, means approved by the inspector under this article or by other authority designated by law to give approval in the matter in question.

Area:

- (1) As applied to the dimensions of a building, means the maximum horizontal projected area of the building.
- (2) As applied to the dimensions of a room, means the total square footage of floor area between finished walls.

Basement means a story with 50 percent or more of its cubical volume below finished grade.

Building means, for the purposes of this article, any structure built for the shelter or enclosure of persons, animals or property of any kind. The term "building" shall be construed as if followed by the phrase "or part thereof."

Close means securing the building or structure so that unauthorized persons cannot gain entrance.

Code enforcement official means the person who has been designated by the Town Clerk to enforce this article.

Demolish means the demolition and removal of the entire building or structure, leaving the property free and clear of any debris and without holes or pockets which may retain water.

Extermination means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

Garbage means waste materials including, without limitation, the byproduct of animal or vegetable foodstuffs, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard waste, tins, metals, mineral matter, glass, crockery, dust and the residue from the burning of wood, coal, coke and other combustible material.

Infestation means the presence, within or around a building or structure, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or public.

Inspector means any person who is authorized by the code enforcement official to conduct inspections for the purpose of this article.

Nonresidential means any building or structure that is not a dwelling, lodging establishment, manufactured home or rooming house as those terms are defined in *Chapter 3*.

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

Party in interest means all individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

Pier means a masonry or other material support extending from the ground and footing to and supporting the building or portion thereof. Pier sizes and spacing shall conform to the specifications of the state building code.

Plumbing means and includes all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, mechanical sink grinders, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Property means any lot or parcel of land inclusive of any building, structures or improvements located thereon.

Public authority means any authority or officer of any department or branch of the government of the town, county or state who is in charge of administering and enforcing regulations relating to health, fire, public safety, buildings or other activities concerning buildings or structures in the town.

State building code means the North Carolina State Building Code or any superseding regulation.

Town means the Town of Clarkton.

Vacant means that a building or structure has not been used for its intended purpose or for any lawful purpose for a period of at least 180 consecutive days.

Vacant industrial warehouse means any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

Vacant manufacturing facility means any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purposes for at least one year and has not been converted to another use.

Article 2. Administration and Enforcement

SECTION 3-155. – DUTIES AND POWERS OF THE CODE ENFORCEMENT OFFICIAL.

It shall be the duty of the code enforcement official to:

- (1) Investigate the conditions of and inspect buildings and structures in the town in order to determine whether they have been properly maintained in compliance with the minimum standards established by this article so that the safety or health of the occupants or members of the general public are not jeopardized;
- (2) Enter upon property for the purpose of making examinations and inspections provided that such entries shall be made in accordance with law and in such a manner as to cause the least possible inconvenience to the persons in possession, if any;
- (3) If permission to enter is not granted by the owner, the owner's agent, a tenant, or other person legally in possession of the property, obtain a duly issued administrative search warrant in accordance with N.C. GEN. STAT.15-27.2;
- (4) Appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of this article;
- (5) Delegate any of his or her functions and powers under this article to other officers and agents;
- (6) Take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect compliance of nonresidential buildings or structures which are in an unsafe condition;
- (7) Administer oaths and affirmations, examine witnesses and receive evidence;
- (8) Issue notices of violation and impose civil penalties;
- (9) Keep a record of the results of inspections made under this article; and
- (10) Perform such other duties as may be prescribed in this article.

SECTION 3-156. – INSPECTIONS.

For the purpose of making inspections, the code enforcement official is hereby authorized to enter and examine and survey, at all reasonable times, all property after sufficiently identifying himself. The owner or occupant of every property, or the person in charge thereof, shall give the code enforcement official free access to such property, at all reasonable times, for the purpose of such inspection, examination and survey.

SECTION 3-157. – ADMINISTRATIVE LIABILITY.

Except as may otherwise be provided by statute or local law or ordinance, no town officer, agent or employee charged with the enforcement of this article shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of their duties under this article unless they acted with actual malice.

SECTION 3-158. – PROCEDURE FOR ENFORCEMENT.

- (a) Preliminary investigation. Whenever it appears to the code enforcement official that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by this article, they shall undertake a preliminary investigation.
- (b) Complaint and hearing. If the preliminary investigation discloses evidence of a violation of the minimum standards established by this article, the code enforcement official shall issue a complaint and cause it to be served upon the owner of and parties in interest in such nonresidential building or structure. The complaint shall state the charges and contain a notice that a hearing will be held before the code enforcement official at a place therein fixed, not less than ten days or more than 30 days after the serving of such complaint. The owner or any party in interest shall have the right to correct the violation or 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. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in the hearing before the code enforcement official.
- (c) Procedure after hearing; issuance of order.
 - (1) If, after notice and hearing provided for in subsection (b), the code enforcement official determines that the nonresidential building or structure has been maintained in that the property meets the minimum standards established by this article, the code enforcement official shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof a copy of said determination.
 - (2) If, after notice and hearing provided for in subsection (b), the code enforcement official determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established in this article, the code enforcement official shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner an order in accordance with the provisions

of subsection (c) (3) and (c) (4) of this section and subject to the limitations set forth in subsection (d).

- (3) If the code enforcement official determines that the cost of repair, alteration, or improvement of the nonresidential building or structure would not exceed 50 percent of its then current value, then the code enforcement official shall state in writing the findings of fact in support of such determination and issue an order that requires the owner, within a reasonable time specified in the order, to either:
 - a. Repair, alter or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established in this article; or
 - b. Vacate and close the nonresidential building or structure for any use.
- (4) If the code enforcement official determines that the cost of repair, alteration, or improvement of the nonresidential building or structure would exceed 50 percent of its then current value, then the code enforcement official shall state in writing the findings of fact in support of such determination and issue an order that requires the owner, within a reasonable time specified in the order, to either:
 - a. Remove or demolish the nonresidential building or structure; or
 - b. Repair, alter or improve the nonresidential building or structure to bring it into compliance with the minimum standards established in this article.

(d) *Limitations on orders.*

- (1) Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the town council determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established in this article.
- (2) An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

(e) *Action by town council upon failure to comply with order.*

- (1) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the town council may adopt an ordinance ordering the code enforcement official to cause such building or structure to be repaired, altered or improved in order to bring it into compliance with the minimum standards established by this article or to be vacated and closed for any use. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the code enforcement official may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The code enforcement

official may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

- (2) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the town council may adopt an ordinance ordering the code enforcement official to cause such building or structure to be removed or demolished. No ordinance shall be adopted to require removal or demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established in this article. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the code enforcement official may cause the building or structure to be removed or demolished.

(f) *Action by town council upon abandonment of intent to repair.*

- (1) If the town council has adopted an ordinance or the code enforcement official has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the town council may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the town in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the town council may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:
 - a. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to 50 percent of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days; or
 - b. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds 50 percent of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the town council may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

- (2) If the owner fails to comply with the ordinance, the code enforcement official shall cause the building or structure to be removed or demolished.

SECTION 3-159. – APPEALS FROM ORDER OF CODE ENFORCEMENT OFFICIAL TO THE BOARD OF ADJUSTMENT.

All appeals, which may be taken from decisions or order of the code enforcement coordinator or officer pursuant to this article, shall be heard and determined by the board of adjustment. As the appeals body, the board of adjustment shall have the power to fix the times and places of meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties.

All appeals shall be subject to the following:

- (a) An appeal from any decision of the code enforcement official may be taken by any person aggrieved thereby to the board. Any appeal from the code enforcement official must be taken within ten days after the rendering of the decision or service of the order by filing with the code enforcement official and with the appeals board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the code enforcement official shall forthwith transmit to the housing appeals board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the code enforcement official refusing to allow the person aggrieved thereby to do any act, the code enforcement official's decision shall remain in force until modified or reversed. When an appeal is from a decision of the code enforcement official requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing of the board unless the code enforcement official certifies to the board, after the notice of appeal is made, that, by reason of the fact stated in the certificate, a copy of which shall be furnished to the appellant and other parties in interest, a suspension of this requirement would cause imminent peril to life or property. When the code enforcement official issues such a certificate, 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 official by the board or by a court of record upon petition made pursuant to N.C. GEN. STAT.160D-446(c) and subsection (c) of this section.
- (b) The board shall fix a reasonable time for the hearing of all appeals and cross appeals, shall give due notices to all parties in interest and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney and present evidence. The board may reverse, affirm, wholly or partly, or modify the decision or order appealed from and may make such decision and order as in its opinion ought to be made in the matter. All board meetings shall have a quorum present of at least four members, and the vote of at least four members shall be required for a decision on an appeal or cross appeal. The board shall have the power in passing upon appeals and cross appeals where there are practical difficulties or hardships to adopt the application of this chapter to the necessities of the individual case to the end that the general purposes of the law and justice shall be done.

- (c) Every decision of the board shall be subject to review by proceedings within 15 days of the service of the decision of the board on the person who filed the appeal.
- (d) Any person aggrieved by an order issued by the code enforcement official or a decision rendered by the board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the code enforcement official pending a final disposition of the cause, as provided by N.C. GEN. STAT.160D-446(f).

SECTION 3-160. – METHODS OF SERVICE AND COMPLAINTS.

- (a) Complaints or orders issued by the code enforcement official pursuant to this article shall be served upon persons either personally or by registered or certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is refused, but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the property affected.
- (b) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the code enforcement official in the exercise of reasonable diligence, and the code enforcement official makes an affidavit to that effect, the serving of the complaint or order upon the 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 under this article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the property affected.

SECTION 3-161. – LIS PENDENS.

Any complaint and notice of hearing or order issued pursuant to this article may be filed in the notice of lis-pendens in the office of the clerk of the superior court. A copy of the complaint containing a notice of hearing or a copy of the order shall be attached to the lis-pendens. When the lis-pendens is filed with the clerk, it shall be indexed and cross-indexed in accordance with the indexing procedures of N.C. GEN. STAT.1-117 and it shall be served on the owners of and parties in interest in the building or structure. From the date and time of indexing the complaint and notice of hearing or order, it shall be binding upon the successors and assigns of the owners of and parties in interest in the building or structure. The code enforcement official may cancel the lis pendens upon his determination that the owner of the building or structure has fully complied with the code enforcement official's order.

SECTION 3-162. – COSTS A LIEN ON THE PROPERTY.

- (a) As provided by N.C. GEN. STAT.160D-439(i), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the code enforcement official pursuant to the provisions of this article shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in N.C. GEN. STAT.§ 160D, art. 10.

- (b) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition expended by the code enforcement official is also a lien on any other real property of the owner located within the town limits except for the owner's primary residence. The additional lien provided in this subsection is inferior to all prior liens and shall be collected as a money judgment.
- (c) If the nonresidential building or structure is removed or demolished by the code enforcement official, he shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the code enforcement official, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this article shall be construed to impair or limit in any way the power of the town council to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

SECTION 3-163. – ALTERNATIVE REMEDIES.

Enforcement by any remedy provided in this article shall not prevent enforcement by any other remedy provided in this article or in other ordinances or laws. With the exception of **subsection 3-158(e) (1)**, however, a violation of any provision of this article shall not constitute an infraction or misdemeanor punishable under NC Gen. Stat. 14-4.

SECTION 3-164. – CONFLICT WITH OTHER PROVISIONS.

If any provision, standard or requirement of this article is found to be in conflict with any other town ordinance, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

SECTION 3-165. – VIOLATIONS; PENALTY.

- (a) It shall be unlawful for the owner of any nonresidential building or structure to fail, neglect or refuse to repair, alter or improve the building or structure, or to vacate and close and remove or demolish, or to vacate and close the building or structure upon order of the code enforcement official duly made and served as provided in this article, within the time specified in such order; and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense.
- (b) It shall be unlawful for the owner or agent of the owner of any nonresidential building or structure, with respect to which an order has been issued to occupy or permit the occupancy of the building after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and removal or demolition, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.
- (c) Any owner who fails to comply with an order of the code enforcement official to repair, alter or improve the building or structure or to vacate and close and remove or demolish the building or structure, or vacate and close the building or structure within the time specified in the order, shall be subject to a civil penalty in the amount of \$500.00 for the first day of noncompliance and \$50.00 for each day thereafter until the building or structure is brought into compliance with the order.

The civil penalty may be recovered by the town in a civil action in the nature of a debt if the owner does not pay the penalty within 30 days after the initial day of noncompliance.

SECTION 3-166. – EJECTMENT.

If any occupant fails to comply with an order to vacate a nonresidential building or structure, the code enforcement official may file a civil action in the name of the town to remove the occupant. Such action shall be filed in the nature of summary ejectment and conducted in accordance with N.C. GEN. STAT.160D-439(j).

Article 3. Maintenance Standards

SECTION 3-167. – MAINTENANCE STANDARDS IN GENERAL.

Only electrical, mechanical and plumbing devices and systems which are (i) intended to be used at the time of inspection; (ii) being used at the time of inspection; or (iii) required by law at the time of inspection are subject to the applicable portions of this article.

SECTION 3-168. – EXTERNAL MAINTENANCE STANDARDS.

(a) Exit requirements.

- (1) Minimum number of exits shall conform to the requirements of the state building code as applicable.
- (2) Every stairway, deck, porch, and balcony, and all appurtenances attached thereto, including without limitation, handrails and guardrails, shall be maintained in a structurally sound condition, in good repair. Each shall be properly anchored and capable of supporting live or dead loads.

(b) Electrical facilities.

- (1) No receptacles, ceiling fixtures, or other fixtures shall be hanging loose, unless designed and rated for that purpose.
- (2) All switches and receptacles shall be safe.
- (3) There shall be no unsafe wiring.
- (4) There shall be no drop or extension cords in excess of six feet in length used in place of permanent wiring.
- (5) No circuits shall be overloaded.
- (6) Fuses shall be sized correctly and not bridged out.
- (7) All wiring shall be in accordance with the National Electrical Code.

(c) Exterior walls.

- (1) There shall be no unsafe wall conditions such that the plumbline from the top center of studs falls outside the base plate at any point along the wall.
- (2) Maximum spacing for studding, providing they show signs of being weak or overloaded, shall comply with the requirements of the state building code.
- (3) Studs or other structural members shall be structurally sound and not likely to cause structural weakness in the future.
- (4) There shall be no broken or cracked structural members.
- (5) All siding shall be reasonably weathertight, with no holes or excessive cracks or decayed boards, or siding material.

- (6) There shall be no loose siding.
 - (7) There shall be no deterioration because of lack of preventative maintenance consisting of painting, waterproofing and repair.
- (d) Roofs.
- (1) All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the dead and live loads.
 - (2) The roof and flashing shall be sound, tight and not have defects which admit water or rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior of the structure. Roof drains, gutters, scuppers, and downspouts shall be maintained in good repair, and free from obstructions. Roof water shall not be discharged in a manner that creates a health or safety hazard.
- (e) Porches, vestibules and external covered areas.
- (1) The floor, ceiling, and roof shall be equal to requirements set forth in this article, except sills, joists and floors need not be level if providing drainage of floors; floors need not be weathertight.
 - (2) Every stairway, deck, porch and balcony, and all appurtenances attached thereto, including, without limitation, handrails and guardrails, shall be maintained in a structurally sound condition, in good repair. Each shall be properly anchored, and capable of supporting imposed loads.
- (f) Windows, where provided, including frames, sash components, and glazing shall be maintained in good condition, with no broken, cracked, or missing glazing.
- (g) Property maintenance.
- (1) Building structure. Exterior wood surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative with sufficient frequency to prevent deterioration.
 - (2) Open areas. There shall be no heavy undergrowth or accumulation of plant growth which is noxious or detrimental to health, or because it is overgrown, may provide harborage for criminal activity.
 - (3) Infestation. Grounds, buildings and structures shall be maintained free of infestation by rodents, insects and other pests.
 - (4) Chimneys and towers. All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

SECTION 3-169. – INTERIOR MAINTENANCE STANDARDS.

In general. The interior of a structure and equipment therein shall be maintained in good order, shall be structurally sound, and be in a sanitary condition. Occupants shall keep that part of the building or structure which they occupy or control in a clean and sanitary condition.

- (a) *Exit requirements.* Minimum number of exits shall conform to the requirements of the state building code as applicable.
- (b) *Plumbing systems and facilities.*
 - (1) In general, all fixtures and piping shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects. All plumbing shall be

capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

- (2) Plumbing fixtures shall have adequate clearance for usage and cleaning.
- (3) Where it is found that a plumbing system in a building or structure creates an unsafe condition that is hazardous to the occupants, or by reason of inadequate service, inadequate venting, cross connection, back siphonage, improper installation deterioration or damage, or for similar reasons, the code enforcement official shall require the defects to be corrected to eliminate the unsafe condition.

(c) *Heating facilities.*

- (1) Building shall be weatherproof.
- (2) Heating systems shall be maintained in good order and repair and shall be of sufficient capacity so as to heat all occupied areas in accordance with the state building code.
- (3) All safety controls and all clearances to combustible materials for electrical equipment which produces heat shall be maintained in effective operation.
- (4) Other heating facilities, where provided, shall meet the requirements of the state building code.
- (5) All electric, gas and heating oil heating equipment installed on the property shall be listed by Underwriters' Laboratories, Inc. or American Gas Association and installed in accordance with the provisions of the state building code.
- (6) All mechanical appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.
- (7) All fuel burning equipment or appliances shall be connected to an approved chimney or vent. Fuel burning equipment and appliances labeled for unvented use are an exception to this requirement.
- (8) All required clearances to combustible materials shall be maintained.
- (9) All safety controls for fuel burning equipment shall be maintained in effective operation.

(d) *Electrical facilities.*

- (1) No receptacles, ceiling fixtures, or other fixtures shall be hanging loose unless designed and rated for that purpose.
- (2) All switches and receptacles shall be safe.
- (3) There shall be no unsafe wiring.
- (4) There shall be no drop or extension cords in excess of six feet in length used in place of permanent wiring.
- (5) No circuits shall be overloaded.
- (6) Fuses shall be sized correctly and not bridged out.
- (7) All wiring shall be in accordance with the National Electrical Code.

(e) *Structural standards.*

(1) *Foundation.*

- a. Beneath the building or structure there shall be firm ground, which is reasonably dry, properly drained and no water shall be running under the building or structure.
- b. There shall be sound footings and adequate bearing.
- c. There shall be sound piers and no loose mortar or masonry.
- d. There shall be no piers in which the plumbline from the top center falls outside the middle one-third of the pier base.

- e. There shall be no isolated masonry piers exceeding in height ten times the least dimension of the pier.
- f. There shall be no wood stiff-knee piers.

(2) *Floors.*

- a. Flooring shall be weathertight without holes or excessive cracks which permit air to penetrate rooms.
- b. Flooring or floor covering shall be reasonably smooth and not decayed, fire damaged or worn through.
- c. There shall be no loose flooring.
- d. Floors shall be reasonably level.
- e. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the dead and live loads.

(3) *Interior load bearing walls.*

- a. There shall be no unsafe wall conditions such that the plumbline from the top center studs falls outside the base plate at any point along the wall.
- b. Maximum spacing for studding, providing the studs show signs of being weak or overloaded, shall comply with the requirements of the state building code.
- c. Studs or other structural members, including posts and columns, shall be structurally sound and not likely to cause structural weaknesses in the future.
- d. There shall be no broken or cracked structural members.

(4) *Interior porches, landings and vestibules.*

- a. The floor and ceiling shall be equal to the requirements set forth in this article.
- b. Every stairway, deck, porch and balcony and all appurtenances attached thereto, including, without limitation, handrails and guardrails, shall be maintained in a structurally sound condition and in good repair.
- c. Any interior porch, landing or vestibule shall be properly anchored and capable of supporting live and dead loads.

SECTION 3-170. – PROPERTY MAINTENANCE STANDARDS.

- (a) *Building structure.* Storage of combustible materials is prohibited unless the building or structure is designed for that purpose.
- (b) *Open areas.*
 - (1) Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent development of stagnant pools.
 - (2) Fences, sheds, signs, outbuildings, and other accessory buildings shall be maintained in a safe and functional condition or removed or demolished.
 - (3) Yards, courts, parking lots, and driveways shall be kept clean and free of physical hazards, garbage, junk, junked vehicles, vehicle parts and other similar material.
 - (4) There shall be no heavy undergrowth or accumulation of plant growth which is noxious or detrimental to health, or because it is overgrown, may provide harborage for criminal activity.
 - (5) There shall be adequate lighting to prevent harborage for criminal activity.
- (c) *Infestation.* Grounds, buildings and structures shall be maintained free of infestation by rodents, insects and other pests.
- (d) *Garbage.* There shall be adequate sanitary facilities and methods for the storage, handling and disposal of garbage generated on or by the property.

- (e) *Storm drainage.* Drainage of paved areas, yards, courts and other open areas on the property shall not be discharged in a manner that creates a health or safety hazard.

SECTION 3-171. – VACANT BUILDINGS OR STRUCTURES.

- (a) The interior maintenance standards set forth in Section 3-166 shall not apply to vacant nonresidential buildings or structures unless one or more of the following serious conditions is present on the property:
 - (1) Overall conditions present a serious health or safety hazard.
 - (2) The building or structure is a breeding area for rodents or insects.
 - (3) The building or structure presents a fire hazard.
 - (4) The building or structure is structurally unsafe and presents a threat to the safety of code enforcement personnel, fire department personnel and law enforcement officers or members of the general public.
 - (5) The building or structure is frequented by vagrants.
 - (6) The building or structure is not properly secured to prevent unauthorized access.
- (b) If the code enforcement official orders a nonresidential building or structure vacated and closed pursuant to this article, the owner shall board and secure such building or structure in accordance with the guidelines for boarding and securing a building or structure provided by the code enforcement official.

SECTION 3-172. – 3-180. – RESERVED.

TITLE 4. - GENERAL AND SUPPLEMENTAL REGULATIONS**CHAPTER 1. – ADVERTISING****ARTICLE 1. - GENERAL REGULATIONS****SECTION 4.1. – DESTROYING OR MUTILATING BILLS, POSTERS, ETC.**

It shall be unlawful for any person to destroy or mutilate any bill, advertisement, sign or poster, without the knowledge, consent or approval of the person to whom such bills, advertisements, signs or posters belong, whenever such are placed where he has the right to place them.

State Law Reference—*Injuring notices, signs and advertisements generally, N.C. GEN. STAT. § 14-384; defacing or destroying legal notices and advertisements, § 14-385.*

SECTION 4.2. – FASTENING SIGNS.

It shall be unlawful for any person to paste, tack, fasten or lean against any building, wall, fence, tree, pole, post or any other property any advertising sign, cards or placards, without the consent or approval of the owner of such property.

State Law Reference—*Unlawful posting of advertisements, N.C. GEN. STAT. § 14-145.*

SECTION 4.3. – POSTING SIGNS ON PUBLIC PROPERTY PROHIBITED.

It shall be unlawful for any person to post any bill, placard, handbill, flyer, painting, sign, or other similar object on or over any street right-of-way, property owned by the town, or property established as a beautification site by the Town unless approved by the Town Clerk. The provisions of this section shall not be applicable to any signs, signals, markings and devices placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic and to political campaign signs regulated by the provisions of Article II of Chapter 3 of the Code.

SECTIONS 4.4. - 4.10. – RESERVED.**ARTICLE 2. POLITICAL CAMPAIGN SIGNS****SECTION 4.11. – DEFINITIONS.**

For the purposes of this article, the following words or phrases shall have the meanings respectively ascribed to them in this section:

Political campaign sign means any sign urging the election or defeat of any candidate seeking any political office, or urging the passage or defeat of any referendum issue.

Public property means all property owned by the Town, all property established as a beautification site by the Town and its tree commission, all public streets, any area within the visibility triangle at a street intersection for a distance of 25 feet from any intersection of a street boundary line, and everything affixed thereto and there over.

Sign means and includes any bill, poster, placard, handbill, flyer, painting, sign or other similar object in any form whatsoever which contains printed or written matter in words, symbols, or pictures, or in any combination thereof.

Street boundary line means the curb line or other edge of the travelled portion of a public street.

SECTION 4.12. – POSTING ON PUBLIC PROPERTY PROHIBITED.

No person shall post a political campaign sign on or over any public property in the Town. Posting of political campaign signs at polling places on the day of the election shall not be a violation of this section.

SECTION 4.13. – OTHER PROHIBITED LOCATIONS.

- (a) No person shall post a political campaign sign so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.
- (b) No person shall attach a political campaign sign to a traffic control device or sign, utility pole or structure, or tree located upon public property or within the public right-of-way.

SECTION 4.14. – POSTING TIME LIMITS.

Within portions of a public right-of-way not included in the scope of public property as defined by Section 3-12, no person shall post a political campaign sign more than 30 days prior to the election for which the sign is posted and fail to remove a political campaign sign within three days after the election for which the sign was posted.

SECTION 4.15. – SIZE LIMITS.

- (a) Within portions of a public right-of-way not included in the scope of public property as defined by section 3-11, no person shall post a political campaign sign with a surface area exceeding 16 square feet and no person shall post a political campaign sign with a surface area exceeding four square feet between the travelled portion of the street and a line running parallel and five feet from the outer edge of the street, and everything affixed thereto and there over.
- (b) Within portions of the visibility triangle at a street intersection for a distance of 50 feet from any intersection of the street boundary line, no person shall post a political campaign sign with a height exceeding 24 inches. The provisions of this subsection shall not permit the posting of signs otherwise prohibited pursuant to the provisions of this article.

SECTION 4.16. – REMOVAL OF ILLEGAL SIGNS.

Political campaign signs in violation of this article are hereby declared to be public nuisances and may be abated as such by the town. The director of public works or his authorized agents are hereby authorized to remove any political campaign sign found posted within the corporate limits of the Town when such sign is in violation of the provisions of this article.

SECTION 4.17. – STORAGE, NOTICE, RETURN.

If the director or his agents remove any political sign, they shall keep a record of the location from which the sign was removed. They shall store the political campaign sign in a safe location for at least ten days and shall immediately notify by telephone the candidate, committee or person responsible for the posting of the sign, indicating the fact of removal and the location where it may be retrieved. If the director is unable to make telephone contact, they shall provide written notice, if the address of the candidate, committee, or person is known or can be ascertained. The director shall return any political campaign sign upon the payment of the fee provided in section 3-18.

SECTION 4.18. – REMOVAL OF SIGN; CHARGE.

The Town shall be entitled to receive the sum written in the adopted annual budget ordinance for every political campaign sign removed by the director or their agents due to the sign being posted greater than three days after the election for which the sign was posted, to cover the expense of removal, notice and storage. In cases where unusual effort is needed to remove a sign, such as the cutting or removal of supporting structure, use of aerial devices, towing of trailer signs, or other unusual situation, the Town shall collect from the person responsible a sum sufficient to cover the costs and hourly wages of employees so utilized.

SECTION 4.19. – CANDIDATE RESPONSIBLE FOR THE POSTING OF POLITICAL CAMPAIGN SIGNS; EXCEPTIONS.

In a campaign for political office, the candidate for such office shall be deemed the person responsible for the posting of political campaign signs, unless they first notifies the Town Clerk and the director of public works of another person who is responsible. In such case, the candidate shall provide the name, address, telephone number, and signed consent of such other responsible person. In a campaign regarding a referendum issue, the president of the committee supporting or opposing such referendum issue shall be deemed responsible, unless they first notify the Town Clerk and director of public works of some other person responsible, in the manner described above. The candidate, or in the case of a referendum issue, the committee president, or other responsible person if so designated, shall be liable to pay any fees or costs for the removal and storage of illegal signs, as set out herein. Nothing in this section shall be interpreted to make any person liable for any sign posted by persons unknown to him or her, or by persons over whom he or she has no control.

SECTIONS 4.20 – 4.25. – RESERVED.

CHAPTER 2. – ANIMALS (DOGS, CATS, FOWL, SWINE)

ARTICLE 1. – GENERAL

SECTION 4-26. – DISPOSAL OF DEAD ANIMALS.

No person shall deposit or cause to be deposited the carcass of any dead animal in the streets, roads, alleys, woods or waters within the corporate limits of the Town. The bodies or carcasses of dead cats or dogs will be removed at any time upon request during the town's working hours if placed in an accessible location on the premises.

***State Law Reference—** Department of transportation's authorization to remove dead animals from rights-of-way, N.C. GEN. STAT.§ 136-118(21); disposition of dead domesticated animals, N.C. GEN. STAT.§ 106-403.*

SECTION 4.27. – KEEPING OF HOGS WITHIN THE TOWN LIMITS

No person shall keep any pigs or hogs within the corporate limits. Each day's violation shall constitute a separate offense.

(Code 1991, § 8.2.05)

SECTION 4.28. – BIRDS & FOWL WITHIN THE TOWN LIMITS.

No person shall permit ducks, geese, or chickens to remain on or in any of the streets or public places at night, or to run at large in the daytime.

(Code 1991, § 8.2.03)

Pigeons

It shall be unlawful to keep pigeons except when such pigeons are properly kept in a cage or enclosure at all times.

(Code 1991, § 8.2.04)

BIRD SANCTUARY

Any person violating the provisions below shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$500.00 or imprisoned not more than 30 days.

(Code 1991, § 8.2.53)

Hunting, Killing, or trapping birds

It shall be unlawful for any person to hunt, kill or trap any birds within the territorial limits of the town, provided that this shall not apply to any birds classed as predatory by the state wildlife resources commission or by the General Statutes, nor does it apply to pigeons, crows, starlings or English sparrows.

(Code 1991, § 8.2.52)

SECTION 4.29. –NOISY ANIMALS.

It shall be unlawful for any person to keep or maintain on any premises or lot within the Town any animal the noise from which constitutes a public nuisance. Failure to abate such nuisance within two (2) days after written notice to do so from the office of Town animal control or their designee shall be a violation of this chapter and punishable pursuant to **Section 4.6** below.

SECTION 4.30. – REMOVAL OF FECES DEPOSITED BY DOGS REQUIRED.

- (a) It shall be unlawful for any person walking or in control of any dog to allow or permit such animal to defecate upon any public property, including but not limited to parks, trails, streets, sidewalks and school grounds, unless such person removes all feces and other animal waste so deposited by such animal before leaving the immediate premises.
- (b) It shall be unlawful for any person walking or in control of any dog to allow or permit such animal to defecate upon any private property not owned by or in the possession of the person that owns such dog, unless such person removes all feces and other animal waste so deposited by such animal before leaving the immediate premises; provided that this restriction shall not apply if the owner or other person in possession of such private property has in writing authorized the dog to be walked on such property without the removal of feces so deposited.
- (c) This section shall not apply to dogs being walked by persons with visual or other physical disabilities that substantially interfere with the ability of such persons to comply with its provisions.
- (d) All feces removed in accordance with the provisions of this section shall be (i) properly wrapped or packaged to contain odors and protect the public health, and deposited in a trash container

where the person making the deposit is otherwise authorized to deposit trash, or (ii) disposed of in another sanitary manner.

SECTION 4-31. – PENALTY FOR VIOLATION.

- (a) Any Town official authorized by Board of Commissioners may issue to the known owner or custodian of any animal, or to any other violator, a citation giving notice of the violation of this chapter. Citations so issued may be delivered in person or mailed by registered mail to the person charged if that person cannot be readily found. The citation issued shall impose upon the custodian or violator a civil penalty of fifty (\$50.00) dollars which may be paid to the Town Clerk within fourteen (14) days of receipt in full satisfaction of the assessed civil penalty. This penalty is in addition to any other fees and penalties authorized by this chapter or state law.
- (b) In the event that the custodian of the animal or any other violator does not appear before the Town Clerk in response to the above described citation or the applicable civil penalty is not paid within the time period prescribed, a criminal summons may be issued against the custodian of the animal or any other violator for violation of this chapter and upon conviction the custodian or other violator shall be punished as provided by state law and be subject to a fine of five hundred (\$500.00) dollars or imprisonment for not more than thirty (30) days.

SECTION 4-32. - CRUELTY TO ANIMALS

It shall be unlawful to mistreat any animals or to willfully frighten them or to attend or stage any animal or fowl fight.

(Code 1991, § 8.2.01)

SECTION 4-33. – IMPOUNDMENT

Any domestic animal which is found running at large or staked, hitched or fastened in violation of the provisions of this chapter shall be seized and impounded by the town.

(Code 1991, § 8.2.02)

SECTION 4-34. – CLEANLINESS OF STABLES & PENS

Every stable and place where cattle, horses or other animals may be kept shall be maintained at all times in a clean and healthful condition.

(Code 1991, § 8.2.06)

SECTION 4-35. – RESERVED.

ARTICLE 2. DOGS**SECTION 4-36. – 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:

At large means off the premises of the owner or other person consenting thereto, when not under the control of the owner, or other person accompanying the dog, by means of a leash of some type not exceeding six feet in length, or within a private vehicle with the consent of the operator thereof.

Dog means any dog, male or female, over the age of four months.

Owner means any person owning, keeping or harboring a dog. For the purpose of this article the head of a household shall be deemed to be the owner in respect to any dog owned, kept or harbored by any person residing in such household and kept on the premises.

Vicious dog means any dog which has bitten one or more persons, or one in which a propensity to attack human beings exists, and such a propensity is known or ought to reasonably be known by the owner.

(Code 1991, § 8.2.21)

Cross reference-Definitions generally,§ 1-2.

SECTION 4-37. – PENALTY

Any owner found violating any provisions of this article shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than \$500.00, or imprisonment for not more than 30 days. Each violation shall constitute a separate offense.

(Code 1991, § 8.2.32)

SECTION 4-38. – LIMITATION ON NUMBER OF DOGS

It shall be unlawful for any owner to keep more than three dogs within the corporate limits of the town.

(Code 1991, § 8.2.22)

SECTION 4-39. – UNSAINTARIY CONDITIONS ; NOISY DOGS

It shall be unlawful for any owner to keep on his lot or premises any dog that results in unsanitary conditions, or barks, howls, fights or makes such further noises for continuous periods often minutes or more so as to disturb the peace and quiet of the neighborhood within a 500-foot radius, and to fail to abate such conditions or disturbance upon written warning by the Code Enforcement Officer or their duly authorized representative.

(Code 1991, § 8.2.27)

SECTION 4-40. – TAG & COLLAR

The owner of any dog kept within the corporate limits of the town shall provide each such dog with a collar to which must be affixed a tag denoting the fact that such dog has been vaccinated for rabies in accordance with the laws of the state.

(Code 1991, § 8.2.28)

SECTION 4-41. – CONFINEMENT OF FEMALE DOGS IN HEAT

It shall be unlawful for the owner of any female dog in heat to keep the dog within the corporate limits of the town during such period except when confined to the premises of the owner or other person with such person's consent.

(Code 1991, § 8.2.25)

SECTION 4-42. – VISCIOUS DOGS

It shall be unlawful for any owner to keep any vicious dogs within the corporate limits of the town.

(Code 1991, § 8.2.23)

_____ **Cross** reference- Environment, Ch. 14.

***State law** reference- Dogs, N.C. GEN. STAT.67-1 et seq.

SECTION 4-43. – DOGS RUNNING AT LARGE: KEEPING DOGS CONFINED TO FENCE

It shall be unlawful for any owner to allow any dog of his to run at large within the corporate limits of the town.

(Code 1991, § 8.2.24)

Any dog kept outside must be confined within a fence. Any dog confined within a fence enclosure must have adequate space for exercise consisting of a minimum of 100 square feet per dog over the age of six months old. The fence shall have a minimum dimensional length of 10 feet along each side. Each such enclosure shall be constructed of chain link or similar type materials and be completely enclosed. The enclosure shall be of sufficient height to prevent the dog from escaping but in no case shall it be less than 4 feet in height. Larger breed animals shall require

fences. Each enclosure shall have a cover to provide the dog with shade and protection from rain. The cover shall be a minimum size of 6 feet by 6 feet. A separate doghouse shall be provided for each dog over the age of six months old. The house shall consist of a structure built specifically for the housing of dogs or a structure purchased specifically for the housing of dogs. Drums, barrels and cans shall not be allowed to be used as a doghouse. § 4-64 Bladen County Animal Control Ordinance; Authority and Enforcement The Clarkton Town Board does hereby grant to Bladen County full, ample, and exclusive authority to apply and enforce the provisions of the Bladen County Animal Control Ordinance throughout the corporate boundaries of Clarkton, N.C.

SECTION 4-44. – DOGS BITING A PERSON OR SUSPECTED OF HAVING RABIES

Owners of dogs are responsible for the acts of their dogs. When any dog commits a nuisance upon the property of another person or damages another person's property or person, the owner of that dog is fully responsible and accountable for the dog's acts.

(Ord., passed 2-5-85)

SECTION 4-45. – AUTHORIZED: AUTHORITY TO KILL RABID OR VICIOUS ANIMALS.

Whenever any police officer or other authorized employee or agent of the town discovers any dog running at large or in other violation of the provisions of this article, such police officer, employee or agent shall capture such dog and impound it in the pound provided by the town; however, if such dog shows any symptoms or is reasonably suspected of having rabies, or appears of such a vicious nature as to make it reasonably appear that such animal at the time constitutes a menace to the safety of the one seeking to capture it, or any other person, then such officer, agent or employee of the town, or other person by their direction, may immediately shoot or otherwise kill the dog on the spot, in as humane manner as practicable and with due regard to the safety of other persons.

(Code 1991, § 8.2.29)

SECTION 4-46. – NOTICE TO OWNER: REDEMPTION OF ANIMAL BY OWNER

- a) Upon the impounding of any dog in the pound provided by the town, the animal control officer or other authorized person in charge thereof shall make and keep a record of such dog, showing the date confined, a brief description of the animal, whether the animal was wearing a vaccination and identification tag, the name and address of the owner if available, and the nature and date of the final disposition made of the dog. If the name and address of the owner of the dog is immediately available, such owner shall be forthwith notified by telephone, if possible, and, if not, by mail, as to the status of the dog. If the owner of such dog is not known, then notice shall be given by posting a written notice, describing such dog and giving the date of impoundment, on the bulletin board at the town hall and at the pound provided by the county animal control department. Posting such notice at the town hall shall be the responsibility of the town. The animal control officer or other authorized person in charge shall also, if and as soon as the name of the owner of the dog can be ascertained, check with the office of the county tax supervisor and determine if the animal has been listed for taxes.
- b) If the owner of any dog impounded shall appear within three days after being notified, such period to commence from the date notice is telephoned, mailed or posted, he shall be entitled to the possession of his dog provided he satisfies the animal control officer that he has complied with all of the requirements

of this article as to the rabies vaccination and the proper collaring and tagging of the dog, and upon the further provision that such owner pay the sum of \$50.00 per day confined to cover the costs incurred by the town in impounding and maintaining such dog. However, the compliance of the owner with the provisions of this subsection relative to the redemption of an impounded dog shall no wisely relieve or discharge such owner from any criminal prosecution brought against him for the violation of the provisions of this article.

(Code 1991, § 8.2.30)

SECTION 4-47. – DISPOSITION OF UNCLAIMED OR DISEASED DOGS

If, at the expiration of the three-day notice to the owner as prescribed and defined in section 4-62, any such dog shall not have been redeemed, it may be destroyed in some humane manner, or the animal control officer may, upon request from some responsible person or organization, release such dog to such person or organization upon compliance by him or it with the applicable regulatory provisions of this article. Any dog impounded which appears to be suffering from rabies or other infection or disease of any serious or dangerous nature shall not be released except to some reputable veterinarian, but shall be destroyed.

(Code 1991, § 8.2.31)

SECTIONS 4-48.- 52- RESERVED

ARTICLE 3: CATS

SECTION 4-53. -DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms shall have the meaning ascribed to each:

Altered means any animal that has been spayed or neutered.

***State law** reference-Authority to establish bird sanctuary, N.C. GEN. STAT.160D-188.

Animal control officer when used herein shall include the Code Enforcement Officer, the Bladen County Animal Control Officer, a designated code enforcement officer or person/persons designated by the Town of Clarkton for the purpose of enforcement and administration of this article.

Animal shelter means an animal shelter operated by city or county government or a shelter operated by a nonprofit organization organized to benefit animals under section 501, C, 3 of the Federal Internal Revenue Code.

Cat means any commonly domesticated feline animal and includes both the male and female sex of the species.

Free roaming means any cat that is not restrained and is off of the property of the owner.

Nuisance cat means any cat that is free roaming and is not altered.

Owner means an adult person or temporary permanent custodian possessing, harboring, keeping, feeding, sheltering or having control or custody of a cat or any person having any financial interest, right, or property in the cat and also includes any person who knowingly permits a cat(s) to remain on or about any premises occupied by that person.

Person means any individual, employee, corporation, copartner ship or association. (Ord. of 4-10-2006, § 1)

SECTION 4-54. DUTY TO KEEP CAT UNDER REASONABLE CONTROL; RESPONSIBILITY FOR DAMAGES.

No person owning, possessing or harboring a cat shall permit or allow the cat to leave said person's property and premises except when such cat is under reasonable control.

(Ord. of 4-10-2006, § 2)

SECTION 4-55. UNLAWFUL ACTS.

It is unlawful to be the owner of a nuisance cat(s).

It is unlawful for any person to feed a stray or homeless cat(s) without taking full responsibility for the cat(s) by providing the cat(s) with continued humane treatment which shall include proper food, water, shelter, veterinarian care, rabies vaccination, and altering the cat(s). It is not unlawful for a person to feed a stray or homeless cat while using a humane trap or to sustain a cat for transport to a shelter during those periods of time when local animal shelters are closed to receiving animals from the public.

It is unlawful for any owner to own a pair of cats of opposite sex of breeding age (six months of age or older) without one or both of the cats being altered even if the cat(s) are not free roaming.

It is unlawful for any person to offer for sale or for free any cat(s) without the cat(s) being altered, with the exception of licensed cat breeders, veterinarian clinics, pet stores with a current city business license and animal shelter. It is unlawful for any person to have in his or her possession a cat four months old or over unless such cat has been immunized for rabies with a vaccine licensed by the United States Department of Agriculture and signed by an accredited veterinarian.

(Ord. of 4-10-2006, § 3)

SECTION 4-56. SANITATION

It shall be unlawful for any person to permit any cat owned, possessed or harbored by them to deposit fecal matter any place other than the premises where the cat is harbored or kept, unless such fecal matter is immediately collected and removed to the premises where the cat is harbored or kept.

(Ord. of 4-10-2006, § 4)

SECTION 4-57. MEOWING CAT.

No person shall own, possess or harbor any cat which by loud, frequent or habitual meowing or shrieking shall cause a serious annoyance to the neighborhood or becomes a nuisance to occupiers of other property.

(Ord. of 4-10-2006, § 5)

SECTION 4-58. TREATMENT OF CATS.

No person shall treat a cat in a cruel or inhumane manner or willfully or negligently cause or permit a cat to suffer unnecessary torture or pain.

(Ord. of 4-10-2006, § 6)

SECTION 4-59. IMPOUNDING OF CATS.

It shall be the duty of the animal control officer to take up, seize and place in the county animal shelter, cat shelter and/or any other facility deemed appropriate by said animal control officer any and all cats that maybe running at large or being kept or harbored in any place within the Town of Clarkton contrary to any provisions of this article. In the event that the animal control officer impounds any cat at the county animal shelter, cat shelter and/or any other place or facility deemed appropriate by the animal control officer, said impoundment shall be at the cost of the owner of said cat. The animal control officer shall have the discretion to allow the owner of an impounded cat to have the impounded cat kept at or moved to a registered kennel at the owner's cost.

(Ord. of 4-10-2006, § 7)

SECTION 4-60. MAXIMUM NUMBER OF CATS.

No person shall keep more than four cats of the age of six months or over on any property in the Town of Clarkton. Any person who has obtained a state kennel license who keeps cats

for sale, boarding, breeding or training purposes for remuneration shall be exempt from the requirements of this article. This prohibition shall not be applicable to the business premises of a licensed veterinarian.

(Ord. of 4-10-2006, § 8)

SECTION 4-61. ANIMAL SHELTER/POUND.

The Town of Clarkton may establish an animal shelter and/or cat shelter, such shelter to be located at such a place and location to be selected by the Town of Clarkton Board.

(Ord. of 4-10-2006, § 10)

SECTION 4-62. RELEASE OF CATS.

No cat shall be released from the animal shelter/cat pound unless the owner, possessor or harbored or authorized agent shall pay a fee as set forth in the following schedule:

- (a) For release of a cat, properly immunized against rabies
- (b) Payment of the actual costs of boarding and/or housing such cat at the current charge of the county animal shelter.
- (c) The owner, possessor or harbored of any cat must present proof of immunization within 72 hours of release of said cat or be subject to the issuance of an ordinance violation for owning, possessing or harboring an unimmunized cat. The cost of immunizing shall be paid for by the owner, possessor or harbored in addition to the fees herein provided.
- (d) The animal control officer shall keep a careful record of all cats received by them with the description thereof and the disposition of the same, which record shall be filed with the town clerk monthly. The animal control officer shall also, no later than the next working day after receipt, pay to the town clerk all monies received by him whereupon the town clerk shall turn such monies over to the Town of Clarkton Finance Officer.

(Ord. of 4-10-2006, § 11)

SECTION 4-63. UNCLAIMED CATS.

All cats, not claimed and released within ten days, not including the first day of impoundment, shall be sold for the amount of boarding fees for ten days, provided said cat be

properly immunized at the cost of the purchaser, released to a registered animal shelter or rescue with costs incurred by the shelter or rescue as determined by the animal control officer or destroyed as a last resort if nonadaptable or nonrehabilitatable.

(Ord. of 4-10-2006, § 12)

SECTION 4-64. CONFINING CAT FOR OBSERVATION.

Any person who shall own a cat which has contracted rabies or which has been subjected to the same or which is suspected of having rabies or which has bitten any person shall, upon demand of the animal control officer, produce the and surrender such cat to the animal control officer to be held at a licensed veterinarian's office for treatment and observation for whatever period is necessary to ascertain the extent of the rabies; such confinement shall be at the sole expense of the owner of said cat and without expense or risk on the part of the Town of Clarkton. In lieu of delivering such cat to the animal control officer, the owner shall have the option of delivering the cat to an approved veterinarian for treatment and observation for rabies and shall furnish to the animal control officer written evidence that such cat has been so delivered and such confinement shall be at the sole expense of the owner, possessor or harbinger of said cat.

(Ord. of 4-10-2006, § 13)

SECTION 4-65. CAT BITTEN BY ANOTHER CAT

It shall be the duty of any person owning a cat which has been attacked or bitten by another cat or another showing symptoms of rabies to immediately notify the animal control officer that such person has such cat in his or her possession and such person shall comply with all lawful orders and requirements of the animal control officer regarding treatment of such cat for rabies.

(Ord. of 4-10-2006, § 14)

SECTION 4-66. QUARANTINE.

The animal control officer and/or health officer is hereby authorized to require that any cat be quarantined or that a quarantine be established in the Town of Clarkton for a defined period, whenever is his or her opinion such measures are necessary in order to protect the health, safety and welfare of the people of the Town of Clarkton.

(Ord. of 4-10-2006, § 15)

SECTION 4-67. ENFORCEMENT

The Town of Clarkton may employ animal control officers or may designate the Bladen County Animal Control Officer to enforce the provisions of this article and/or use Bladen County Sheriff's Department or Bladen County Animal Control to enforce and administer the provisions of this article. The animal control officer shall be vested with such powers of a special police officer by the Town of Clarkton as are necessary for the limited purpose of enforcing the provisions of this article and amendments.

(Ord. of 4-10-2006, § 16)

SECTION 4-68. AUTHORITY TO INQUIRE.

It shall be the duty of the animal control officer to make diligent inquiry as to whether a cat is owned, harbored or kept within the Town of Clarkton and whether such owner, possessor or harbored of a cat or cats is in violation of any provision of this article including, but not limited to, the provisions of section 4-108. If the owner, possessor or harbored of such cat be known, the animal control officer may issue a notice of violation to appear at the town clerk's office or his or her agent within 72 hours not including Saturdays, Sundays or holidays. Failure of the owner, possessor or harbored of a cat to reduce the number to a maximum of four cats may result in the issuance of an ordinance violation by the animal control officer for violation of section 4-108.

(Ord. of 4-10-2006, § 17)

SECTION 4-69. VIOLATION NOTICE.

The animal control officer is hereby authorized upon the witnessing of any violation of this article, in addition to seizing and impounding of such cat or cats and/or any other remedy provided to the Town of Clarkton pursuant to this article, to issue to the owner, possessor or harbored of such cat an ordinance violation citation which shall include the date, time and location of the offense and shall include the applicable section number of this article of which the owner, possessor or harbored of such cat is in violation.

(Ord. of 4-10-2006, § 18)

SECTION 4-70. – 4-164. – RESERVED

CHAPTER 3: BUSINESSNESS

SECTION 3-165 - IN GENERAL

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:

Business means any trade, occupation, profession, business, franchise, or calling of any kind subject by the provisions of this chapter to a license tax.

Engaged (or engaging) in business within the town means that a person engages in business activity of any type, either as owner or operator of the business, by:

- (1) Maintaining a business location within the town;
- (2) Soliciting business within the town; or
- (3) Performing services within the town.

Seasonal in nature means that a business is taxed by this chapter on an annual basis, but is operated within the town for less than six months of the year.

(Code 1991, § 6.1.01)

SECTION 4-166- GAME ROOMS

Sec. 8-71. 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:

Game room means any place of business that principally operates mechanical games or pay devices or tables for which a charge is made either directly or indirectly. Examples of game rooms, by way of illustration and not limitation, are pool rooms, bowling alleys, billiard halls, amusement centers, video game rooms, and the like.

(Code 1991, § 6.2.01)

Cross reference-Definitions generally, § 1-2.

Sec. 8-72. Penalty.

Violation of any section of this article subjects the offender to a \$500.00 fine pursuant to section 1-6.

Sec. 8-73. Prohibited conduct; employment of certain persons prohibited.

Licensees under this article shall not, and neither shall their employees:

- (1) Suffer or permit any gambling on the licensed premises at any time, or the sale or use of any racing, football, or other parlay cards or gambling boards or devices.
- (2) Suffer or permit the licensed premises to become disorderly, or permit any profane, obscene, or indecent language thereon.
- (3) Employ in carrying on the business any person who has been convicted of unlawfully selling alcoholic beverages or narcotic drugs.

(Code 1991, § 6.2.04)

Sec. 8-74. Operation generally.

The following rules shall be observed by all operators of game rooms within the town:

- (1) All game rooms shall be closed from 11:00 p.m. until 7:00 a.m. Monday through Thursday and shall close at 12:00 midnight on Fridays and Saturdays.
- (2) No play on any game shall be allowed during the times when game rooms are required by this article to remain closed.
- (3) Game rooms may be open on Sunday only between the hours of 1:00 p.m. and 11:00 p.m.

***State law** references-Regulation of places of amusement, N.C. GEN. STAT.160D-181; privilege license taxes, N.C. GEN. STAT.160D-

- (4) All game rooms shall be operated only on the ground floor of a building, and plate glass windows shall be in those parts of the building facing any street, so that a clear view inside may be had from the street.
- (5) No screens, curtains, blinds, partitions, or other obstructions shall be placed between the entrance to the room where games are played and the rear wall of such room, so that a clear view of the interior may be had from the street.
- (6) No loud noises shall be allowed to emanate beyond the licensed premises.
- (7) There must be an adult (18 years of age or older) managing the business on the premises at all times during the hours of operation.

(Code 1991, § 6.2.05)

Secs. 8-75-8-90. Reserved.

SECTION 4-167- PEDDLERS, SOLICITORS, AND TRANSIENT VENDORS

Sec. 8-121. 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 means any person who transports goods from place to place and sells or offers for sale the goods, or who, without traveling from place to place, sells or offers for sale any goods from any vehicle or device; provided that any person who separates the acts of sale and delivery for the purpose of evading the provisions of this article shall be deemed a peddler.

Solicitor means any person who travels from place to place taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance, and any person who uses or occupies any building or premises for the sole purpose of taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance.

Transient vendor means any person who engages in a temporary business of selling and delivering goods and who, for this purpose, uses or occupies any building or premises, provided that no person shall be relieved from complying with the provisions of this article merely by conducting a transient business in association with any permanently established merchant. (Code 1991, § 6.3.

Sec. 8-122. Penalty.

Violation of any section of this article subjects the offender to a \$500.00 fine pursuant to section 1-6.

Sec. 8-123. Registration.

Each and every person doing business in the town as a peddler, solicitor or transient vendor shall file with the clerk, on a form to be provided for the purpose, a statement setting forth the following information:

- (1) The name and address of the individual filing the statement;
- (2) The name and address of the principal or employer if the individual is an agent or employee;
- (3) Credentials showing the relationship of the agent or employee;
- (4) A description of the individual filing the statement including height, weight, sex, age, color, and distinguishing characteristics, if any;
- (5) The goods to be sold or offered for sale, or the type of services to be rendered;
- (6) The period of time during which the business will be carried on in the town; and
- (7) A description of any automobile or other vehicle to be used in the business, including the make, model, body style, color, and license number.

(Code 1991, § 6.3.02)

Sec. 8-124. Door-to-door activities prohibited.

It shall be unlawful for any peddler, solicitor, or transient vendor or other seller of merchandise to go in, or on, private residences or the premises thereof in the town without having been requested or invited to do so by the owner or occupant, for the purpose of advertising, peddling, or selling merchandise.

(Code 1991, § 6.3.03)

TITLE 5. – GENERAL OFFENSES, NUISANCES, AND MISCELLANEOUS PROVISIONS**CHAPTER 1. - OFFENSES****ARTICLE 1. – OFFENSES AGAINST PUBLIC PEACE AND SAFETY****SECTION 5-1. – DISORDERLY CONDUCT.**

Any person shall be guilty of an offense of disorderly conduct if he or she:

- a) Acts in a violent or tumultuous manner toward another, whereby any person is placed in fear of safety for his life, limb or health;
- b) Acts in a violent or tumultuous manner toward another, whereby public property or property of any other person is placed in danger of being destroyed or damaged;
- c) Endangers lawful pursuits of another by acts of violence, angry threats and abusive conduct;
- d) Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another or public property;
- e) Assembles or congregates with another or others for the purpose of causing, provoking or engaging in any fight or brawl;
- f) Jostles or roughly crowds or pushes any person in any public place;
- g) Collects in bodies or in crowds for unlawful purposes;
- h) Assembles or congregates with another or others for the purpose of or with the intent to engage in gaming;
- i) Frequents any public place with intent to obtain money from another by an illegal and fraudulent scheme, trick, artifice or device;
- j) Assembles with another or others for the purpose of engaging in any fraudulent scheme, device or trick to obtain any valuable thing in any place or from any person in the town or aids or abets therein;
- k) Utters, while in a state of anger, in the presence of another any lewd or obscene words or epithets;
- l) Frequents any place where gaming or the illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs is practiced, allowed or tolerated;
- m) Acts in a dangerous manner toward others;
- n) Uses "fighting words" directed towards any person who becomes outraged and thus creates turmoil;
- o) Assembles or congregates with another or others for the purpose of doing bodily harm to another;
- p) By acts of violence, interferes with another's pursuit of a lawful occupation;
- q) Congregates with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by a peace officer or other person having authority;
- r) Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition.

('70 Code, 2009 S-5 Supplement, § 14-8)

State Law Reference— Disorderly conduct at public buildings and grounds, N.C. GEN. STAT. § 14-132.

SECTION 5-2. – BREAKING THROUGH POLICE LINES OR BARRIERS.

At the time of any public parade, accident, riot, public peril or other circumstances causing people to congregate or assemble, it shall be unlawful for any person to enter, break through, or remain within the danger lines or other bounds established by the police, or by or under the direction of any authorized town official, for the preservation of public safety, peace and order, unless such person is authorized to do so by an officer in charge.

(Code 1991, § 8.5.02)

SECTION 5-3. – INTERFERING WITH TOWN OFFICERS AND EMPLOYEES

No person shall carelessly or willfully interfere with, hinder, or obstruct any officer or employee of the town who is engaged in, enroute to, or returning from, the performance of official duty, whether such interference, hindrance, or obstruction is by threat, assault, or otherwise.

(‘70 Code, 2009 S-5 Supplement, § 14-24)

SECTION 5-4. – CURFEW FOR MINORS

(A) It is a curfew violation for a child 13, 14, 15, 16, or 17 years of age to be in a public place:

- (1) Between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday;
- (2) After 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or
- (3) Before 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

(B) It is a curfew violation for a child under 13 years of age to be in a public place after 10:00 p.m. or before 5:00 a.m. on any day.

(C) This section does not apply to a child who is:

- (1) Accompanied by his parent, guardian, or custodian;
- (2) Accompanied by an adult specified by his parent, guardian, or custodian; or
- (3) Participating in or returning from lawful employment or a lawful athletic, educational, entertainment, religious, or social event.

SECTION 5-5. – BEGGING AND SOLICITING.

No person shall beg or solicit on the streets or in other public places of the town or in the entrances or corridors to any public building in the town without a permit issued to him/her by the town.

State Law Reference— Authority to regulate begging, N.C. GEN. STAT. § 160D-179.

(Ord. 03-25, passed 6-3-03)

SECTION 5-6. – DISCHARGE OF FIREARMS AND OTHER WEAPONS.

(a) Prohibited. It shall be unlawful for any person to fire or discharge any rifle, gun, pistol, pellet gun, air gun, air pistol or air rifle within the town, on or off his premises, in sport or amusement.

*Cross reference-Restrictions on possession, transportation or transfer of dangerous weapons and substances, § 10-39.

(b) Violations by minors. Any person who shall knowingly and willfully permit his minor child under 18 years of age to discharge, fire, shoot or operate, within the corporate limits of the town, any such air rifle, BB gun or pellet gun shall be guilty of a misdemeanor.

(Code 1991, § 8.1.01)

State law reference-Authority to regulate firearms, N.C. GEN. STAT.160D-189 et seq.

SECTION 5-7. – DISTURBING IN PUBLIC MEETING, PLACE, ASSEMBLY & ENTERTAINMENT

Public Meeting & Entertainment

It shall be unlawful to behave in a manner or to create any disturbance so as to cause an immediate breach of the peace at or near any public entertainment or meeting.

(Code 1991, § 8.1.03)

Public Place & Assembly

It shall be unlawful for any person to make, aid or countenance or assist in making any unlawful noise, or to incite or engage in any riot or disturbance, or to indulge or engage in disorderly conduct or conversation, in any state park or other public place or in any theater or place of amusement, or in any room or building in which any number of persons are lawfully assembled.

(Code 1991, § 8.5.03)

Cross reference-Streets, sidewalks and other public places, ch. 24.

SECTION 5.8. – LOITERING.

The following provision shall apply to loitering:

- (a) For the purposes of this section, "public place" means any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot, or transportation facility, or the doorways and entranceways to any building which fronts on any of those places, or a motor vehicle in or on any of those places, or any property owned by the town.
- (b) For the purposes of this section, a "known unlawful drug user, possessor, or seller" is a person who has, within the knowledge of the arresting officer, been convicted in any court within this state of any violation involving the use, possession or sale of any of the substances referred to in the North

Carolina Controlled Substances Act, N.C. GEN. STAT. Section 90-86 et seq., or has been convicted of any violation of any substantially similar laws of any political subdivision of this state or any other state or of federal law.

- (c) It shall be unlawful for a person to remain or wander about in a public place in a manner and under circumstances manifesting the purpose to engage in a violation of any subdivision of the North Carolina Controlled Substances Act, N.C. GEN. STAT. Section 90-86 et seq. Such circumstances shall include:
- (1) Repeatedly beckoning to, stopping, or attempting to stop passersby, or repeatedly attempting to engage passersby in conversation; or
 - (2) Repeatedly stopping or attempting to stop motor vehicles; or
 - (3) Repeatedly interfering with the free passage of other persons; or
 - (4) Such person is a known unlawful drug user, possessor, or seller; or
 - (5) Such person behaves in such a manner as to raise a reasonable suspicion that he is about to engage in or is engaged in an unlawful drug-related activity; or
 - (6) Such person repeatedly passes to or receives from passersby whether on foot or in a vehicle, money or objects; or
 - (7) Such person takes flight upon the approach or appearance of a police officer; or
 - (8) Such person is at a location frequented by persons who use, possess, or sell drugs; or
 - (9) Any vehicle involved is registered to a known unlawful drug user, possessor, or seller, or is known to be or has been involved in drug-related activities.

- (a) Violation of any provision of this section shall be a misdemeanor.

SECTION 5-9. – NOISE.

The making, creating, or maintenance of such excessive, unnecessary, unnatural, or unusually loud noises, which are prolonged, unusual, and unnatural in their time, place and use, affect and are detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the town.

The necessity, in the public interest, for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of, and for the purpose of, securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the town and its inhabitants.

State Law Reference— Authority to regulate noise, N.C. GEN. STAT.§ 160D-184.

SECTION 5-10. – NOISE-GENERAL.

If any person shall violate any provision, rule or regulation of this article, they shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of \$500.00 according to

***State law reference-Authority** to abate public health nuisances, N.C. GEN. STAT.160D-193.

State law reference-Authority to regulate noise, N.C. GEN. STAT.160D-184.

section 1-6. Each day that any person shall continue to do any act in violation of any such provision, rule or regulation shall be and constitute a distinct and separate offense under this article.

(Ord. of 6-14-1999, § 3)

SECTION 5-11. –UNNECESSARY NOISE; SPECIFIC PROHIBITIONS.

Unnecessary Noise

Subject to the provisions of this article, the creation of any unreasonably loud, disturbing and unnecessary noise in the town is forbidden. Noise of such character, intensity, and duration as to be detrimental to the health, safety or welfare of any individual is prohibited. (Ord. of 6-14-1999, § 1)

Specific Prohibitions

The following acts, among others, are declared to be loud, disturbing and unnecessary noise in violation of this article, but such enumeration shall not be deemed to be exclusive:

- (1) The use of any loud, boisterous, or raucous language or shouting so as to annoy or disturb the quiet, comfort or repose of any person in the vicinity.
- (2) The creation by means of any signal device of any unreasonably loud or harsh sound and the sounding of any signal device for an unnecessary and unreasonable period of time.
- (3) The using, operating or playing of any radio receiving set, musical instrument (including musical performances by live bands), phonograph, jukebox, amplifier or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for persons who are in the room, vehicle, or chamber or at any outdoor location where such machine or device is operated and who are voluntary listeners thereto. The use, operation or playing of any radio receiving set, musical instrument (including musical performances by live bands), phonograph, jukebox, amplifier or any other machine or device for the producing or reproducing of sound in such a manner as to be plainly and distinctly audible at a distance of 50 feet or more from the building, structure, vehicle or outdoor location where such machine or device is located shall be primacies evidence of violation of this subsection.

(Ord. of 6-14-1999, § 2)

SECTION 5-12. – NOISE-STANDARDS FOR DETERMINING VIOLATION.

The standards which shall be considered in determining whether a violation of Section 13-10. exists shall include, but shall not be limited to, the following:

- a) The volume of the noise.
- b) The intensity of the noise.
- c) Whether the nature of the noise is usual or unusual.
- d) Whether the origin of the noise is natural or unnatural.
- e) The volume and intensity of the background noise, if any.
- f) The proximity of the noise to residential sleeping facilities.
- g) The nature and zoning of the area within which the noise emanates.
- h) The density of inhabitation of the area within which the noise emanates.
- i) The time of the day or night the noise occurs.
- j) The duration of the noise.
- k) Whether the noise is recurrent, intermittent, or constant.
- l) Whether the noise is produced by a commercial or noncommercial activity.

SECTION 5-13. – NOISE-EXEMPTIONS.

No section, subsection, sentence, clause or phrase of this article shall apply to:

(1) Any emergency signaling device. (2) Any church bell, chime or other device used by a church for the playing of music. (3) Any activity or sporting event sponsored by a school or any other civic, religious or officially sanctioned athletic organization. (4) Any parade. (5) Any government or utility emergency repair. (6) Any individual, group or organization that has obtained a Noise Waiver from the Board of Commissioners. (i.e. block party, public dance, festival event, etc.)

(a) A Noise Waiver issued pursuant to Sec. 14-114.5 above shall commence at 6:00 PM on the day of the scheduled event and shall expire at 1:00 AM the following day.

(Ord. of 6-14-1999, § 4)

SECTION 5-14. – NOISE-PERMITTS FOR RELIEF FROM ALLOWABLE NOISE LEVEL LIMITS.

Applications for a permit for relief from the maximum allowable noise level limits designated in Section 13.12, above, may be made in writing to the Code Enforcement Officer or their duly authorized representative. Any permit granted by the Code Enforcement Officer hereunder must be in writing and shall contain all conditions upon which such permit shall be effective. The chief of police or his duly authorized representative may grant the relief as applied for under the following conditions:

The Code Enforcement Officer may prescribe any reasonable conditions or requirements he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood, including use of mufflers, screens, or other sound-attenuating devices.

Permits for entertainment. Permits may be granted for the purpose of entertainment under the following conditions:

1. The function must be open to the public (admission may be charged).
2. The function must take place on public property.
3. The function must be staged between the hours of 9:00 a.m. and 12:00 midnight.

Special permits for non-entertainment special purposes may be issued under the following conditions:

If the special purpose relates to the operation of a trade or business, that the special purpose not be in the ordinary course of that trade or business; or, if the special purpose does not relate to the operation of a trade or business, that the special purpose not be an ordinary event in the affairs of the applicant;

If the special purpose be a recurring purpose, that it not recur more often than four (4) times each calendar year;

That the special purpose be absolutely necessary to the operation of the applicant's trade or business; or, if the special purpose does not relate to the operation of the trade or business, that the special purpose be compatible with the ordinary activities of the neighborhood in which the special purpose is to occur;

Except in emergency situations, as determined by the Code Enforcement Officer , the special permit may be issued only between 7:00 a.m. and 12:00 p.m. on weekdays; and

The special permit may be issued for no longer than fifteen (15) consecutive days, renewable by further application to the Code Enforcement Officer.

Special Permits for Additional Amplification.

(1) Application. The application for a permit for additional amplification shall be submitted to the noise control officer at least ten working days in advance of the planned use, except in case of emergency. The applicant shall designate an individual person or persons who shall be in control of the sound amplification equipment and assure that its use complies with the terms of the permit.

(2) Notice of tentative approval. Upon tentative approval, the applicant for a permit shall be responsible for mailing or otherwise delivering to the occupants of each property within a 1,000-ft radius of the facility for which the permit has been granted, as shown on the tax maps of the county, a notice stating the date and hours of the event. The notice shall be delivered at least 72 hours in advance of the event. The permit shall not be actually granted and issued until the applicant submits an affidavit to the noise control officer that such notices have actually been mailed or otherwise delivered.

(3) Number of hours. No permit shall be issued which shall have the effect of allowing more than 20 hours of excess amplification per year at any place of public entertainment having a capacity of 1,000 or more persons or 10 hours

of excessive amplification at any other location. Permits shall be tentatively approved and subsequently granted by the noise control officer in the order of receipt, unless permits for 20 or more hours have previously been issued for the same or other locations within a 1,000-ft radius of the facility in the same calendar year, in which event, the applicant shall elect whether to limit his request, so as to keep the years accumulated hours of excess amplification in that location below 20 hours or select another location.

(4) Not permitted in residentially occupied boundaries. In no event shall a permit be granted which allows the creation of sounds registering more than 70 db anywhere within the boundary lines of the nearest residentially occupied property.

(5) Denial; exceptional permit. If an applicant has been denied a permit under this section and believes the denial is illegal by virtue of applicable state or federal laws, he shall promptly submit a copy of the denied permit application together with a short statement of the reasons he believes he is entitled to a permit to the Town Clerk. The Town Clerk shall have the discretion to grant an exceptional permit waiving location, time and/or db requirements, upon his determination that the applicant has made a substantial showing of legal entitlement. Any such exceptional permit shall be promptly reported to the Board of Commissioners.

(Ord. 02-26, passed 7-2-02)

Exterior loudspeaker not permitted. No permit may be issued to permit the use of any loudspeaker or sound-amplifying device on the exterior of any building, except those used for emergency warnings.

Appeal. Anyone aggrieved by the provisions of this section shall have the right to appeal the decision of the Code Enforcement Officer to the Board of Commissioners. The appeal shall be in writing and filed with the town Clerk within ten (10) days after the decision of the chief of police. Upon receipt of a notice of appeal, the Board of Commissioners shall grant a hearing to the appellant at the next Board of Commissioners meeting, provided such notice of appeal is received by 5:00 p.m. on the Thursday before such Board meeting.

At the hearing before the Board of Commissioners, pursuant to an appeal as requested herein, the Board of Commissioners shall hold a public hearing to determine whether issuance of the permit would be detrimental to the public health, safety, and welfare of the community. If the Board of Commissioners determines that the issuance of the permit would not be detrimental to the public health, safety, and welfare, the Board of Commissioners shall specifically authorize the Code Enforcement Officer to issue the permit to the applicant. If the Board of Commissioners determines that the issuance of the permit would be detrimental to the public health, safety, and welfare of the community, the Board of Commissioners shall so notify the applicant, and the Code Enforcement Officer shall not issue the permit.

SECTION 5-15. – NOISE - ENFORCEMENT RESPONSIBILITY.

The Code Enforcement Officer of the town shall have primary enforcement responsibility for Section 13.10 as they relate to stationary sources and as they relate to motor vehicle sources, provided that:

- a) Powers of arrest or citation. Any law enforcement officer shall issue a citation for any violation under Section 13.10, except they may arrest for instances when:

- (1) The alleged violator refuses to provide the officer with such person's name and address and any proof thereof as may be reasonably available to the alleged violator; or
- (2) The alleged violator refuses to cease such illegal activity after being issued a citation.

SECTION 5-16. – NOISE - PENALTIES FOR VIOLATION.

- a) Any person, firm or corporation violating any provision of Section 13.10 of this Code shall be subject to a civil penalty in the amount of one hundred dollars (\$100.00) for each offense, and separate offenses shall be deemed committed on each day during or on which a violation occurs or continues.
- b) Any person, firm or corporation found to be in violation of any provision of Section 13.10 shall be issued a citation which shall, among other things:
 - (1) State upon its face the amount of the civil penalty and that it shall be paid within forty-eight (48) hours from and after such violations; or
 - (2) Notify such offender that failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of a debt for the stated penalty plus the cost of the action, to be taxed in the court.
- c) If the penalty prescribed in subsection (a) above is not paid within forty-eight (48) hours, the town may initiate a civil action in the nature of a debt and recover the civil penalty and the cost of the action.

SECTION 5-17. – NOISE - SEVERABILITY.

If any article, section, subsection, sentence or clause of Section 13.10 is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of the remaining portions of Section 13.10.

SECTION 5-18. –EVIDENCE OF VIOLENCE .

The complaints of ten or more persons, at least one of whom resides in a different home from the other complaining person, or the complaint of one or more persons when combined with the complaint of a duly authorized investigation person, shall be preface evidence that such sound is unreasonably loud, disturbing, and unnecessary.

(Ord. of 2-14-1994)

SECTION 5-19. – PICKETING.

Peaceful picketing, including demonstrating, in the furtherance of a lawful purpose shall be permitted in the town, provided the picketing is done under the following conditions:

- (1) Picketing shall be conducted only on the sidewalks or other town-owned area normally used or reserved for pedestrian movement, including easements and rights-of-way, and shall not be conducted on the portion of a street used primarily for vehicular traffic.
 - (2) Not more than ten (10) pickets promoting the same objective shall be permitted to use the sidewalks within one (1) block in the town at any one (1) time.
 - (3) Such pickets may carry written or printed placards or signs not exceeding two (2) feet in width and two (2) feet in height promoting the objective for which the picketing is done, provided the words used are not defamatory in nature or would not tend to produce violence. The staff on which such placard is carried shall not exceed forty (40) inches in length, must be made of wood, shall not exceed three-fourths inch in diameter at any point and must be blunt at each end.
 - (4) Pickets must march in single file and not abreast and may not march closer together than fifteen (15) feet, except in passing one another.
 - (5) If pickets promoting different objectives desire to use the same sidewalk for picketing and such use would result in the presence of more than ten (10) pickets thereon, the chief of police shall allot time to each group of pickets for the use of such sidewalk on an equitable basis, but each group shall be permitted to picket subject to the provisions of this section at least once every two (2) hours.
 - (6) It shall be unlawful for any picket to address profane, indecent, abusive or threatening language to or at any person which would tend to provoke such person or others to a breach of the peace.
- (a) *Interference with pickets.* It shall be unlawful for any person to physically interfere with such pickets in the use of the sidewalk or to address profane, indecent, abusive or threatening language to or at such pickets which would tend to provoke such pickets or others to a breach of the peace.
- (b) *Authority of police.* The police officers of the Bladen County may, for the assemblage of persons in such numbers as to tend to intimidate pickets pursuing their lawful objective through numbers alone or through use of inflammatory words, direct the dispersal of persons so assembled and may arrest any person who fails to absent himself from the place of such assemblage when so directed by the police.
- (c) *Maintenance of free passage.* Whenever the free passage of any street or sidewalk in the town shall be obstructed by a crowd, the persons composing such crowd shall disperse or move on when so directed by a Bladen County police officer as provided in this section.

State Law Reference— Picketing with intent to obstruct justice, N.C. GEN. STAT. § 14-225.1.

SECTION 5-20. – UNAUTHORIZED ENTERING & DISTURBING SCHOOL FUNCTIONS OR SCHOOL CHILDREN.

Disturbing School Functions Or Children

It shall be unlawful for any person at or near any school house or property within the town to engage by conversation or sign or otherwise attract the attention of any of the pupils therein or thereon, to the disturbance of the pupils and to the detriment of the discipline of such school, or otherwise loiter or cause any disturbance whatsoever on or near school property. It shall further be unlawful for any person to cause any disturbance or to disrupt any school function, sport or other gathering within the town, whether the same be on or off school property.

Unauthorized entry on school grounds.

It shall be unlawful for any person to enter upon by any means whatsoever the public-school grounds of the town unless such person is there in the capacity as a pupil, educational official, service personnel, or authorized visitor.

(Code 1991, § 8.1.08)

SECTION 5-21. – UNLAWFULLY ASSEMBLY.

It shall be unlawful for any two (2) or more persons within the town to assemble together for any unlawful purpose or, being assembled, to act in concert to do any unlawful act with force and violence against the property of the town or to the person or property of another or against the peace or to the terror of citizens or other persons or who shall make any movement or preparation therefore. No person shall knowingly suffer or permit any assemblage for the purpose of committing any unlawful act or breach of the peace or any riotous, offensive or disorderly conduct in or upon the premises owned by him or under his control within the town.

SECTION 5-22. – PLAYING AND LOITERING AROUND RAILROAD YARDS OR SIDE TRACKS.

It shall be unlawful for any person to play or loiter around the yards or side tracks of the railroad.

SECTION 5-23. – USE OF PARKING LOTS.

- a) *Definition.* "Parking lot" means, for the purposes of this section, any area within the town of sufficient size to provide space on which more than five (5) automobiles may be parked and shall include public parking lots and those parking lots which are for the principal purpose of providing parking during business hours for shopping centers, stores, restaurants, drive-ins, theaters and other business or commercial establishments.
- b) *Congregation prohibited.* It shall be unlawful for more than five (5) people to congregate on any one (1) parking lot in the town between the hours of 9:00 p.m. and 6:00 a.m., if the closest part of the parking lot is within three hundred (300) feet of a private residence, except for the purpose of patronizing a business establishment which is actually open for business between such hours and which is actually open at the time of such congregation.
- c) *Enumeration of offenses.* It shall be unlawful for any person on a parking lot in the town, between the hours of 9:00 p.m. and 6:00 a.m., to do one (1) or more of the following:

- (1) Talk in a loud or boisterous manner;
- (2) Drink beer or any kind of alcoholic beverage;
- (3) Throw any type of bottle, can, container, trash or paper on the parking lot;
- (4) Use profanity or curse in such a manner that those standing in the immediate vicinity of the person may hear the profanity or cursing;
- (5) Make such noise or disturbance that persons living in homes or other dwelling accommodations within three hundred (300) feet of the parking lot are disturbed in their place of living and deprived of their peace and quiet.

State Law Reference— Authority to regulate off-street parking lots, N.C. GEN. STAT.§ 160D-302.

SECTION 5-24. – 5-25. – RESERVED.

ARTICLE 2. OFFENSES AGAINST PROPERTY

SECTION 5-26. – DAMAGE TO TOWN PROPERTY (ORDINANCES, RESERVOIRS, AND UTILITY POLES INCLUDED)

It shall be unlawful to damage, deface, trespass upon, break or injure any property belonging to the town. Violation of this section subjects the offender to a civil penalty or \$500.00 to be recovered in the nature of a debt pursuant to N.C. GEN. STAT.160D-175. (Code 1991, § 8.1.05)

Damaging or defacing town ordinances.

No person shall tear or deface any of the town ordinances. (Code 1991, § 1.1.09)

Depositing foreign matter in reservoir.

It shall be unlawful for any person to spit or pour any liquid or other substance into or throw any missile or other thing whatsoever into the town reservoir.

(Code 1991, § 8.1.07)

Defacing, injuring or posting bills on utility poles.

It shall be unlawful for any person to deface or injure by cutting, painting, or posting of bills or other materials any telegraph, telephone or power pole in the town, provided that nothing in this section shall be construed to apply to any officer or employee of the town or of the utility company removing any pole in the discharge of his duty.

(Code 1991, § 8.1.09)

Cross reference-Utilities, ch. 28.

SECTION 5-27. – DAMAGE TO PRIVATE PROPERTY.

It shall be unlawful to injure, damage or otherwise deface property belonging to another.

SECTION 5-28. – INJURING SHADE TREES AND SHRUBBERY (FLOWERS & ORNAMENTS INCLUDED)

It shall be unlawful for any person to pluck, cut or break in any manner any flowers or other things kept for ornament in any park, private yard, or public space.
(Code 1991, § 8.1.06)

SECTION 5-29. – CLIMBING A WATER TOWER.

It shall be unlawful for any person to climb upon the town water tower without having proper authority to do so.

SECTION 5-30. – NONAUTHORIZED PERSONS JUMPING ON OR OFF MOVING TRAINS.

It shall be unlawful for any person not an employee of the railroad company to jump on or off any moving train or locomotive within the town.

SECTION 5-31. – PENALTY

The violation of any provision of this chapter shall constitute a misdemeanor and shall be punished by a fine of not more than \$500.00 or imprisonment for 30 days as provided in section 1-6.

SECTIONS 5-32. – 5.35 – RESERVED.

ARTICLE 3. – OFFENSES AGAINST MORALS

SECTION 5-36. – DEFINITIONS.

In addition to the common meanings of words, the following definitions shall be applicable herein [this article]:

Malt beverage means beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage except unfortified or fortified wine as defined by this Chapter, containing at least one-half of one percent (0.5%), and not more than fifteen percent (15%), alcohol by volume. Any malt beverage containing more than six percent (6%) alcohol by volume shall bear a label clearly indicating the alcohol content of the malt beverage

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 the sidewalks of any such street.

Unfortified wine means any wine of sixteen percent (16%) 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.

State Law Reference— Malt beverage and unfortified wine defined, N.C. GEN. STAT. § 18B-101; open container defined, N.C. GEN. STAT. § 18B-300(c).

SECTION 5-37. – CONSUMPTION ON PUBLIC STREETS AND MUNICIPAL PROPERTY PROHIBITED.

No person shall consume malt beverages or unfortified wine, as defined by N.C. GEN. STAT.18B-2, on or within the rights-of-way of the municipal streets, boulevards, alleys and sidewalks, in municipal parks and buildings, or on any other property owned or occupied by the town. (Code 1991, § 8.1.02)

Statutory reference: *Authority of local governments to regulate consumption on property owned or occupied by that local government, see N.C. GEN. STAT. § 18B-300(c)*

SECTION 5-38. – POSSESSION DURING SPECIAL EVENTS.

It shall be unlawful for any person to possess malt beverages and/or unfortified wine on public streets, alleys or parking lots which are temporarily closed to regular traffic for special events, unless the governing body adopts a resolution making other provisions for the possession of malt beverages and/or unfortified wine at the special event.

SECTION 5-39. – GAMBLING

Prohibited within town limits.

- (a) Prohibition. Gambling of any form, including a bingo game as defined herein shall not be permitted on the premises of any building within the town limits of Clarkton.

- (b) Definitions.

Gambling shall mean the operation of any game of chance or playing or betting on any game of chance at which any money, property or other thing of value is bet, whether the same be in stake or not.

Bingo game shall mean a specific game of chance played with individual cards having numbered squares ranging from one to 75, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers (but shall not include "instant bingo" which is a game of chance played by the selection of one or more prepackaged cards, with winners determined by the appearance of a preselected designation on the card).

- (c) Violations and penalties. Violation of this section shall constitute a misdemeanor punishable by fine of no less than \$500.00 as prescribed by N.C. GEN. STAT.160D-175 and by N.C. GEN. STAT.14-4 for each incident of violation. In addition, as provided by N.C. GEN. STAT.160D-175, the town may seek civil enforcement of this section by way of prohibitory injunction and a civil penalty of \$500.00 per day for each day's continued violation.

(Ord. of 3-12-2001) Section 5-40. –same; violation a misdemeanor.

Violation of Section 13.102 or 13.103, above, shall be a misdemeanor punishable on conviction as provided in N.C. General Statutes 14-4, by a fine not exceeding fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days.

SECTION 5-40. – 5-45. – RESERVED.

CHAPTER 2. - NUISANCES

SECTION 5-46. – NUISANCES DESCRIBED.

Anything that causes an offensive odor or that causes injury or damage to the health or life of any other person or anything that interferes with the peaceful enjoyment of one's property is hereby declared to be a nuisance. As used

in this subchapter, the term **SOLID WASTES** shall be construed to include all useless, unwanted or discarded nongaseous and nonliquid materials resulting from domestic, industrial, commercial or community activities.

(Ord. 93-20, passed 5-4-93)

SECTION 5-47. – NUISANCES PROHIBITED.

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

- (1) The uncontrolled growth of noxious weeds or grass to a height in excess of 24 inches causing or threatening to cause a hazard detrimental to the public health or safety;
- (2) Any accumulation of 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, or vermin of any kind which is or may be dangerous or prejudicial to the public health;
- (3) 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; or
- (4) Any condition detrimental to the public health which violates the rules and regulations of the county health department.

(Code 1991, § 8.4.01)

SECTION 5-48. – STAGNANT WATER, HIGH GRASS, TRASH, DEBRIS AND NOXIOUS MATTER DECLARED NUISANCES; ABATEMENT.

The accumulation and existence of stagnant water, high grass, trash, debris or other noxious matter upon any lot or part thereof within the corporate limits of the town and any grass or grass clippings, trash, debris or any other noxious matter upon the public streets is hereby declared to be a nuisance, and any person causing, permitting or allowing any such nuisance to exist within the town shall be guilty of a misdemeanor.

The existence of an accumulation of solid wastes on any lot or parcel of land within the corporate limits, uncovered or unenclosed, or under circumstances otherwise resulting in, or threatening to cause, any of the following conditions is hereby declared to be dangerous and prejudicial to the public health or safety, and to constitute a nuisance:

- (a) A fire hazard;
- (b) The accumulation of stagnant water;
- (c) The inhabitation therein of rats or other vermin of any kind;
- (d) A substantial risk of injury to minors or other persons, such as, but not limited to, open storage or accumulation of any abandoned refrigerator or other appliance, glass, building materials or similar items;
- (e) The emission or effluence of noxious or offensive particulate matter, dust, sludge, or other materials or substances which tend to pollute or contaminate land, water or air, rendering or tending to render it injurious to human health, habitation or welfare, to animal or plant life or to property, or interfering or tending to interfere with

the enjoyment of life or property; provided that this division shall be construed consistent with and supplementary to, and not in conflict with, applicable state and federal laws and regulations;

(f) The use of carports, open porches, stoops, decks, verandas, terraces, patios or other outdoor areas that are visible from streets, sidewalks, public rights-of-way or abutting properties, shall not be allowed for the collection or storage of old, worn out, broken or discarded machinery, automobile parts, junk, furniture (not including typical outdoor or yard furniture intended for outdoor use by the manufacturer), stoves, refrigerators and appliances, cans or containers, household goods or plumbing and electrical fixtures or other similar materials that increase the likelihood of fire or any other hazard; and

(g) Any condition detrimental to the public health which violates state or federal law, or the rules and regulations of the County Health Department.

(Ord. 93-20, passed 5-4-93; Am. Ord. 06-15, passed 7-6-06)

SECTION 5-49. – INVESTIGATION.

- (a) The Code Enforcement Officer or other public official as may be designated by the Board of Commissioners (hereinafter referred to as the Enforcement Official), upon notice from any person of the possible existence of any of the conditions described in **§ 5-48**, shall cause to be made such investigation as may be necessary to determine whether conditions exist which may constitute a public nuisance as declared in **§ 5-48**.
- (b) This investigation may be conducted by either the Enforcement Official or the appropriate County Health Department Official.

(Ord. 93-20, passed 5-4-93)

SECTION 5-50. – NOTICE OF HEARING.

- (a) If it appears that such conditions exist, the Enforcement Official shall cause to be delivered or mailed to the owner and any lessee or occupier of the property upon which the conditions exist, a notice stating the reasons why the conditions may constitute a violation, and that an informal hearing will be held before the Enforcement Official, at a time and place therein specified, not less than ten nor more than 30 days after the delivery or mailing of the notice.
- (b) The owner or any party in interest shall have the right to file any answer to the notice, and to appear in person or otherwise, and give evidence at the time and place fixed in the notice.
- (c) Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard.
- (d) The rules of evidence prevailing in courts or law or equity shall not be controlling in such hearings.

(Ord. 93-20, passed 5-4-93)

SECTION 5-51. – NOTICE OF PUBLIC NUISANCE AND ORDER FOR ITS ABATEMENT.

If a determination is made that such conditions constituting a public nuisance exist, the Enforcement Official shall notify, in writing, the owner and lessee or occupier of the premises in question of the conditions constituting such public nuisance, and shall order the prompt abatement thereof within 15 days from the receipt of such written notice.

(Ord. 93-20, passed 5-4-93)

SECTION 5-52. – ABATEMENT BY TOWN.

- (a) If the owner, or lessee or occupier, having been ordered to abate such a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of the order, the Enforcement Official may cause such condition to be removed or otherwise remedied by having employees of the town to go upon the premises and remove or otherwise abate such nuisance, under the supervision of an appropriate officer or employee.
- (b) Any person who has been ordered to abate a public nuisance may within the time allowed by this subchapter request the town, in writing, to remove such condition, the cost of which shall be paid by the person making such request.

(Ord. 93-20, passed 5-4-93)

SECTION 5-53. – TOWN TO BILL FOR COSTS OF ABATEMENT.

- (a) The total costs incurred by the town in removing or remedying a public nuisance shall be charged to the owner of such lot or parcel of land, and it shall be the duty of the Tax Collector to mail a statement of such charges to the owner or other person in possession of such premises, with instructions that such charges are due and payable within 30 days from the receipt thereof.
- (b) In any case in which such costs are imposed under the provisions of this subchapter, the Enforcement Official shall properly certify to the Tax Collector, in writing, the nature of the work, the date performed, the name of the property owner, the address of the property, and the total costs to the town (including actual cost in labor and materials, investigation of ownership and violation, inspection, and the like).

(Ord. 93-20, passed 5-4-93)

SECTION 5-54. – UNPAID COSTS BECOME A LIEN.

In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in this subchapter, such charges shall become a lien upon the land or premises where the public nuisance existed, and shall be collected as unpaid taxes, together with any legal expenses, including attorney's fees, as provided in N.C. GEN. STAT.§ 160D-193.

(Ord. 93-20, passed 5-4-93)

SECTION 5-55. – REMEDIES NOT EXCLUSIVE.

The procedure set forth in this subchapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this subchapter shall not prevent the institution of criminal charges against any person, firm or corporation violating the provisions of this subchapter, as provided in N.C. GEN. STAT.§ 14-4.

(Ord. 93-20, passed 5-4-93)

SECTION 5-56. – REMEDY THROUGH A COURT OF COMPETENT JURISDICTION.

In addition to other available remedies, this subchapter may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction, and applied for by the town as provided in N.C. GEN. STAT. § 160D-175(d).

(Ord. 93-20, passed 5-4-93)

SECTION 5-57. – 5-60. – RESERVED.

CHAPTER 3. – MISCELLANEOUS PROVISIONS: ABANDONED AND JUNKED MOTOR VEHICLES.

SECTION 5.61. – STATEMENT OF POLICY.

The Board of Commissioners has found it necessary and desirable to promote or enhance:

- a) The quality of urban attractiveness and the aesthetic appearance of the town;
- b) The protection of property values throughout the town;
- c) The preservation of the livability and attractiveness of neighborhoods;
- d) The promotion of tourism, conventions, and other opportunities for economic development for the town;
- e) The attractiveness of the town's thoroughfares and commercial roads which present the primary, public visibility to visitors and to passers-by of the town; and
- f) The promotion of the comfort, happiness, and emotional stability of occupants of property in the vicinity of junked motor vehicles.

SECTION 5.62. – 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:

Abandoned vehicle An abandoned motor vehicle is one that is:

- (1) Left upon a street or highway in violation of a law or ordinance prohibiting parking;
- (2) Left on a public street or highway for longer than seven days;
- (3) Left on property owned or operated by the town for longer than 24 hours; or
- (4) Left on private property without the consent of the owner, occupant, or lessee thereof, for longer than two hours,

Authorized official means the supervisor employee of the police department or the code enforcement officer designated to authorize the removal of vehicle under the provisions of this article.

Junked motor vehicle, as authorized and defined in N.C. GEN. STAT. 160D-303.2, means a vehicle that does not display a current license plate lawfully upon the vehicle and that:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

- (3) Is more than five years old and appears to be worth less than \$100.00.

Motor vehicle and vehicle mean any machine designed or intended to travel over land or by water by self-propulsion or while attached to any self-propelled vehicle.

State law reference-Abandoned and junk vehicles, N.C. GEN. STAT.160D-303, 160D-303.2.

Nuisance vehicle means a motor vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including:

- (1) A vehicle found to be a breeding ground or harbor for mosquitoes or other insects or a breeding ground or harbor for rats or other pests;
- (2) A vehicle found to be a point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A vehicle found to be a point of collection of pools or ponds of water;
- (4) A vehicle found to be a point of concentration of quantities of gasoline, oil and other flammable or explosive materials as evidenced by odor;
- (5) A vehicle which has areas of confinement which cannot be operated from the inside such as trunks, hoods, etc.;
- (6) A vehicle which is so situated or located that there is a danger of its falling or turning over;
- (7) A vehicle which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
- (8) A vehicle which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the board of commissioners.

(Code 1991, § 8.3.02; Ord. of 1-12-1998)

Cross reference-Definitions generally, § 1-2.

SECTION 5.63. – ADMINISTRATION & ENFORCEMENT

The police department or the code enforcement officer shall be responsible for the administration and enforcement of this article. This official shall be responsible for administering the removal and disposition of vehicles determined to be abandoned on public streets and highways within the town, and property owned by the town. The town shall, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles and nuisance vehicles in compliance with this article and applicable state law. Nothing in this article shall be construed to limit the legal authority or powers of officers of the police department in enforcing any other laws or otherwise carrying out their duties.

(Code 1991, § 8.3.01)

Cross reference-Administration, ch. 2.

SECTION 5-64. – 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 such vehicle to be abandoned.

(b) Upon investigation, proper officials of the town may determine that a vehicle is abandoned vehicle and order the vehicle removed.

(Code 1991, § 8.3.03)

SECTION 5-65. – NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

- (a) It shall be unlawful for the registered owner of a motor vehicle or 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, and order the vehicle removed. (Code 1991, § 8.3.04)

SECTION 5-66. – REQUIRED FINDINGS PRIOR TO REMOVAL OF VEHICLE FROM PRIVATE PROPERTY

Any abandoned, junked or nuisance motor vehicle found to be in violation of this article may be removed to a storage garage or area, but no such vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the premises unless the board of commissioners or a duly authorized town official or employee finds in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such 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 tourism and other 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.

SECTION 5-67. – NOTICE AND PROBABLE CAUSE HEARING.

(a) Whenever a vehicle with a valid registration plate or registration is towed as provided in N.C. GEN. STAT.20-219.10, the authorizing person shall immediately notify the last known registered owner of the vehicle of the following:

- (1) A description of the vehicle;
- (2) The place where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to have the vehicle returned to them; and
- (5) The procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours; if the vehicle is not registered in this state, notice shall be given to the owner within 72 hours. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by telephone, notice shall be mailed to his last known address unless he or his agent waives this notice in writing.

(b) Whenever a vehicle with neither a valid registration plate nor registration is towed as provided in N.C. GEN. STAT.20-219.10, the authorizing person 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 listed in subsection (a) of this section. Unless the owner has otherwise been given notice, it is presumed that the authorizing person has not made reasonable efforts, as required under this subsection, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least seven days before the towing actually occurred; except that no pre-towing notice need be given if the vehicle impeded the flow of traffic or otherwise jeopardized the public welfare so that immediate towing was necessary.

(c) The owner or any other person entitled to claim possession of the vehicle may request in writing a hearing to determine if probable cause existed for the towing. The request shall be filed with the county magistrate. If there is more than one magistrate's office in the county, the request may be filed with the magistrate in the warrant-issuing office in the county seat or in any other office designated to receive requests by the chief district court judge. The magistrate shall set the hearing within 72 hours of his receiving the request. The owner, the person who requested the hearing if someone other than the owner, the tower, and the person who authorized the towing shall be notified of the time and place of the hearing.

(d) The owner, the tower, the person who authorized the towing, and any other interested parties may present evidence at the hearing. The person authorizing the towing and the tower may submit an affidavit in lieu of appearing personally, but the affidavit does not preclude that person from also testifying.

(e) The only issue at this hearing is whether or not probable cause existed for the towing. If the magistrate finds that probable cause did exist, the tower's lien continues. If the magistrate finds that probable cause did not exist, the tower's lien is extinguished.

(f) Any aggrieved party may appeal the magistrate's decision to district court.

SECTION 5-68. – EXCEPTION 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. Such 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:

- a) *Vehicles abandoned on the streets.* For vehicles left on public streets and highways, the Board of Commissioners hereby determines that immediate removal of such vehicles may be warranted when they are:
 - 1. Obstructing traffic;
 - 2. Parked in violation of an ordinance prohibiting or restricting parking;
 - 3. Parked in a no-stopping or -standing zone;
 - 4. Parked in a loading zone;
 - 5. Parked in a bus zone; or
 - 6. Parked in violation of a temporary parking restriction imposed under this code.
- b) *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, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

(Ord. of2-8-90, § 4)

SECTION 5-69. – HEARING ON LIEN

The tower may seek to enforce his lien or the owner may seek to contest the lien pursuant to N.C. GEN. STAT.ch. 44A.

SECTION 5-70. – PAYMENT TO TOWER IN CASE OF FINDING OF NO PROBABLE CAUSE.

Every agency whose law enforcement officers act pursuant to this division or N.C. GEN. STAT.115D-21, 116-44.4, 116-229, 153A-132, or 160D-303 shall by contract or rules provide compensation to the tower if a court finds no probable cause existed for the towing.

SECTION 5-71. – OPTION TO PAY TOWING FEE OR POST BOND.

At any stage in the proceedings under this division, including before the probable cause hearing, the owner may obtain possession of his vehicle by:

- (1) Paying the towing fee; or
- (2) Posting a bond for double the amount of the towing fee.

SECTION 5-72. – SALE AND DISPOSITION OF UNCLAIMED VEHICLE.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the town or tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the town and in accordance with N.C. Gen. Stat. Chapter 44A, Article 1.

SECTION 5-73. – CONDITIONS OF REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

As a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the town Code Enforcement Officer. 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.

SECTION 5-74. – PROTECTION AGAINST LIABILITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle for disposing of such vehicle as provided in this article.

SECTION 5-75. – 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 Code unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

SECTION 5-76. – TOWING ROTATION LIST.

- (a) The Police department shall prepare and maintain an eligible list of those persons having businesses in the Town or within the extraterritorial jurisdictional limit, who apply and qualify to tow and store vehicles at the request of the authorizing official pursuant to this chapter. The Chief of Police shall prepare rules in accordance with the provisions of this chapter for the qualification of private tow truck operators or businesses for the eligible list.
- (b) Any private tow truck operator or business on the eligible list that violates any provision of this division or the rules established in accordance with this chapter shall be subject to removal from the eligible list after written notice. Any private tow truck operator or business removed from the eligible list may, within five (5) working days of the date of the notice of removal, request a hearing

before the Chief of Police to show cause why They/Them should not be removed from the list.

SECTION 5-77. – SAME; QUALIFICATIONS.

To qualify for the eligible list a private tow truck operator or business must:

- (a) Keep his towing operation either open or available, by telephone number, twenty-four (24) hours per day seven (7) days a week.
- (b) Have available at all times a wrecker of at least 10,000 pounds gross vehicle weight and having the necessary equipment to tow vehicles from the streets and other public or private places in the Town when called upon to do so.
- (c) Have at, or in the immediate vicinity of, the location of his towing operation, sufficient fenced storage space and facilities to protect both damaged and undamaged vehicles, and have a facility to store a vehicle out of exposure to the elements overnight.

The private tow truck operator or business must also agree to assume the obligation to:

- (1) Promptly tow and store all vehicles to be removed from the public streets or other public places or private property upon the request of the authorizing official.
- (2) Issue a receipt to the authorizing official for each vehicle towed and stored, and keep the vehicle until its release is authorized by the authorizing official.
- (3) Store damaged automobiles in a secured fenced storage space.
- (4) Collect towing and storage fees from the owner of the vehicle by the sale of the vehicle without recourse to the Town, unless it is found that no probable cause existed for the towing pursuant to N.C. GEN. STAT.20- 219.11
- (5) Pay all damages to vehicles entrusted to his custody as the result of his negligence and to maintain, for the protection of the vehicle owners, garage keepers' legal liability insurance while performing any of the services provided for in this division.
- (6) Indemnify and save the Town from all liability for damages sustained by vehicles being towed or stored and all personal injuries occurring as a result of the towing or storage.
- (7) Remove from the scene of a vehicle accident, in which the vehicle to be towed was involved, all glass, metal or debris caused by the accident.

SECTION 5-78. – SAME; CONTRACTS.

A private tow truck operator or business on the eligible list shall contract with the Town to remove the vehicles described in this chapter from the public streets or other public places or private property upon the request of the authorizing official. The contract shall be in writing, shall specify the charges to be made for towing, and shall require the person entering into the contract for the towing of such vehicles to perform the service in a manner consistent with the provisions of this chapter and the rules prepared there under and shall provide for the forfeiture of the contract in the event of a violation of any of the provisions of the contract or of the

provisions of this division. The contract shall further provide that the Town shall not be obligated to the person undertaking the towing and storage of such vehicles for any damages which may be incurred in the performance of the obligation assumed by them but that the charge shall be collected solely from the owner of the vehicle involved, unless it is found that no probable cause existed for the towing of any vehicle pursuant to N.C. GEN. STAT.20-219.11

SECTION 5-79. – SAME; FEES.

The fees and charges for the removal and storage of abandoned or junked motor vehicles shall be determined from time to time by the Board and listed in the *Schedule of Fees and Charges* maintained in the Clerk's office.

SECTION 5-80. – STORAGE OF UNLICENSED MOTOR VEHICLES.

- (a) No person may cause, suffer or permit, on premises under the control of such person, the storage, outside a fully enclosed structure, of a motor vehicle that does not display current license plates and a current inspection sticker unless a permit has been issued for such vehicle under this section, provided that:
 - (1) The restrictions of this section shall not apply to any person until forty-five (45) days after the Manager initially notifies the responsible person that a permit is required under this section; and
 - (2) This section shall not apply to persons lawfully engaged in a business necessitating such storage so long as such business has received all legally required state and local permits and licenses.
- (b) An application or an initial permit under this section shall be made to the Manager on a form prescribed by the town within thirty (30) days after the Manager notifies the responsible person that a permit is required under this section. Permits shall be valid for a period of six (6) months from the date of issuance. The Manager shall send to the permittee an application for a renewal permit at least thirty (30) days prior to the expiration of the permit, and an application for a renewal permit must be submitted to the Manager at least fifteen (15) days prior to expiration of the permit.
- (c) Any person who submits a completed permit application pursuant to subsection (b) shall be issued a permit under this section if:
 - (1) The applicant pays a semi-annual permit fee of fifty dollars (\$50.00);
 - (2) The applicant demonstrates to the reasonable satisfaction of the Manager either that (i) the vehicle is operable or (ii) the vehicle is capable of being made operable and the applicant is in the process of repairing the vehicle such that it will be made operable within a period of not more than six (6) months. When a vehicle has remained inoperable

for a continuous period of six (6) months or more after the issuance pursuant to this subsection of a permit that was premised upon a finding of compliance with subdivision (ii) of this subsection, the Manager shall regard this in subsequent applications as conclusive evidence of the applicant's inability to satisfy subdivision (ii); and

- (3) The applicant demonstrates that he or she owns or leases the property on which the vehicle is stored or has the written permission of the owner or lessee of such property to store the vehicle at that location.
- (d) If the Manager denies an application for an initial or renewal permit on the basis that the applicant has failed to demonstrate that the vehicle is operable or can be made operable within a period of six (6) months, the applicant may appeal this determination to the board of adjustment in accordance with the same procedures applicable to appeals under this ordinance. The board may find that a vehicle is capable of being made operable within a period of six (6) months or more after the issuance of a previous permit under this section.
- (e) For purposes of this section, the "Manager", shall be the Town Clerk or any person designated by the manager to perform the functions and exercise the responsibilities assigned by this section to the Manager.
- (f) The provisions of this section shall not apply to a vehicle determined by the Manager to be a junked motor vehicle or a nuisance motor vehicle.
- (g) A violation of the provisions of this section shall subject the violator to a civil penalty as provided in this Code.

SECTION 5-81. – 5-85. – RESERVED.

CHAPTER 4. – MISCELLANEOUS PROVISIONS: VEGETATION AND REFUSE

SECTION 5- 86. – RESTRICTIONS GENERALLY.

- (a) The uncontrolled growth of noxious weeds and tall grass, and the accumulation of offensive animal or vegetable matter or other refuse dangerous or prejudicial to the public health or which creates a fire hazard dangerous to the public safety, upon any premises within 125 feet of any building, dwelling, or other structure is declared to constitute a public nuisance.
(‘70 Code, 2009 S-5 Supplement, § 11-14) (Ord. passed 10-3-61)
- (b) It shall be unlawful for any owner, lessee or occupant or any agent, servant, representative or employee of any such owner, lessee or occupant having control of any lot or land or any part thereof in the town to permit or maintain on any such lot or land or on or along the sidewalk, street or alley adjacent to the lot or land between the property line and the curb or middle of the alley or for ten (10) feet outside the property line, if there is no curb, any growth of weeds, grass or other rank vegetation to a greater height than twelve (12) inches, on the average, or any accumulation of dead weeds, grass or brush.

- (c) It shall be unlawful for any such person to cause, suffer or allow poison ivy, ragweed or other poisonous plants or plants detrimental to health to grow on any such lot or land in such manner that any part of such ivy, ragweed or other poisonous or harmful weed shall extend upon, cover, overhang or border any public place or to allow seed, pollen or other poisonous particles or emanations there from to be carried through the air into any public place.

State Law Reference— Abatement of public health nuisances, N.C. GEN. STAT. § 160D-193; permitting uncontrolled existence of plant pests, N.C. GEN. STAT. § 106-421.

SECTION 5-87. – DUTY OF OWNER OR OCCUPANT OF PROPERTY.

It shall be the duty of any owner, lessee or occupant of any lot or land to cut and remove or cause to be cut and removed all weeds, grass or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of this article.

Owners and occupants of premises, including owners of vacant lots, shall keep such premises in a sanitary and sightly condition at all times.

Cross-reference: *Unsafe Buildings, see Title 3, Chapter 5; Abandoned Buildings, see Title 3, Chapter 6; Nonresidential Buildings, Title 3, Chapter 10.*

SECTION 5-88. – NOTICE UPON FAILURE OF OWNER TO ABATE.

If the provisions of this article are not complied with, the Town Clerk shall serve written notice upon the owner, lessee or occupant or any person having care and control of any such lot or land to comply therewith. Written notice shall be given to the owner with an order to abate the nuisance.

SECTION 5-89. – ABATEMENT BY TOWN (PROHIBITED CONDITIONS)

(a) Complaint and investigation. The clerk, upon written notice from any person of the existence of any of the conditions described in this chapter, shall cause to be made by the appropriate county health department official, or town official, such investigation as may be necessary to determine whether, in fact, the conditions exist as to constitute a public nuisance as declared in this chapter.

(b) Notice to abate. Upon a determination that the conditions constituting a public nuisance exist, the clerk shall notify, by certified mail, the owner, occupant or person in possession of the premises in question of the conditions constituting the public nuisance, and shall order the prompt abatement thereof within 15 days from the receipt of the written notice.

(c) Abatement by town authorized. If the person having been ordered to abate the public nuisance fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of the order, then the clerk shall cause the condition to be removed or otherwise remedied by having employees of the town go upon the premises and remove or otherwise abate the nuisance under the supervision of an officer or employee designated by the clerk. Any person who has been ordered to abate a public nuisance may, within the

time allowed by the order, request the town in writing to remove the condition, the cost of which shall be paid by the person making the request.

(d) Payment of costs incurred by town. The actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of the lot or parcel of land, and it shall be the duty of the tax collector to mail a statement of the charges to the owner or other person in possession of the premises with instructions that the charges are due and payable within 30 days from the receipt thereof.

(e) Lien for unpaid charges. If charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of the charges, the charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in N.C. GEN. STAT.160D-193.

(f) Additional remedies. The procedure set forth in this section shall be in addition to any other remedies that may exist under law for the abatement of public nuisances, and this section shall not prevent the town from proceeding in a criminal action against any person violating the provisions of this chapter.

(Code 1991, §§ 8.4.02-8.4.07)

SECTION 5.90. – ABANDONED ITEMS, WEEDS AND RUBBISH ON RESIDENTIAL PREMISES.

It shall be unlawful for the owner or occupant of a residential building, structure or property to utilize the premises of such residential property for the open storage of any abandoned motor vehicle, icebox, refrigerator, stove, glass, building material, building rubbish or similar items. It shall be the duty and responsibility of every owner or occupant to keep the premises of the residential property clean and to remove from the premises all abandoned items as listed in this section, including but not limited to weeds, dead trees, trash and garbage, upon notice from the building inspector or code enforcement officer.

(Code 1991, § 8.5.04)

Cross reference-Solid waste, ch. 22.

SECTION 5.91. – 5-95. – RESERVED.

CHAPTER 5. – MISCELLANEOUS PROVISION: GRAFFITI

SECTION 5-96. – PURPOSE AND INTENT.

The purpose and intent of this article are to provide for the expeditious removal of graffiti on private property within the town. The Board of Commissioners declares such graffiti to be a nuisance by undermining (1) the quality of urban attractiveness and the aesthetic appearance of the town, (2) the protection of property values, (3) the preservation of the livability and attractiveness of neighborhoods, and (4) the promotion of opportunities for economic development of the town. In addition, the Board of Commissioners finds that such graffiti is frequently a means of communication by street gangs engaging in unlawful activity and is thereby injurious to the public welfare and safety.

SECTION 5-97. – 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:

Graffiti means any inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of private property, natural or manmade and that is exposed to public view, without the prior written consent of the property owner delivered to the person placing the graffiti on the property.

Private property means any privately owned real property, including any fixtures or improvements to such property, located within the town's limits.

Property owner means the owner of the private property, such owner's manager or agent, or any other person in lawful control or possession of the property.

Removal of graffiti means the use of any method that has the effect of obscuring, erasing or otherwise removing the graffiti from public view.

SECTION 5-98. – FAILURE TO REMOVE GRAFFITI UNLAWFUL.

It is unlawful for any property owner to fail to remove, or fail to cause the removal of, graffiti in accordance with Section 13.89 of this article.

SECTION 5-99. – PROCEDURES FOR REMOVAL OF GRAFFITI.

- (a) Within thirty (30) days after the property owner discovers the existence of graffiti on his private property or within thirty (30) days after the property owner receives written notice from the town by registered or certified mail, return receipt requested, of the existence of graffiti on the owner's property, whichever event occurs earlier, the property owner shall remove or cause the graffiti to be removed from his property in accordance with paragraph (b) of this section.
- (b) The property owner shall either (1) remove the graffiti at the owner's expense, or (2) authorize the town to remove the graffiti at its own expense by signing an authorization of removal on a form prescribed by the Town Clerk, along with a release that holds the town harmless from any liability to the owner on account of the town's removal of the graffiti in accordance with the removal method specified in the authorization of removal.
- (c) In the event the property owner authorizes the town to remove the graffiti at its own expense in accordance with subparagraph (b) (2) of this section, the town shall not be required to rectify any area defaced by the graffiti more extensively than where the graffiti itself is located and shall not be required to restore the area where the graffiti is removed to the area's original condition (i.e., exact color, textures, etc.).

SECTION 5-100. – PENALTIES AND REMEDIES.

- (a) A violation of any provision of this article shall subject the offender to a civil penalty of one hundred dollars (\$100.00). If the offender fails to pay this penalty within ten (10) days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of a debt.
- (b) The town may seek to enforce this article through any appropriate equitable action.
- (c) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate violation.
- (d) The town may seek to enforce this article by using any one or a combination of the foregoing remedies.

SECTION 5-101. – 5-105. – RESERVED.**CHAPTER 6. – MISCELLANEOUS PROVISIONS: SPECIAL EVENTS; PERMITS****SECTION 5-106. – GENERAL.**

The following shall guide the Town in regulating special events including, but not limited to, parades, carnivals, processions and assemblies of more than five (5) persons:

SECTION 5-107. – SPECIAL EVENTS PERMIT REQUIRED.

It shall be unlawful for any person, corporation, firm or organization to have or sponsor any of the activities referred to in the preceding within the town unless a special events permit therefor has been granted by the town.

SECTION 5-108. – PROCESS TO GRANT OR DENY A SPECIAL EVENTS PERMIT.

Applicants for a special events permit required by this chapter shall file with the town Clerk a sworn application in writing addressed to the town, on a form to be furnished by the town, which form shall require, but not be limited to, the following information:

- a) The name and address of the applicant specifying the entity which will conduct the proposed activities and the entity sponsoring such activity;
- b) The address of the location to be used and the dates and time that the activities will be permitted at such address;
- c) The charge that is to be made for the privilege of admission at such time and place;
- d) A statement as to whether the applicant, contractor or subcontractors have been convicted of any crime or charged with the violation of any crime involving moral turpitude or the violation of any provisions of this Code, state law or ordinance involving the sale and/or consumption of drugs and/or alcoholic beverages and, if so, a detailed statement of the nature and disposition of the charges;

- e) A statement that the applicant will furnish the Town Clerk with such additional information regarding the applicant and application as may be requested by the town.

SECTION 5-109. – TIME OF FILING APPLICATION.

The application for a special events permit required by the provisions of this chapter shall be filed with the town at least two (2) weeks prior to the date on which the proposed event is to be had, held or conducted. Notwithstanding the foregoing, the town may accept an application less than two (2) weeks prior to the date on which the proposed event is to take place if the manager concludes that sufficient time exists before the start of the event to comply with the other requirements of this Article.

SECTION 5-110. – INVESTIGATION – REQUIRED.

The town shall make, or cause to be made, an investigation of the applicant and application for a special events permit required by this chapter which shall include, but shall not be limited to, the character and morals of the applicant and the entertainers proposed to perform at the event. The town shall also require that the premises on which the event is proposed to be held or conducted be inspected by the following:

- a) The fire chief for compliance with all local and state fire laws;
- b) The Code Enforcement Officer for compliance with state building code regulations;
- c) The appropriate county health officials regarding the availability and condition of restroom facilities on the premises.

SECTION 5-111. – SAME; FEE

At the time the application for a special events permit as required by this chapter is filed, the applicant therefor shall pay a fee to the town in an amount to be determined by the Board from time to time and listed on the schedule of fees and charges maintained in the Clerk's office, which fee shall defray the cost of investigating the application and/or issuing the permit. The fee shall be retained by the town regardless of whether or not a permit is issued.

SECTION 5-112. – INSURANCE REQUIRED

Before a special event permit is issued under the provisions of this chapter, the entity that will actually conduct the activity for which the permit is sought shall give evidence of liability insurance of not less than one million dollars (\$1,000,000.00) and further evidence that this liability insurance shall also afford coverage to the sponsoring entity.

SECTION 5-113. – REVIEW OF APPLICATION BY BOARD OF COMMISSIONERS.

Unless the Board of Commissioners finds as a fact that the granting of the permit will be contrary to the health, safety, welfare or morals of the residents of the town, the permit shall be granted; otherwise, it shall be denied. However, if the application for a permit is denied, the Board of Commissioners shall cause to be recorded in the minutes of the meeting where the application is presented, the facts found by it supporting its decision that the granting of the permit would be contrary to the health, safety, welfare or morals of the residents of the town.

SECTION 5-114. – CONDITIONS FOR GRANTING.

The granting of a special events permit applied for under the provisions of this chapter by the Board of Commissioners may be conditioned upon the following:

- a) That the applicant make a payment for the permit, in an amount to be determined by the Board from time to time and listed on the schedule of fees and charges maintained in the Clerk's office, which shall be issued by the Clerk;
- b) That the applicant furnish adequate police protection, as recommended by the chief of police, and the payment of such fees as may be necessary to hire such personnel, approved by the chief of police, as the chief of police deems necessary to supervise and maintain law and order and public safety at the event;
- c) Such other reasonable conditions as may be imposed by the town for the protection of the health, safety, welfare or morale of the residents of the town.

SECTION 5-115. – REVOCATION.

Any person operating an event in violation of any applicable provision of this Code, state law or town ordinance, rule or regulation shall be subject to having the permit for such event revoked by the Board of Commissioners. Such permit may be revoked by the chief of police, police major or police duty officer after the owner or operator has been notified by such officer that the event is not being properly operated.

SECTION 5-116. – FAILURE TO PAY ADMISSION.

It shall be unlawful to see or attempt to see, in any manner whatsoever, any show, ball game or other public entertainment for which an admission is charged without paying the fee or price for such admission.

SECTION 5-117. –HOURS RESTRICTED FOR PARADES.

No parade shall be permitted between the hours of 11:30 a.m. and 2:00 p.m., except on Saturdays, Sundays, Holidays, or between the hours of 5:00 p.m. and 6:00 p.m., local time, and provided that notwithstanding any of the foregoing provisions, no parade or procession shall commence or continue after sunset or commence before sunrise.

SECTION 5-118. –INTERFERENCE.

It shall be unlawful for any person to physically interfere with processions, marches or meetings or with the persons lawfully engaged therein in the use of any street, sidewalk or other public place or to address profane, indecent, abusive or threatening language or other fighting words to or at such participants which would tend to provoke such participants or others to a breach of the peace.

SECTION 5-119. –CONDUCT OF PARTICIPANTS.

It shall be unlawful for any person conducting or participating in any parade or meeting to address profane, indecent, abusive or threatening language or other fighting words to or at any person which would tend to provoke such person or others to a breach of the peace.

SECTION 5-120. – 5-125. –RESERVED.

TITLE 6. - HEALTH AND SANITATION**CHAPTER 1. – GENERAL*****SECTION 6-1. – MAINTENANCE OF PREMISES REQUIRED.***

Owners and occupants of premises, including owners of vacant lots, shall keep such premises in a sanitary and sightly condition at all times.

SECTION 6-2. – ACCUMULATION OF SUBSTANCES DETRIMENTAL TO PUBLIC HEALTH.

- (a) No owner or occupant of any house or lot shall suffer to remain on the lot owned or occupied by him any decaying flesh, manure, vegetable matter or anything which may decay and attract flies, mosquitoes or other insects endangering the health of the community without burying, covering or treating the same to prevent danger of disease.
- (b) No person shall knowingly and willfully permit stagnant water to be and remain in any pool, pond, or open vessel near a well, pump, or elsewhere on his premises, or upon any lot of which he may have possession or control, for more than 48 hours at any one time.
- (c) It shall be unlawful for any person to willfully pollute or contaminate any well or other source of drinking water.

SECTION 6-3. – LIABILITY FOR NUISANCES OR VIOLATIONS

The owner, lessee, tenant or occupant of any building or premises where there shall be a nuisance or any violation of any provision of this Code, state law or ordinance of the Town relating to health and sanitation shall be jointly and severally liable therefore and may be required to abate the same or comply with the order of the county health officer or his assistants within the specified time within the order.

SECTION 6-4. – SURFACE PRIVIES AND CESSPOOLS.

It shall be unlawful for any person, whether owner, head of family, tenant, lessee or other person in possession of any premises within the town, to maintain or permit to be maintained thereon any surface privy or cesspool.

SECTION 6-5. – SEPTIC TANKS.

It shall be unlawful to install and operate a septic tank system at any location where public sewer service is available. Septic tanks and drain fields may be installed and operated within the town limits only at locations where public sewer service is not available. Public sewer service shall be considered to be available wherever a town-operated sanitary sewer collection line is located within four-hundred (400) feet of a dwelling or structure and a sewer lateral line built in conformance with the state building code can be constructed to allow connection to the sanitary sewer collection line without requiring the owner of the dwelling or structure to cross the privately owned property of others. Where used, septic tanks and drainage fields must be approved by the county health department. When a septic tank and drain field have been installed in a location at which public sewer service subsequently becomes available, connection to the sanitary sewer system shall be required within sixty (60) days of any malfunction or failure of either the septic tank or the drain field. It is not required that residences served by properly functioning septic tanks and drain fields installed prior to the availability of public sewer service connect to the sanitary sewer system.

SECTION 6-6. – 6-10. – RESERVED.**CHAPTER 2. – MOSQUITO CONTROL****SECTION 6-11. – PURPOSE AND DEFINITIONS.**

The purpose of mosquito control is to protect the public health. For the purpose of this article, any "collection of water" means water contained in ditches, pools, ponds (natural or artificial), excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs (except horse troughs in frequent use), urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, tanks of flush closets or other similar containers.

State Law Reference— *Mosquito and vector control, N.C. GEN. STAT. § 130A-346 et seq.*

SECTION 6-12. – RIGHT OF ENTRY.

For the purpose of enforcing the provisions of this article and subject to constitutional limitations, the health officer may at all reasonable times enter in and upon any premises within his jurisdiction.

SECTION 6-13. – PRESUMPTION OF VIOLATION.

The natural presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are there, and failure to prevent such breeding within three (3) days after notice by the health officer shall be deemed a violation of this article.

SECTION 6-14. – ENFORCEMENT BY TOWN; COSTS.

Should the person responsible for the condition giving rise to the breeding of mosquitoes fail or refuse to take necessary measures to prevent the condition, within three (3) days after due notice has been given to him, the town is hereby authorized to do so, and all necessary costs incurred by the Town for this purpose shall be a charge against the property owner or other person offending, as the case may be.

SECTION 6-15. – BREEDING PLACES PROHIBITED.

It shall be unlawful to have, keep, maintain, cause or permit within the Town any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is treated so as to effectually prevent such breeding.

SECTION 6-16. – METHODS OF TREATMENT.

The method of treatment of any collection of water, directed toward the prevention of breeding of mosquitoes, shall be approved by the health officer, and may be one (1) or more of the following:

- a) Screening with wire netting of at least sixteen (16) meshes to the inch, each way, or with any other material which will effectually prevent the ingress or egress of mosquitoes;

- b) Complete emptying every seven (7) days of unscreened containers, together with their thorough drying or cleaning;
- c) Using an approved larvicide applied under the direction of the health officer;
- d) Covering completely the surface of the water with kerosene, petroleum or paraffin oil once every seven (7) days;
- e) Cleaning and keeping sufficiently free of vegetable growth and other obstructions and stocking with mosquito-destroying fish;
- f) Proper disposal by the removal or destruction of tin cans, tin boxes, broken or empty bottles and similar articles likely to hold water;
- g) Effective drainage of all impounded water in ditches, pools, ponds, excavations, holes, depressions and marshes.

SECTIONS 6-17. – 6-20. – RESERVED.

CHAPTER 3. - RODENT CONTROL

SECTION 6-21. – PURPOSE AND DEFINITIONS.

The purpose of this section is to provide for protection of the public health. 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:

Business building means any structure, whether public or private, regardless of the type of material used in its construction, that is located within the boundaries of the town and adapted to occupancy for transaction of business, whether vacant or occupied, for the rendering of professional services, for the display, sale or storage of goods, wares or merchandise, or for the performance of work or labor, including hotels, rooming houses, apartment houses, beer parlors, office buildings, public buildings, theaters, stores, markets, restaurants, warehouses, grain elevators, abattoirs, workshops, factories, and all public or private structures where domestic or other animals are kept.

Occupant means the individual, partnership or corporation that has the use of or occupies any business building or any part thereof, whether the actual owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, the owner thereof shall have the responsibility of or be deemed the tenant thereof.

Opening means and refers to any opening in the foundation, sides or walls, ground or first floors, basements and roofs, including chimneys, eaves, grills, windows, ventilators, sidewalk grates and elevators, and around any pipe, wire or other installation connecting with a building through which a rat may enter.

Owner means the actual owner of the business building, whether an individual, partnership or corporation, or agent of the building or other person having custody of the building or to whom rent is paid. For business buildings leased with a covenant in the lease specifying that the lessee is responsible for maintenance and repairs, the lessee will be considered in such cases as the "owner" for the purpose of this article.

Premises includes all business buildings, sheds, barns, animal pens or shelters, garages, docks, wharves, piers, grain elevators and abattoirs, whether public or private, used in connection with the operation of any business building.

Rat eradication means the removal, killing, destruction or extermination of rats by systematic use of traps or of poisons or by other methods.

Rat harborage means any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside of a structure of any kind.

Rat-stoppage or rat proofing applies to a relatively inexpensive form of rat proofing to prevent the ingress of rats into business buildings from the exterior or from one (1) building or business establishment to another. It consists essentially of the closing or protection of all openings in the exterior walls, ground or first floors, basements, roofs and foundations with material impervious to rat gnawing in such a manner as to prevent rats from gaining entrance.

SECTION 6-22. – AUTHORITY OF HEALTH OFFICER.

Subject to constitutional limitations, the county health officer or his/her designee is empowered to make such inspections of the interior and exterior of business buildings as in his opinion may be necessary to determine full compliance with this article, and the health officer shall make periodic inspections of all rat proofed buildings to determine evidence of rat infestation and the existence of new breaks or leaks in their rat proofing. Whenever evidence is found indicating the presence of rats or openings through which rats may again enter business buildings, the health officer shall serve the owner with notices and orders to abate the conditions found, and a failure to remedy the conditions within three (3) days after notice shall be deemed a violation of this article.

SECTION 6-23. – BUSINESS BUILDINGS TO BE RAT PROOF.

- a) In the interest of the public health and to prevent the spread of typhus fever and other rat-borne diseases and infections, it is hereby required and ordered that all business buildings within the town be made rat proof in order to prevent entry of rats into and upon the premises, and the business buildings shall be kept and maintained in a rat-free condition.
- b) All newly constructed business buildings and additions to existing business buildings shall be rat proofed during the process of construction.
- c) The owners of all rat proofed business buildings shall maintain the same in a rat proof condition and repair all breaks or leaks that may occur in the rat proofing, and the occupants of all rat proofed business buildings shall take such action as may be necessary and appropriate to eradicate all rats from the buildings and to keep the same free from rats.

SECTION 6-24. – MAINTENANCE OF RAT PROOFING.

It shall be unlawful for the occupant, owner, contractor, Public Utility Company, plumber, electrician or any other person to remove the rat proofing from any business building for any purpose and fail to restore the same in a satisfactory condition or make any new openings and fail to close and seal same against the entrance of rats.

SECTION 6-25. – STORAGE OF FEED FOR ANIMALS AND FOWL.

All food and feed kept for feeding chickens and other animals shall be kept and stored in rat-free and rat proof containers, compartments or rooms unless kept in a rat proofed building.

SECTION 6-26. – STORAGE OF MATERIALS.

It shall be unlawful for any person to store or accumulate on any premises, improved or vacant, any lumber, boxes, barrels, bricks, stones or similar materials unless the same shall be neatly stored, stacked or accumulated so that these materials will not afford harborage for rats.

SECTIONS 6-27. – 6-30. – RESERVED.**CHAPTER 4. – SMOKING IN PUBLIC PLACES****SECTION 6-31. – DEFINITION**

"Smoking" shall mean the inhaling, exhaling, burning or carrying of lighted pipe, cigar, cigarettes or other combustible tobacco product.

SECTION 6-32. – WHERE SMOKING PROHIBITED OR REGULATED

- a) Smoking shall be restricted within all public buildings and grounds including hallways, waiting rooms, restrooms, meeting rooms, public works facilities, the wastewater treatment plant, water plant, Fire Department, Police Department and adjoining offices used by county and state officials owned by the town.
- b) Smoking may be permitted in private, enclosed offices (offices assigned to one person) even though such offices may be visited in the normal course of business by a nonsmoking employee:
 - i. Said office shall have installed an air cleaning device that will remove 94%-99% of secondary smoke.
 - ii. Smoking will not be permitted within an approved private office when meeting with either the public or with town employees.
- c) Smoking shall be permitted in designated break areas in public buildings. These areas shall be identified by the person in charge and shall be limited to one location. Each designated area shall have installed an air cleaning device that will remove 94%-99% of secondary smoke.
- d) Smoking is strictly prohibited in town owned and/or leased vehicles when two people are present and one person is a nonsmoker. Smokers shall not expose nonsmokers to environmental tobacco smoke in town vehicles.
- e) Smoking is not permitted in the following public meetings: Board of Commissioners, Planning Board, Board of Adjustments, Recreation Commissions, and any other committee meetings held in public buildings. Smoking may be permitted during these meetings in the area that serves as a

lobby, if said lobby is physically separated from the meeting or spectator area. Hallways are not considered as lobby areas.

- f) Copies of this policy shall be distributed to all employees. Appropriate "No Smoking" signs with letters of not less than one inch in height shall be posted at all building entrances and throughout the building.

State Law Reference— *Public Health Law of North Carolina, N.C. GEN. STAT. § 130A-1 et seq.; abatement of public health nuisances, N.C. GEN. STAT. § 160D-193.*

SECTION 6-33.- VAPEING

Hookah, Vape, & Tobacco Establishments. A specialized retail establishment use primarily used for the sale or storage of tobacco products, electronic smoking/vaping devices, Kratom, CBD, Hemp derived Delta-8, and related accessories. These products may include, but are not limited to, cigarettes, cigars, pipe tobacco, smokeless tobacco, vaping devices, e-liquids, and vaping accessories. An area may also be included whereby patrons share the tobacco or nontobacco products, or products from a communal hooker, water pipe, or similar device.

Hookah, Tobacco, Vape, and Similar Establishments shall comply with the following:

(A) Shall not be located within 5,280 feet, measured property line to property line, from any residential zoning districts.

(B) Shall not be located within 5,280 feet, measured property line to property line, from a school (public or private), daycare facility, youth facility, community center, town park, house of worship or hospital.

(C) Shall not be located within 5,280 feet, measured property line to property line, from another Hookah, Tobacco, Vape, or Similar Establishment. If an establishment is being proposed within 5,280 feet of a location where a previous establishment has closed, a permit cannot be issued for the new location until after the previous establishment has been discontinued or abandoned in accordance with § _____ ABANDONMENT AND DISCONTINUANCE OF NON-CONFORMING SITUATIONS.

(D) All federal, state, and local laws, rules, and regulations must be adhered to in the operation of such establishments. This includes regulations pertaining to advertisements, age restrictions, and the legality of products sold.

(E) Hookah, Tobacco, Vape, and Similar Establishments that are legally existing on the effective date of the enacting ordinance codified in this section may continue to operate/expand/renovate in accordance with § _____ CONTINUATION OF NON-CONFORMING SITUATIONS AND COMPLETION OF NON-CONFORMING PROJECTS.

(F) The required site plan shall meet all applicable town standards to include all land uses within 5,280 feet, measured property line to property line, from the parcel proposed for a Hookah, Tobacco, Vape, and Similar Establishment use.

(G) All street level windows shall be visually permeable between a height of three feet and eight feet above the walkway grade.

(H) Any applicant for a zoning compliance permit must present a site plan showing distance from any facility, business, or residential area discussed above, and understand that any violation of this Ordinance by any new zoning compliance business permit holder after passage of this Ordinance may be subject to cancelation of said zoning compliance business permit.

SECTION 6-34. – PENALTY.

- (a) Employees who violate this policy will be subject to the same disciplinary action that accompany violation of other personnel rules.
- (b) A misdemeanor warrant may be issued that may subject the violation to a fine not to exceed the amount set by the Board of Commissioners or imprisonment not to exceed 30 days.

SECTION 6-35. – 6-40. – RESERVED.

TITLE 7. – HOUSING**CHAPTER 1. – NONDISCRIMINATION IN HOUSING (OPEN HOUSING)****SECTION 7-1. –OFFICIAL POLICY.**

The town has declared it an official policy of the town government that there shall be no discrimination in the rental or sale of housing in the town based on race, color, religion, sex, handicap, or national origin. All business groups and individual citizens of the town are urged to respect and implement this policy.

SECTIONS 7-2. – 7-5. –RESERVED.**CHAPTER 2. – MINIMUM STANDARDS****ARTICLE 1. GENERAL PROVISIONS****SECTION 7-6. –FINDING AND PURPOSE.**

Pursuant to N.C. GEN. STAT., Section 150A-441, it is hereby found and declared that there exist in the Town dwellings which are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents and other calamities; lack of ventilation, light and sanitary facilities; and other conditions, and there exist abandoned structures which constitute health and safety hazards due to the attraction of insects, conditions creating fire hazards, dangerous conditions constituting a threat to children, and frequent use by vagrants, such that these dwellings and abandoned structures are detrimental to the health, safety and morals and otherwise inimical to the welfare of the residents of the town.

In order to protect the health, safety and welfare of the residents of the Town as authorized by Part 6 of Article 19, Chapter 160D of the General Statutes, it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, and for all abandoned structures, as expressly authorized by N.C. GEN. STAT. , Section 150A-441.

State Law Reference— *Authority to adopt and enforce ordinances relating to dwellings that are unfit for human habitation, N.C. GEN. STAT.§ 160D-443.* **State Law Reference**— *Minimum housing standards, N.C. GEN. STAT.§ 160D-441 et seq.*

SECTION 7-7. –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:

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

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

Deteriorated means that a dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this article, at a cost not in excess of fifty (50) percent of its value, as determined by the finding of the inspector.

Dilapidated means that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this article at a cost not in excess of fifty (50) percent of its value, as determined by the finding of the inspector.

Dwelling means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing shall not be regarded as a dwelling.

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

Extermination means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

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

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

Infestation means the presence, within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or to the public.

Inspector means a Code Enforcement Officer of the town or any assistant Code Enforcement Officer of the town or any agent of the inspector who is authorized by the inspector.

Multiple dwelling means any dwelling containing more than two (2) dwelling units.

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

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

Owner means any person who alone or jointly or severally with others:

- (1) Shall have title to any dwelling unit, with or without accompanying actual possession thereof;
- (2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner or as executor, Manager, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner; or
- (3) Is a mortgagee of record with respect to the property where such dwelling is located.

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

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

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

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

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

Rubbish means combustible and noncombustible waste materials, except garbage and ashes, and the word includes paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

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

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

Unfit for human habitation means that conditions exist in a dwelling which violate or do not comply with one (1) or more of the minimum standards of fitness or one (1) or more of the requirements established by this article.

SECTION 7-8. –RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

- a) *Public areas.* Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- b) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.
- c) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for the availability of rubbish and garbage storage facilities.
- d) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.
- e) *Care of facilities, equipment and structure.* No occupant shall willfully destroy, deface or impair any of the facilities or equipment or any part of the structure of a dwelling or dwelling unit.

SECTIONS 7-9. – 7-10. –RESERVED.

ARTICLE 2 - MINIMUM STANDARDS FOR DWELLINGS AND DWELLING UNITS**SECTION 7-11. –COMPLIANCE REQUIRED.**

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

SECTION 7-12. –STRUCTURAL CONDITIONS.

The following shall be the minimum standards for structural condition of dwellings or dwelling units:

- (a) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean, or buckle, and shall not be rotted, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.
- (b) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
- (c) Foundations, foundation walls, piers, or other foundation supports shall not be deteriorated or damaged.
- (d) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.
- (e) Adequate facilities for egress in case of fire or panic shall be provided.
- (f) Interior walls and ceilings of all rooms, closets, and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner as to enable the occupants to maintain reasonable privacy between various spaces.
- (g) The roofs, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather- and watertight.
- (h) There shall be no chimneys or parts thereof which are defective, deteriorated, or in danger of falling, or in such condition or location as to constitute a fire hazard.
- (i) There shall be no use of the ground for floors, or wood floors on the ground.

SECTION 7-13. –BASIC EQUIPMENT AND FACILITIES.

The following shall be the minimum standards for basic equipment and facilities in dwellings and dwelling units:

- (a) Plumbing system.
 - (1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.
 - (2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.
 - (3) All plumbing fixtures shall meet the standards of the State Plumbing Code and shall be maintained in a state of good repair and in good working order.
 - (4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants thereof. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

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

- (1) Central and electric heating systems. Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms, and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 70°F measured at a point three feet above the floor during ordinary winter conditions.
- (2) Other heating facilities. Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, or gas vents, or other facilities to which heating appliances may be connected to heat all habitable rooms with a minimum temperature of 70°F measured three feet above the floor during ordinary winter conditions.

(c) Electrical system.

- (1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor- or wall-type electric convenience receptacles, connected in such manner as determined by the State Electrical Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor- or wall-type electric convenience receptacles.
- (2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.
- (3) All fixtures, receptacles, equipment, and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the State Electrical Code.

SECTION 7-14. –VENTILATION.

The following shall be the minimum standards for ventilation in dwellings and dwelling units:

- (a) General. Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of that room. Whenever walls or other portions of structures face a window or any room and those light-obstructing structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of the room, the total window area of that skylight shall equal at least 15% of the total floor area of the room.
- (b) Habitable rooms. Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.
- (c) Bathroom and water closet rooms. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

SECTION 7-15. –SPACE, USE, LOCATION.

The following shall be the minimum standards for space, use, and the location applicable to dwellings and dwelling units:

(a) Room sizes.

- (1) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the State Residential Building Code.
- (2) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant.
- (3) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over, and at least 35 square feet of floor area for each occupant under 12 years of age.

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

(c) Floor area calculation. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than 4-1/2 feet shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.

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

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

- (1) The floor and walls are substantially watertight.
- (2) The total window area, total openable window area, and ceiling height are equal to those required for habitable rooms.
- (3) The required minimum window area of every habitable room is entirely above the grade adjoining that window area, except where the window or windows face a stairwell, window well, or access way.

SECTION 7-16. –SAFE AND SANITARY MAINTENANCE.

The following shall be the minimum standards for safe and sanitary maintenance applicable to dwellings and dwelling units:

- (a) Exterior foundations, walls and roofs. Every foundation wall, exterior wall, and exterior roof shall be substantially weathertight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.
- (b) Interior floors, walls and ceilings. Every floor, interior wall, and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.
- (c) Windows and doors. Every window, exterior door, basement, or cellar door and hatchway shall be substantially weathertight, watertight and rodent proof and shall be kept in sound working condition and good repair.
- (d) Stairs, porches, and appurtenances. Every outside and inside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in sound condition and good repair.

- (e) Bathroom floors. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit that floor to be easily kept in a clean and sanitary condition.
- (f) Supplied facilities. Every supplied facility, piece of equipment, or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
- (g) Drainage. Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.
- (h) Noxious weeds. Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.
- (i) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Building Code.

SECTION 7-17. –CONTROL OF INSECTS, RODENTS, AND INFESTATIONS.

The following shall be the minimum standards for control of insects, rodents, and infestations in dwellings and dwelling units:

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

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

(C) Infestation. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for the extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(D) Rubbish storage and disposal. Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by this code and other town ordinances, and the owner, operator, or agent in control of that dwelling or dwelling unit shall be responsible for the removal of rubbish.

(E) Garbage storage and disposal. Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit, or an approved outside garbage can as required by this code or other town ordinances.

SECTIONS 7-18. – 7-20. –RESERVED.

ARTICLE 3 - MINIMUM STANDARDS FOR ROOMING HOUSES

SECTION 7-21. –APPLICATION OF REGULATIONS.

All of the provisions and all of the minimum standards and requirements of this chapter shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy and any rooming unit in any rooming house, except as provided in this subchapter.

SECTION 7-22. –WATER CLOSET, LAVATORY, AND BATH FACILITIES.

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

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

SECTION 7-23. –MINIMUM FLOOR AREA.

Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

SECTION 7-24. –SANITARY CONDITIONS.

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

SECTIONS 7-25. – 7-27. –RESERVED.

ARTICLE 4 - ADMINISTRATION AND ENFORCEMENT

SECTION 7-28. –DUTIES AND POWERS OF THE CODE ENFORCEMENT OFFICER.

The Code Enforcement Officer is hereby designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. The Code Enforcement Officer is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter. The Code Enforcement Officer shall have the following powers and duties:

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

(B) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated.

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

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

(E) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with §7-29 and state law, and shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

(F) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to assist in carrying out the purposes of this chapter, and to delegate any of their functions and powers to such officers, agents, and employees.

- (G) To perform such other duties as may be herein prescribed or by the Board of Commissioners.

SECTION 7-29. –RIGHT OF ENTRY OF CODE ENFORCEMENT OFFICER.

- (a) For the purpose of making inspections, the Inspector is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, rooming house, or rooming unit, or the person in charge thereof shall give the Inspector free access to that dwelling and its premises at all reasonable times for the purposes of such inspection, examination, and survey.
- (b) Every occupant of a dwelling, dwelling unit, rooming house, or rooming unit shall give the owner thereof, or his agent or employee, access to any part of that dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

SECTION 7-30. –ENFORCEMENT PROCEDURE.

- (a) Preliminary investigation; notice; hearing. Whenever a petition is filed with the Inspector by a public authority or by at least five residents of the town, charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one of the persons signing a petition relating to the dwelling. Any person desiring to do so may attend the hearing and give evidence relevant in courts of law or equity shall not be controlling in hearings before the Inspector.
- (b) Procedure after hearing. After such notice and hearing, the Inspector shall state in writing their determination whether the dwelling or dwelling unit is unfit for human habitation, and if so, whether it is deteriorated or dilapidated.
 - (1) If the Inspector determines that the dwelling or dwelling unit is deteriorated, they 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 directing and requiring the owner to repair, alter, or improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed 90 days. The order may also direct and require the owner to vacate and close the dwelling or dwelling unit until the repairs, alterations, and improvements have been made.
 - (2) If the Inspector determines that the dwelling is dilapidated, they shall state in writing their findings of fact to support that determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter, or improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter, or else to vacate and remove or demolish them within a specified period of time not to exceed 90 days.
- (c) Failure to comply with order.
 - (1) In Persona remedy. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter, or improve, or to vacate and close the same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve, or to vacate and close and

remove or demolish the same within the time specified therein, the Inspector shall submit to the Board of Commissioners at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing that owner to comply with the order of the Inspector, as authorized by N.C. GEN. STAT. § 160D-446(g).

- (2) In rem remedy. After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in division (C)(1) above, the Inspector shall submit to the Board of Commissioners an ordinance ordering the Inspector to cause that dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the Inspector, and pending removal or demolition, to place a placard on that dwelling as provided by N.C. GEN. STAT. § 160D-443 and **§7-29**.

(d) Appeals from orders of Inspector.

- (1) An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby. Any appeal from the Inspector shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the Inspector and with the Housing Appeals Board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When an appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate, a copy of which shall be furnished the appellant, a suspension of this requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except for due cause shown upon not less than one day's written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to N.C. GEN. STAT. § 160D-446(f) and division (E) below.

- (2) The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the Inspector. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of 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.

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

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

SECTION 7-31. –METHOD OF SERVICE OF COMPLAINTS AND ORDERS.

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

SECTION 7-32. – IN REM ACTION OF INSPECTOR: PLACARDING

- (a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Inspector issued pursuant to the provisions of this chapter, and upon adoption by the Board of Commissioners of an ordinance authorizing and directing him to do so, as provided by N.C. GEN. STAT.§ 160D-443(5) and **§7-30**, the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Board of Commissioners, and shall cause to be posted on the main entrance of the dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful". Occupation of a building so posted shall constitute a misdemeanor.
- (b) Each ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the grantor index, as provided by N.C. GEN. STAT.§ 160D-443(5).

SECTION 7-33. – COSTS A LIEN ON PREMISES.

As provided by N.C. GEN. STAT.§ 160D-443(6), the cost of any repairs, alterations, or improvements, or of vacating and closing, or removal or demolition, caused to be made or done by the Inspector pursuant to §7-30, shall be a lien against the real property upon which such cost was incurred. The lien shall be filed, having priority, and be collected in the same manner as the lien for special assessments established by N.C. GEN. STAT.§ 160D-216 through 160D-238.

SECTION 7-34. – ALTERNATIVE REMEDIES.

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process as authorized by N.C. GEN. STAT.§ 14-4 and **§7-37**, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

SECTION 7-35. – OTHER PROVISIONS.

- (a) In the event any provision, standard, or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.
- (b) Any ordinance enacted by the Board of Commissioners relative to minimum housing standards shall not be suspended by this chapter, and any county ordinance shall be applicable within the corporate limits.

SECTION 7-36. – VIOLATIONS.

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve it, or to vacate and close and remove or demolish it, upon order of the Inspector duly made and served as herein provided, within the time specified in that order. Each day that any such failure, neglect, or refusal to comply with the order continues shall constitute a separate and distinct offense.

(B) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to **§7-30**, to occupy or permit the occupancy thereof after the time prescribed in the order for its repair, alteration or improvement or its vacation and closing. Each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

SECTION 7-37. – PENALTY.

(A) The violation of any provision of this chapter shall constitute a misdemeanor, as provided by N.C. GEN. STAT. § 14-4.

(B) In addition to the penalty established by division (A) above, and the remedies provided by other provisions of this chapter, this chapter may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.

SECTION 7-38. –ZONING BOARD OF ADJUSTMENT TO HEAR APPEALS.

All appeals which may be taken from decisions or orders of the inspector pursuant to **§7-30** of this article shall be heard and determined by the zoning board of adjustment. As the appeals body, the board shall have power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The board shall perform the duties prescribed by **§7-30** and shall keep an accurate journal of all its proceedings.

SECTION 7-39. –CONFLICT WITH OTHER PROVISIONS.

If any provision, standard or requirement of this article is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

SECTION 7-40. –APPLICABILITY TO ABANDONED STRUCTURES.

The procedures and minimum standards for the regulation of dwellings and dwelling units set out in this article shall apply to abandoned structures in the town, except that abandoned structures are not required to meet minimum standards that are uniquely applicable to occupied dwellings and dwelling units, such as standards for heating systems and minimum room sizes.

SECTIONS 7-41. – 7-45. –RESERVED.

CHAPTER 3. – FAIR HOUSING STANDARDS

SECTION 7-46. –DECLARATION OF POLICY

The policy of the Town is to ensure equal housing accommodations for sale or for rent.

State Law Reference— State Fair Housing Act, N.C. GEN. STAT. § 41A-1 et seq.

SECTION 7-47. – APPLICABILITY

The provisions of this article relative to discrimination in housing shall apply to the sale or rental of a house to a person in a single dwelling unit and to the rental or lease of a portion of a dwelling house containing accommodations for a family, except when the remainder of the dwelling is occupied by the owner or a member of his immediate family.

SECTION 7-48. –PROHIBITED PRACTICES ENUMERATED ; EXCEPTIONS

- (a) No owner of real property shall discriminate against any other person because of the religion, race, color, national origin, sex, age, handicap or family status of such other person, or because of religion, race, color, national origin, ancestry, sex, age, handicap or family status of the friends or associates of such other person in regard to the sale or rental of or dealings concerning real property located within the town. Any such discrimination shall be considered an unlawful housing practice.
- (b) Nothing in this section shall require an owner to offer property to the public at large before selling or renting it, nor shall this section be deemed to prohibit owners from giving preference to prospective tenants or buyers for any reason other than religion, race, color, national origin, sex, age, handicap or family status.
- (c) Nothing in this section shall be construed to bar any religious or denominational institution or organization or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it has been established or maintained.

SECTION 7-49. –GRIEVANCES.

- a) Any person who contends that the provisions of this article have been violated may file a written complaint under oath with the Board of Commissioners, hereby designated as the entity to which complaints shall be filed. Within ten (10) days after the complaint has been filed, the Board shall make a determination of the merits and reasonableness of the complaint and shall attempt to adjust the grievance between the parties.
- b) If the complaint or grievance is not resolved by the parties through the officer, either party to the alleged complaint or the officer may, within twelve (12) months of the alleged violation, appeal or refer the complaint or grievance to the state human relations commission (North Carolina Human Relations Commission, 1319 Annapolis Drive Raleigh, NC 27608). Upon an appeal being properly filed, the officer shall transmit to the human relations commission all papers constituting the record of the matters.

SECTION 7-50. –INTERPRETATIONS : CONFLICTS.

- a) In interpreting and applying the provisions of this article, the purpose and spirit for which it is offered shall be of primary concern.
- b) It is not intended by this article to interfere with, abrogate, annul or circumvent the Civil Rights Acts of 1964 and 1968, the Federal Fair Housing Act (42 U.S.C.A. § 3601 et seq.), or other laws with regard to fair housing practices. The filing of a complaint under this article will not preclude the claim from being pursued in any other court or jurisdiction. It is intended to offer reasonable persons, acting in good faith, an opportunity to resolve their differences in an atmosphere of a non-adversary proceeding.

SECTIONS 7-51. – 7-55 –RESERVED.

TITLE 8. – MOTOR VEHICLES AND TRAFFIC**CHAPTER 1. - GENERAL****ARTICLE 1. GENERAL****SECTION 8-1. – 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:

Authorized emergency vehicle means vehicles of the fire department, police vehicles and such ambulances designated or authorized by the chief of police.

Block means the length of that portion of any street which is located between two street intersections.

Business district means the territory contiguous to a highway when 50 percent or more of the frontage thereon, for a distance of 300 feet or more, is occupied by buildings which are in use for business purposes.

Crosswalk means that portion of a roadway which lies between the prolongation of the lateral sidewalk or boundary lines over an intersection, or any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Driver means every person who drives or is in actual physical control of a vehicle.

Intersection means the area embraced within the prolongations of the lateral curb or boundary lines of two or more roadways or highways which join or join and cross one another at an angle.

Motor vehicle means every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in N.C. GEN. STAT.20-4.01(27)d.I.

Official traffic control device means all signs, signals, markings, and devices, not inconsistent with this chapter, placed or erected by authority of the board of commissioners or an official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

Official traffic signal means any device, whether manually or automatically operated, by which traffic is alternately directed to stop and to proceed.

Park means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of loading or unloading.

Pedestrian means any person afoot.

Person means every natural person, firm, copartnership, association or corporation.

Police officer means every officer of the municipal police department or any officer authorized to direct traffic or to make arrests for violations of traffic regulations.

Private road or driveway means every road or driveway not open to use of the public for purposes of vehicular travel.

Public conveyance means any vehicle which is engaged in the business of transporting persons for fare.

Railroad means a carrier of persons or property, other than streetcars, with cars operated on stationary rails.

Railroad train means a steam engine, electric or other locomotive, with or without cars coupled thereto, operated upon rails, not including streetcars.

Residence district means the territory contiguous to a highway not comprising a business district when the frontage of such highway, for a distance of 300 feet or more, is mainly occupied by residential dwellings.

Right-of-way means the privilege of the immediate use of the roadway not inconsistent with regulations and conditions.

Roadway means that portion of a street which has been improved and designed for, or which is ordinarily used for, vehicular travel.

Safety zone means the area officially set apart within a roadway for the exclusive use of pedestrians, which area is either protected or plainly marked at all times while so set apart as a safety zone.

Sidewalk means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, exclusively intended for the use of pedestrians.

Signs. See Traffic signs.

Standing means any stopping of a vehicle, whether occupied or not.

Stop.

(1) Stop, when required, means complete cessation of movement.

(2) Stop and stopping, when prohibited, mean any stopping of a vehicle, except when conflict with other traffic is imminent, or when otherwise directed by a police officer.

Street and highway mean the entire area between lateral property lines which is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

Traffic means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances, either singularly or together, while using any street for purposes of travel.

Traffic signs means authorized signs or markers which are assumed to be permanently or temporarily placed or erected or installed at certain places and which purport to give notice of direction or to convey a prohibition or warning. The presence of such signs, though not compulsory, is generally dictated by necessity or common sense, with a view to furtherance of public safety.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided that, for the purposes of this chapter, bicycles shall be deemed vehicles and every rider of a bicycle upon a highway shall be subject to the provisions of this chapter applicable to the driver of a vehicle except those which by their nature can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, which is suitable for use both inside and outside a building, and whose maximum speed does not exceed 12 miles per hour, when the device is being operated by a person with a mobility impairment.

(Code 1991, § 7.1.01)

Cross reference-Definitions generally, § 1-2.

SECTION 8-2. – SIGNS PREREQUISITE TO ENFORCEMENT OF CERTAIN PROVISIONS.

No provisions of this chapter for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to an ordinarily observant person.

(Code 1991, § 7.2.03)

SECTION 8-3. – ESTABLISHMENT OF REGULATIONS; LIST OF REGULATIONS.

(a) Town traffic and parking regulations will be established by ordinance by the board of commissioners. When a new traffic or parking ordinance is adopted, the chief of police shall make certain that the appropriate sign, traffic control signal, or other markings are made to give proper notice of the regulation.

(b) A list of all town traffic and parking regulations shall be maintained in the office of the clerk. The current list of regulations is incorporated by reference into this chapter.

(Code 1991, § 7.2.01)

SECTION 8-4. – EXCEPTIONS FOR AUTHORIZED EMERGENCY VEHICLES.

(a) The provisions of this chapter regulating the operation, parking, and standing of vehicles shall apply to authorized emergency vehicles, except as provided in subsection (b) of this section.

(b) Unless otherwise directed by a police officer, a driver, when operating such vehicle in any emergency, may:

(c) Park or stand, notwithstanding the provisions of this chapter.

(d) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.

(e) Disregard regulations governing direction of movement, or turning in specified directions, so long as the driver does not endanger life or property.

(f) The exemptions in subsection (b) of this section shall not, however, protect the driver of any such vehicle from the consequences of his reckless disregard for the safety of others.

(g) Emergency vehicles, service vehicles and moving vans parked temporarily for purposes associated with their service.

(h) Vehicles parked with the written permission of a law enforcement officer having enforcement authority within the Town limits.

(Code 1991, § 7.2.10)

SECTION 8-5. – AUTHORITY AND DUTIES OF POLICE AND FIRE DEPARTMENT OFFICIALS.

(a) It shall be the duty of the officers of the police department to enforce all street traffic laws and all of the state vehicle laws applicable to street traffic.

(b) Officers of the police department are authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(d) Officers of the state highway patrol and the county sheriffs department are authorized to enforce all street traffic laws and all state vehicle laws within the town.

(Code 1991, § 7.2.08)

Cross references-Fire department, § 16-61 et seq.; police department, § 18-31 et seq.

SECTION 8-6. – OBEDIENCE TO POLICE AND FIRE DEPARTMENT OFFICIALS.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

(Code 1991, § 7.2.09)

SECTION 8-7. – SIGNS PREREQUISITE TO ENFORCEMENT OF CERTAIN PROVISIONS..

No provisions of this chapter for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to an ordinarily observant person.

(Code 1991, § 7.2.03)

.SECTION 8-8. – OVERCROWDING.

It shall be unlawful for the driver or the person in charge of any motor vehicle to permit more than three (3) persons, including the driver, to ride in the front or driver's seat of a motor vehicle.

('70 Code, 2009 S-5 Supplement, § 13-57)

Overcrowding of vehicle, see N.C. GEN. STAT. § 20-140.2

SECTION 8-9. – DISPLAY OF UNAUTHORIZED SIGNS OR SIGNALS.

(a) No person shall place, maintain, or display on or in view of any street or highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control device, sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device, sign, or signal.

(b) No person shall place or maintain nor shall any public authority permit on any street or highway any traffic sign or signal bearing thereon any commercial advertising.

(Code 1991, § 7.2.06)

SECTION 8-10. – LIGHTS ON PARKED VEHICLES.

Parking lights upon a vehicle, when such is lawfully parked at night on a street in accordance with this chapter, shall not be required except where specifically demanded by the town.

(Code 1991, § 7.5.18)

SECTION 8-11. – MOVING VEHICLE FROM PARKED POSITION.

Parked cars shall move out in the direction headed, or, if they are parked at an angle with the curb, they shall back out at the angle until they have cleared the other cars and shall then proceed in the direction in which they are most nearly headed.

(Code 1991, § 7.5.19)

SECTIONS 8-12. – 8-15. – RESERVED.

ARTICLE 2. MOTOR VEHICLE REGISTRATION**SECTION 8-16. – REGISTRATION REQUIRED; FEE.**

- (a) Every resident motor vehicle operated in the town, except those temporarily operated for a period not exceeding a total of 14 days during any one year, and except those operated for display or exhibition purposes by manufacturers or dealers and which display dealers' license plates issued by the state, shall be registered by the Town Registrar of Vehicles during the month of January each year, or within 30 days of its purchase or acquisition by any resident of the town, or within 30 days after the owner of a vehicle becomes a resident of the town.
- (b) The motor vehicle registration fee may be increased up to the amount set by the Board of Commissioners as permitted by N.C. GEN. STAT. § 20-97, and shall not be prorated.
- (c) The Town Registrar of Vehicles shall be the town officer designated for such purpose by the Board of Commissioners, or by the Town Clerk with approval of the Board of Commissioners.

('70 Code, 2009 S-5 Supplement, § 13-11) (Ord. passed 8-23-48; Am. Ord. 11, passed 6-8-67)

Statutory reference: Authority to impose, see N.C. GEN. STAT. §§ 20-97 and 160D-213

SECTIONS 8-17. – VEHICLE REGISTRATION PLATES.

For every motor vehicle registered pursuant to this subchapter an appropriate number plate shall be issued, which shall be prominently displayed on the exterior of the vehicle. A number plate shall not be transferred from one person to another. When a number plate has been lost or destroyed, the Town Registrar of Vehicles shall issue to the registrant a substitute plate, upon payment of a fee as set forth in *Section 8-16*.

('70 Code, 2009 S-5 Supplement, § 13-12) (Ord. passed 8-23-48)

SECTIONS 8-18. – COMPLIANCE.

It shall be unlawful for any person to drive upon the streets of the town any vehicle required by this subchapter to be registered unless such vehicle has been so registered and displays the registration plate or sticker of the current registration year.

('70 Code, 2009 S-5 Supplement, § 13-13)

SECTIONS 8-19. – PENALTY.

Except as otherwise provided, the violation of any of the provisions of this chapter shall constitute an infraction pursuant to N.C. GEN. STAT. 14-4(b) and shall be punishable by a fine of not more than \$50.00.

(Code 1991, § 7.3.99)

SECTIONS 8-20. – 8-25. – RESERVED.**CHAPTER 2. – OPERATION OF VEHICLES****SECTION 8-26. – DRIVING ON ROADWAYS LANED FOR TRAFFIC.**

All vehicles operated on any roadway which has been clearly marked with traffic lanes shall be driven, as nearly as practical, entirely within a single lane and shall not be moved out of such lane until the driver has first ascertained that such movement can be made with safety. (Code 1991, § 7.5.21)

SECTION 8-27. – LIMITATIONS ON BACKING.

The driver of a vehicle shall not back into any intersection, or over a crosswalk, nor shall he back it otherwise unless such movement can be made in safety, and unless ample warning has been given by hand and horn or other signals.

(Code 1991, § 7.5.11)

SECTION 8-28. – EMERGING FROM ALLEY OR PRIVATE DRIVEWAY

The driver of a vehicle emerging from an alley, driveway, or building shall stop such vehicle immediately prior to reaching the sidewalk, or the sidewalk area extending across any alleyway, and, upon entering the roadway, he shall yield the right-of-way to all vehicles approaching on the roadway.

(Code 1991, § 7.5.12)

SECTION 8-29. – DRIVING ON SIDEWALK

The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

(Code 1991, § 7.5.13)

Cross reference-Streets, sidewalks and other public places, ch. 24.

SECTION 8-30. – RIGHT OF WAY.

- (a) When two (2) vehicles, at approximately the same time, approach or enter an intersection at which traffic is not controlled by an official traffic-control device, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right, except as otherwise provided in this chapter.
- (b) The driver of a vehicle approaching but not having entered an intersection shall yield the right-of-way to a vehicle already within such intersection, whether the vehicle in the intersection is proceeding straight ahead or turning in either direction. However, this subsection shall not be interpreted as giving the right-of-way to a vehicle already in an intersection when such vehicle is turning either to the right or left, unless the driver of such vehicle has given a plainly visible signal of intention to turn as required.
- (c) The driver of any vehicle approaching but not having entered a traffic circle shall yield the right-of-way to a vehicle already within such traffic circle.

State Law Reference— Similar provisions, N.C. GEN. STAT. § 20-155.

SECTION 8-31. – EXCEPTIONS TO THE RIGHT OF WAY RULE.

- (a) The driver of a vehicle entering a public street or highway from a private road or drive shall yield the right-of-way to all vehicles approaching on such public street or highway.
- (b) The driver of a vehicle upon a street or highway shall yield the right-of-way to police and fire department vehicles and public and private ambulances when the latter are operated upon official business and the driver's thereof sound audible signal by bell, siren or exhaust whistle. This subsection shall not operate to relieve the driver of a police or fire department vehicle or public or private ambulance from the duty to drive with due regard for the safety of all persons using the street or highway, nor shall it protect the driver of any such vehicle from the consequence of any arbitrary exercise of such right-of-way.

State Law Reference— Similar provisions, N.C. GEN. STAT. § 20-156.

SECTION 8-32. – CLINGING TO MOVING VEHICLE.

No person riding upon any bicycle, motorcycle, coaster, sled, roller skates, or toy vehicle shall attach such device, or himself, to any public conveyance or moving vehicle upon any roadway.

(Code 1991, § 7.5.14)

SECTION 8-33. – USE OF COASTERS, ROLLER SKATES OR SIMILAR DEVICES ON ROADWAY.

No person on roller skates, Rollerblades or in-line skates or riding in any coaster, toy vehicle or similar device shall go upon any roadway, other than a street set aside as a play street, unless it be while crossing a street at a crosswalk or intersection.

(Code 1991, § 7.5.17)

State Law Reference— *Similar provisions, N.C. GEN. STAT. § 20-154.*

SECTION 8-34. – BOARDING OR ALIGHTING FROM VEHICLE IN MOTION.

No person shall board or alight from any public conveyance or other vehicle while such conveyance or vehicle is in motion.

(Code 1991, § 7.5.23)

SECTION 8-35. – RIDING ON PORTION OF VEHICLE NOT INTENDED FOR PASSENGERS

No person shall ride on any public conveyance or other vehicle in a portion of the vehicle not designated or intended for the use of passengers. This provision shall not apply to any employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in spaces intended for merchandise.

(Code 1991, § 7.5.24)

SECTION 8-36. – RIDERS TO STAY INSIDE VEHICLE; HANGING ON VEHICLE.

No person shall allow any part of his body to protrude beyond the limits of the vehicle in which he is riding, except to give signals as are by law required, and no person shall hang on to any vehicle whatsoever.

(Code 1991, § 7.5.26)

SECTION 8-37. – ENTERING OR RIDING ON VEHICLE WITHOUT PERMISSION.

No person shall enter, jump on or ride any automobile or other vehicle without the consent of the owner or driver.

(Code 1991, § 7.5.25)

SECTION 8-38. – FOLLOWING FIRE APPARATUS OR DRIVING NEAR THE SCENE OF A FIRE.

It shall be unlawful for the driver of any vehicle other than one on official business to follow any fire apparatus traveling in response to a fire alarm closer than one (1) block or to drive within one (1) block where fire apparatus has stopped in answer to a fire alarm.

State Law Reference— *Similar provisions, N.C. GEN. STAT. § 20-157(b).*

SECTION 8-39. – DRIVING OVER FIRE HOSE OF BLOCKING FIRE APPARATUS.

It shall be unlawful for any person to drive a vehicle over a fire hose or any other equipment that is being used at a fire at any time or to block a firefighting apparatus or any other equipment from its source of supply, regardless of its distance from the fire.

State Law Reference— *Similar provisions, N.C. GEN. STAT. § 20-157(d).*

SECTION 8-40. – MAXIMUM NUMBERS OF PERSONS PERMITTED IN FRONT SEAT.

It shall be unlawful for the driver or the person in charge of any motor vehicle to permit more than three persons, including the driver, to ride in the front or driver's seat.

(Code 1991, § 7.5.27)

SECTION 8-41. – OBEDIENCE TO TRAFFIC MARKINGS.

- (a) All vehicles operated on any street, highway or roadway within the town or any portion thereof which has been clearly marked with traffic lanes shall be operated within the lane designated by a straight arrow if no turn is to be made and if a right or left turn is to be made shall be operated within the lane marked by an arrow indicating a right or left turn.

- (b) No vehicle shall make any turn at any intersection from any marked traffic lane unless an arrow in such lane indicates that such a turn may be made.

SECTION 8-42. – BLOCKING INTERSECTIONS OR CROSSWALKS.

No driver of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle, he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

SECTION 8-43. – DRIVING THROUGH A FUNERAL PROCESSION.

No vehicle shall be driven through a funeral procession, except fire department vehicles, police patrols and ambulances responding to calls.

SECTION 8-44. – DRIVING AN OVERCROWDED OR OVERLOADED VEHICLE.

No person shall operate upon a street or highway a motor vehicle which is so loaded or crowded with passengers or property or both as to obstruct the operator's view of the street or highway, including intersections, or so as to impair or otherwise restrict the proper operation of the vehicle.

State Law Reference— Similar provisions, N.C. GEN. STAT. § 20-140.2.

SECTION 8-45. – TRUCK ROUTES.

(a) Designated. The streets listed in schedule V, on file in the office of the town clerk, are hereby designated as truck routes.

(b) Use of truck routes required.

(1) All two-axle trucks, three-axle trucks and tractor-trailer units entering the town destined to any point outside the town and not taking on or discharging any goods, wares or merchandise within the town limits shall travel exclusively on the truck routes established in schedule V on file in the office of the town clerk, which is made a part of this section, and on the parts of such truck routes as shall constitute the shortest and most direct route in the town and departure from the town.

(2) All tractor-trailer units entering the town destined to any point within the town shall travel exclusively on the truck routes established in such schedule V, to the nearest point on such truck routes to their destination, and, upon discharging the load, all trucks shall return to the nearest truck route for their movement out of the town or to some other point within the town.

(3) All tractor-trailer units that leave the nearest point on a truck route to a destination off a truck route using town streets shall have a bill of lading, a delivery slip, or evidence to show the point of destination or origin.

(c) Posting of signs. The police department may erect and maintain, at points where truck routes enter the town and at all junction points and turns where necessary and at all approaches to the part of streets on which trucks are permitted, signs of such dimensions and at such locations as shall be required by the police department directing through truck traffic in accordance with provisions of schedule V on file in the office of the town clerk.

(Ord. of 1-10-2000)

SECTION 8- 46-50. –RESERVED.

CHAPTER 3. –TRAFFIC CONTROL DEVICES

SECTION 8-51. – OBEDIENCE TO TRAFFIC CONTROL DEVICES.

Any person failing or refusing to comply with the directions indicated on any sign, marker, or device for the control or direction of traffic or regulation of parking erected or placed in accordance with the provisions of this chapter, when so placed or erected, shall be guilty of an infraction and subject to a \$50.00 fine pursuant to N.C. GEN. STAT. 14-4(b). This section shall not be construed to apply when the driver of a vehicle is otherwise directed by a police officer,

or when an exception is granted to the driver of an authorized emergency vehicle under section 26-6. (Code 1991, § 7.2.02)

SECTION 8-52. – INTERFERING WITH OFFICIAL TRAFFIC CONTROL DEVICES.

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic control device, sign, or signal or any inscription, shield, or insignia thereon, or any other part thereof.

(Code 1991, § 7.2.07)

SECTION 8-53. – RATIFICATION OF EXISTING DEVICES.

All traffic-control signs, signals, devices and markings placed or erected in the town prior to the adoption of this Code and in use for the purpose of regulating, warning or guiding traffic are hereby affirmed, ratified and declared to be official traffic-control devices, provided such traffic-control devices are not inconsistent with the provisions of this chapter or state law.

SECTION 8-54. – TRAFFIC CONTROL SIGNAL LEGEND.

Whenever traffic is controlled by traffic-control signals exhibiting the words "Go," "Caution" or "Stop" or exhibiting differently colored lights, successively, one (1) at a time, the following colors only shall be used, and such terms and lights shall indicate as follows:

(1) *Green alone or "Go."*

- a. Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn, but vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time such signal is exhibited.
- b. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) *Yellow alone or "Caution," when shown following the green or "Go" signal.*

- a. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.
- b. Pedestrians facing such signal are thereby advised that there is insufficient time to cross a roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) *Red alone or "Stop."*

- a. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line and shall remain standing until green or "Go" is shown alone.
- b. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(4) *Red with green arrow.*

- a. Vehicular traffic facing such signal may cautiously enter the intersection, only to continue movement in the direction indicated by such arrow, but shall not interfere with other traffic.

- b. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

SECTION 8-55. – STOP SIGNS, STOP SIGNALS AND CAUTION SIGNALS.

- (a) Authorized. The town, with reference to highways under its jurisdiction, is hereby authorized to control vehicles:
 - (1) At intersections, by erecting or installing stop signs requiring vehicles to come to a complete stop at the entrance to that portion of the intersection designated as the main-traveled or through highway. Stop signs may also be erected at three or more entrances to an intersection.
 - (2) At appropriate places other than intersections, by erecting or installing stop signs requiring vehicles to come to a complete stop.
 - (3) At intersections and other appropriate places, by erecting or installing steady-beam stoplights and other traffic control devices, signs, or signals. All steady-beam stop- lights emitting alternate red and green lights shall be arranged so that the red light shall appear at the top of the signaling unit and the green light shall appear at the bottom of the signaling unit.
 - (4) At intersections and other appropriate places, by erecting or installing flashing red or yellow lights.
- (b) Control of vehicles at intersections.
 - (1) When a stop sign has been erected or installed at an intersection, it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto and yield the right-of-way to vehicles operating on the designated main-traveled or through high- way. When stop signs have been erected at three or more entrances to an intersection, the driver, after stopping in obedience thereto, may proceed with caution.
 - (2) Vehicles facing a red light controlling traffic passing straight through an intersection from a steady or strobe beam stoplight shall not enter the intersection while the steady or strobe beam stoplight is emitting a red light controlling traffic passing straight through an intersection; provided that, except where prohibited by an appropriate sign, vehicular traffic facing a red light controlling traffic passing straight through an intersection, after coming to a complete stop at the intersection, may enter the intersection to make a right turn but such vehicle shall yield the right-of-way to pedestrians and to other traffic using the intersection. When the stoplight is emitting a steady yellow circular light on a traffic signal controlling traffic passing straight through an intersection or a steady yellow arrow light on a traffic signal controlling traffic turning at an intersection, vehicles facing the yellow light are warned that the related green light is being terminated or a red light will be immediately forthcoming. When the stoplight is emitting a steady green light, vehicles may proceed with due care through the intersection subject to the rights of pedestrians and other vehicles as may otherwise be provided by law.
 - (3) When a flashing red light has been erected or installed at an intersection, approaching vehicles facing the red light shall stop and yield the right-of-way to vehicles in or approaching the intersection. The right to proceed shall be subject to the rules applicable to making a stop at a stop sign.
 - (4) When a flashing yellow light has been erected or installed at an intersection, approaching vehicles facing the yellow flashing light may proceed through the intersection with caution, yielding the right-of-way to vehicles in or approaching the intersection.
 - (5) When a stop sign, stoplight, flashing light, or other traffic control device authorized by subsection (a) of this section requires a vehicle to stop at an intersection, the driver shall stop at an appropriately marked stop line, or, if none, before entering a marked crosswalk, or, if none, before entering the intersection at the point nearest the intersecting street where the driver has a view of approaching traffic on the intersecting street.
- (c) Control of vehicles at places other than intersections.

- (1) When a stop sign has been erected or installed at a place other than an intersection, it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto and yield the right-of-way to pedestrians and other vehicles.
- (2) When a stoplight has been erected or installed at a place other than an intersection, and is emitting a steady red light, vehicles facing the red light shall come to a complete stop. When the stoplight is emitting a steady yellow light, vehicles facing the light shall be warned that a red-light will be immediately forthcoming and that vehicles may not proceed through such a red light. When the stoplight is emitting a steady green light, vehicles may proceed subject to the rights of pedestrians and other vehicles as may otherwise be provided by law.
- (3) When a flashing red light has been erected or installed at a place other than an intersection, approaching vehicles facing the light shall stop and yield the right-of-way to pedestrians or other vehicles.
- (4) When a flashing yellow light has been erected or installed at a place other than an intersection, approaching vehicles facing the light may proceed with caution, yielding the right-of-way to pedestrians and other vehicles.
- (5) When a stoplight, stop sign, or other signaling device authorized by subsection (a) of this section requires a vehicle to stop at a place other than an intersection, the driver shall stop at an appropriately marked stop line, or, if none, before entering a marked crosswalk, or, if none, before proceeding past the signaling device.

SECTION 8-56. – STOP INTERSECTIONS.

When stop signs are placed, erected or installed upon streets intersecting a through street designated as provided in *Section 8-54* at the entrance thereto or at the entrance to any intersection or at any stop intersection so designated, every driver of a vehicle shall stop in obedience to such signs before entering the intersection and shall not proceed into or across such intersection until he has first determined that no conflict with traffic will be involved.

State Law Reference— Authority of town to designate stop intersections, N.C. GEN. STAT. § 20-158.

SECTION 8-57. – YIELD INTERSECTIONS.

Whenever main-traveled or through streets are designated by erecting, at the entrance thereto from intersecting streets, signs notifying drivers of vehicles to yield the right-of-way to drivers of vehicles approaching the intersection on the main-traveled or through street, it shall be unlawful for the driver of any vehicle to enter or cross such main-traveled or through street, unless he shall first slow down and yield the right-of-way to any vehicle in movement on the main-traveled or through street which is approaching so as to arrive at the intersection at approximately the same time as the vehicle entering the main-traveled or through street. No failure to so yield the right-of-way shall be considered negligence or contributory negligence in any action at law for injury to person or property, but the facts relating to such failure to yield the right-of-way may be considered with the other facts in the case in determining whether either party in such action was guilty of negligence or contributory negligence.

State Law Reference— Similar provisions, N.C. GEN. STAT. § 20-158.1.

SECTION 8-58. – DRIVING ON ONE-WAY STREETS.

Upon those streets and parts of streets designated as one-way streets vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

State Law Reference— Authority of town to prohibit other than one-way traffic, N.C. GEN. STAT. § 20-169.

SECTION 8-59. – LIMITATIONS ON TURNING AROUND.

No driver shall turn any vehicle and proceed in the opposite direction within a business district, unless a sign indicating that the same may be done is erected.

SECTION 8-60. – TRUCK ROUTES.

- (a) No person may drive or operate any truck upon any street or highway within the town, other than state-maintained roads unless the point of origin or destination for such truck lies on such road or use of such non-state-maintained road is necessary to travel between a state-maintained road and a point of origin or destination of such truck.
- (c) Pursuant to the traffic engineer, with approval of the Board of Commissioners, may designate certain sections of state-maintained highways and streets within the town as truck routes. The engineer shall request the state department of transportation to post and maintain appropriate signs designating such truck routes and directing all trucks to use the designated routes.

State Law Reference— Size, equipment of vehicles, N.C. GEN. STAT.§ 20-116.

SECTION 8-61. – DRIVING THROUGH SAFETY ZONES.

The driver of a vehicle shall not at any time drive through or over a safety zone marked, signed and designated.

State Law Reference— Similar provisions, N.C. GEN. STAT.§ 20-160.

SECTION 8-62. –DRIVING IN SCHOOLS ZONES.

Whenever authorized signs are placed designating any street or part thereof as a school zone drivers of vehicles using such street shall exercise the greatest care for the protection of children.

SECTION 8-63. – DRIVING IN QUIET ZONES.

Whenever authorized signs are placed, erected or installed as a quiet zone, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of such vehicle, except in an emergency.

SECTION 8-64. – DRIVING ON PLAY STREETS.

Whenever authorized signs are placed designating any street or part thereof as a play street no person shall drive a vehicle upon any such designated street, except persons who have business or who reside within the designated area, and all such persons shall exercise the greatest care when driving upon any play street.

SECTION 8-65. – TRUCKS IN RESIDENTIAL DISTRICTS.

No person shall park or leave standing any large truck on any street between the hours of 6:00 p.m. and 6:00 a.m. in a residential district as defined by the Clarkton Zoning Ordinance. For the purpose of this section, a large truck shall include a commercial motor vehicle, a property-hauling vehicle, a road tractor and a truck tractor as defined by N.C. GEN. STAT.§ 20-4.01.

(Ord. 97-09, passed 3-4-97)

SECTION 8-66. – PARKING ON PRIVATELY OWNED PROPERTY.

- (a) *Regulations authorized.* Upon the written request of the owner or person in general charge of the operation and control of any parking areas or driveways of a privately owned hospital, shopping center, apartment house, condominium complex, commercial office complex, or other privately owned public vehicular area, as defined in N.C. GEN. STAT.§ 20-4.01(32), the town may regulate or prohibit during specified hours the stopping, standing, or parking of motor vehicles.
- (b) *Application.* The owner or person in general charge of the operation and control of the property must submit the request for regulation in writing, on application forms available from the Town Clerk.

(c) *Signs.*

- i. The cost of erecting, placing or installing signs, and the cost of all necessary signs as determined by the Chief of Police, shall be paid by the person requesting regulations.
- ii. All signs erected must be approved prior to placement, or the applicant may request that the town place the signs upon payment by the applicant of all costs.

(d) *Regulations adopted.* No person shall stop, leave standing, or park a motor vehicle in the areas specified in this section in violation of posted signs, when signs are placed, erected or installed giving notice that stopping, standing, or parking is regulated, prohibited, or prohibited during certain hours, in that space or area.

(e) *Penalty.* The provisions of this section shall be enforceable in the same manner as is used to enforce other parking regulations and ordinances, and penalties shall be the same as for the corresponding violations or publicly owned or controlled streets or property.

SECTION 8-67. - 8-75. – RESERVED.

CHAPTER 4. –SPEED REGULATIONS

SECTION 8-76. –SPEED LIMITS GENERALLY.

Unless the board of commissioners stipulates specific speed limits for vehicles, the provisions of the state law shall govern as follows:

- (1) A vehicle may be operated on any street of the town designated as a through highway at a rate of speed not exceeding 35 miles per hour; provided, however, that at no time shall the speed be greater than is reasonable and prudent under the conditions then existing.
- (2) It shall be unlawful for any person to operate any motor vehicle upon any street in the residential section of the town at a greater rate of speed than 25 miles per hour.
- (3) It shall be unlawful for any person to operate any motor vehicle upon any street in the business district of the town at a greater rate of speed than 20 miles per hour.
- (4) It shall be unlawful for any person to operate any motor vehicle while in the town across any street intersection or around any street corner at a greater rate of speed than 15 miles per hour.

(Code 1991, § 7.5.20)

SECTION 8-77. – SPEED LIMITS ON SPECIFIC STREETS.

The speed limit on West Graham Street is 25 miles per hour. (Motion of 9-9-1991)

SECTION 8-78. – SCHOOL ZONES.

- (a) It shall be unlawful for any person to operate or drive any vehicle at a speed greater than twenty-five (25) miles per hour in any school zone during a period of time of thirty (30) minutes prior to and thirty (30) minutes following the times when such school begins and ends its daily schedule.
- (b) For the purposes of this section, a school zone shall be deemed to be that portion of any street abutting any school property for a distance not to exceed five hundred (500) feet on either side of such school property.

State Law Reference— Speed in school zones, N.C. GEN. STAT. § 20-141.1.

SECTION 8-79. – EXEMPTIONS.

The speed limitations set forth in this article shall not apply to vehicles when operated with due regard for safety under the direction of the police in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, to fire department or fire patrol vehicles when traveling in response to a fire alarm, to public or private ambulances when traveling in emergencies nor to vehicles operated by the duly authorized officers, agents and employees of the North Carolina Utilities Commission when traveling in performance of their duties in regulating and checking the traffic and speed of buses, trucks, motor vehicles and motor vehicle carriers subject to the regulations and jurisdiction of the North Carolina Utilities Commission. This exemption shall not, however, protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.

State Law Reference— Similar provisions, N.C. GEN. STAT. § 20-145.

SECTIONS 8-80. – 8-85. – RESERVED.

CHAPTER 5. – PEDESTRIANS

SECTION 8-86. – APPLICABILITY.

Pedestrians shall be subject to traffic-control signals at intersections, as provided in this chapter, but at all other places pedestrians shall be afforded the privileges and shall be subject to the restrictions stated in this article.

State Law Reference— Similar provisions, N.C. GEN. STAT. § 20-172.

SECTION 8-87. – RIGHT-OF-WAY AT CROSSWALKS.

- (a) Where traffic-control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be, to so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this article.
- (b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

State Law Reference— Similar provisions, N.C. GEN. STAT. § 20-173.

SECTION 8-88. – CROSSING AT OTHER THAN A CROSSWALK.

- (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

- (b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.
- (c) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

State Law Reference— Similar provisions, N.C. GEN. STAT.§ 20-174.

SECTION 8-89. – SOLICITING RIDES.

No person shall stand in the traveled portion of a street or highway for the purpose of soliciting a ride from the driver of any private vehicle.

State Law Reference— Similar provisions, N.C. GEN. STAT.§ 20-175.

SECTION 8-90. – BLIND PEDESTRIANS.

- (a) At any street, road or highway crossing or intersection where the movement of traffic is not regulated by a traffic officer or by traffic-control signals, any blind or partially blind pedestrian shall be entitled to the right-of-way at such crossing or intersection if such blind or partially blind pedestrian shall extend before him, at arm's length, a cane white in color or white tipped with red or if such person is accompanied by a guide dog. Upon receiving such a signal, all vehicles at or approaching such intersection or crossing shall come to a full stop, leaving a clear lane through which such pedestrian may pass, and such vehicle shall remain stationary until such blind or partially blind pedestrian has completed the passage of such crossing or intersection. At any street, road or highway crossing or intersection where the movement of traffic is regulated by traffic-control signals, a blind or partially blind pedestrian shall be entitled to the right-of-way if such person having such cane or accompanied by a guide dog shall be partly across such crossing or intersection at the time the traffic-control signals change, and all vehicles shall stop and remain stationary until such pedestrian has completed passage across the intersection or crossing.
- (b) Nothing contained in this section shall be construed to deprive any blind or partially blind person not carrying a cane white in color or white tipped with red or being accompanied by a guide dog of any of the rights and privileges conferred by law upon pedestrians crossing streets and highways, nor shall the failure of such blind or partially blind person to carry a cane white in color or white tipped with red or to be accompanied by a guide dog upon the streets, roads, highways or sidewalks be held to constitute or be evidence of contributory negligence by virtue of this section.

State Law Reference— Similar provisions, N.C. GEN. STAT.§§ 20-175.2, 20-175.3.

SECTION 8-91. – DUTY OF DRIVERS.

Notwithstanding the provisions of this article, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precautions upon observing any child or any confused or incapacitated person upon a roadway.

State Law Reference— Similar provisions, N.C. GEN. STAT.§ 20-174.

SECTION 8-92. – 8.95. – RESERVED.

CHAPTER 6. –BICYCLES & MOTORCYCLES

SECTION 8-96. – RIDING ON HANDLEBARS, FRAME OR TANK OF MOTORCYCLE OR BICYCLE.

The operator of a motorcycle or bicycle, when upon a street, shall not carry any person upon the handlebars, frame, or tank of his vehicle, nor shall any person so ride upon any such vehicle.

(Code 1991, § 7.5.15)

SECTION 8-97. – RIDING MOTORCYCLE OR BICYCLE WITHOUT HANDS ON HANDLEBARS; RIDING BICYCLE ON SIDEWALK.

No person shall ride a bicycle or motorcycle on any street without having his hands on the handlebars, nor shall any person ride a bicycle upon any sidewalk or walkway within the town. (Code 1991, § 7.5.16)

SECTION 8-98. – 8-100. – RESERVED.**CHAPTER 7. – STOPPING, STANDING AND PARKING****SECTION 8-101. – NOTICE OF PARKING VIOLATION; PAYMENT OF FINE.**

(a) If any vehicle shall be found illegally parked or parked overtime or in violation of any of the provisions of this chapter, it shall be the duty of the chief of police or other law enforcement officers of the town to attach to the vehicle a notice to the owner or operator thereof, if the owner or operator is absent, or to deliver to the owner or operator, if he is present, a notice to the effect that the vehicle has been illegally parked or parked overtime or in violation of a provision of this chapter.

(b) An owner or operator of a vehicle may, within 48 hours from the time the notice referred to in subsection (a) of this section was attached to the vehicle or delivered to the owner or operator, pay to the town, as a penalty for the offense indicated in the notice, the sum of \$10.00. No owner or operator of the vehicle shall fail to appear and pay the penalty within the prescribed period.

(Code 1991, § 7.3.01)

*Cross reference-Off-street parking requirements, app. A, § 9.

State law reference-Parking, N.C. GEN. STAT.160D-301.

SECTION 8-102. – RESPONSIBILITY FOR COMPLIANCE.

The person actually operating or in control of the operation of the vehicle at the time that such vehicle is parked shall be charged with the duty of complying with the provisions of this chapter, provided that proof of ownership of any vehicle found parked in violation of this chapter shall be prima facie evidence that the owner parked the vehicle.

(Code 1991, § 7.3.02)

SECTION 8-103. – STOPPING IN STREET.

No vehicle shall stop in any street except for the purpose of parking as prescribed in this chapter, unless such stop is made necessary by the approach of fire apparatus, by the approach of a funeral or other procession which is given right-of-way, by the stopping of a public conveyance, by the lowering of railway gates, by being given countermanding traffic signals, by the passing of some other vehicle or a pedestrian, or by some emergency. In all cases covered by these exceptions the vehicle shall stop so as not to obstruct any footway, pedestrian aisle, safety

zone, crossing, or street intersection if it can be avoided. In unusual circumstances and in cases of emergency, any police officer of the town may authorize vehicles to stop in a street for the purpose of loading and unloading for a certain period of time, which in no event shall exceed 15 minutes.

(Code 1991, § 7.5.01)

Cross reference-Streets, sidewalks and other public places, ch. 24.

SECTION 8-104. – OBSTRUCTING PASSAGE OF OTHER VEHICLES.

No vehicle shall so stand on any street as to interrupt or interfere with the passage of public conveyances or other vehicles.

(Code 1991, § 7.5.02)

SECTION 8-105. – PARKING STANDS FOR BUSES, TAXICABS AND LAW ENFORCEMENT OFFICERS.

Certain locations which shall be designated, and may from time to time be changed, shall be reserved as stands for buses, taxicabs, and law enforcement officers. No automobile or other vehicle shall park at such designated stands. Such stands shall be designated by yellow paint and otherwise as ordered.

(Code 1991, § 7.5.03)

SECTION 8-106. – PARKING POSITION GENERALLY.

Where not otherwise indicated by this chapter, all vehicles shall park parallel to the curb and not more than 12 inches therefrom.

(Code 1991, § 7.5.04)

SECTION 8-107. – BACKING UP TO CURB; PARKING HORSE-DRAWN VEHICLES.

In no case shall a vehicle remain backed up to the curb except when actually loading or unloading. If the vehicle is horse-drawn, the horse shall stand parallel to the curb and face the direction of the traffic.

(Code 1991, § 7.5.05)

SECTION 8-108. – STOPPING WITH LEFT SIDE OF VEHICLE TO CURB.

No vehicle shall stop with its left side to the curb in the business district. (Code 1991, § 7.5.06)

SECTION 8-109.- VEHICLES TO BE PARKED WITHIN MARKED SPACES.

On any street marked off with lines indicating the parking spaces for cars, the cars shall be parked between such lines.

(Code 1991, § 7.5.07)

SECTION 8-110.- STANDING OR PARKING FOR CERTAIN PURPOSES PROHIBITED.

No person shall stand or park a vehicle upon any street for the principal purpose of:

- (1) Displaying it for sale;
- (2) Washing, greasing, or repairing such vehicle, except repairs necessitated by an emergency;
- (3) Storage thereof by garages, dealers or other persons;
- (4) Storage of any detached trailer or van, when the towing unit has been disconnected; or
- (5) Transferring merchandise or freight from one vehicle to another. (Code 1991, § 7.5.08)

SECTION 8-111.- STOPPING, STANDING AND PARKING PROHIBITED IN SPECIFIED PLACES.

No person shall stop, stand, or park a vehicle, except when conflict with other traffic is imminent or when so directed by a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk.
- (2) Within an intersection.
- (3) On a crosswalk.
- (4) Within 30 feet of any flashing beacon, stop sign or traffic control signal located at the side of a street or roadway.
- (5) On underpass approaches as follows: No vehicle shall park on either side of any street leading to a railroad underpass, or an overhead bridge, within 50 feet in any direction of the outer edge of such underpass or overhead bridge.
- (6) On grade crossing approaches as follows: No vehicle shall park on either side of any street leading to a grade crossing within 50 feet of the closest rail; provided that, where existing permanent structures are located closer than 50 feet, parking may be permitted in front of such structures unless otherwise prohibited and if such parking does not block the view in either direction of the approach of a locomotive or train.
- (7) Alongside or opposite any street excavation or obstruction, if such stopping, standing, or parking would obstruct traffic.
- (8) Upon any bridge or other elevated structure or within any underpass structure.
- (9) Within 15 feet in either direction of the entrance to a hotel, theater, hospital, or sanatorium or any public building.
- (10) On the roadway side of any vehicle stopping, standing, or parking at the edge or curb of a street.
- (11) Within ten feet of any fireplug or fire hydrant. (Code 1991, § 7.5.09)

SECTION 8-112.- MOVING VEHICLE INTO PROHIBITED AREA.

No person shall move a vehicle not owned by such person into any prohibited area, or sufficiently away from the curb to make such distance unlawful.

(Code 1991, § 7.5.10)

SECTION 8-113. – 8-114. – RESERVED.

TITLE 9. – OCCUPATIONAL LICENSES, TAXES AND REGULATION**CHAPTER 1. – GENERAL*****SECTION 9-1. – PRIVILEGE LICENSE TAX REPEALED.***

State Law N.C. GEN. STAT.160D-211 has been repealed by the North Carolina General Assembly for taxable years beginning on or after July 1, 2015.

SECTION 9-2. – 9-5 - RESERVED.**CHAPTER 2. – AD VALOREM TAX*****SECTION 9-6. – ANNUAL DETERMINATION.***

The ad valorem tax rate shall be set and taxed as provided by state law.

State Law Reference— General power to impose taxes, N.C. GEN. STAT.§ 160D-206.

SECTIONS 9-7 – 9-10. . – RESERVED.

TITLE 10. – PARKS AND RECREATION**CHAPTER 1. – RECREATION COMMISSION****SECTION 10-1. – PURPOSE AND ESTABLISHMENT**

The Board of Commissioners hereby determines that it is for the best interest of the recreational system of the town that such system be supervised and directed by a Recreation Commission. Therefore, there is created a commission to be known as the Recreation Commission of Clarkton, which shall be referred to throughout this code as the Recreation Commission.

SECTION 10-2. – COMPOSITION; APPOINTMENT, TERM, AND COMPENSATION OF MEMBERS; VACANCIES

- (a) The Recreation Commission shall be composed of seven members to be appointed by the Board of Commissioners.
- (b) Members shall be citizens of the town, except that two members may be citizens of the county, residing in the area within the Clarkton Schools attendance boundary.
- (c) Members shall serve for a term of four years until their successors are appointed and qualified.
 - 1. They shall take office on July 1, in the year of their appointment.
 - 2. They shall be appointed for staggered terms as follows:
 - 3. In June 1993, and each four years thereafter, four members shall be appointed;
 - 4. In June 1995, and each four years thereafter, three members shall be appointed.
- (d) Vacancies in the Recreation Commission shall be filled for the unexpired term by the Board of Commissioners.
- (e) The members of the Recreation Commission shall serve without compensation.

SECTION 10-3. – OFFICERS; BYLAWS; RULES AND REGULATIONS; MEETINGS

The Recreation Commission shall appoint from its membership a chairman and such other officers as it may deem necessary for the orderly procedure of its business and may adopt bylaws, rules, and regulations covering its procedure not inconsistent with the provisions of this code, the town Charter, and state law. The Recreation Commission shall, from time to time, make rules and regulations governing the operation and conduct of the recreational facilities operated by the Recreation Commission. The Recreation Commission shall hold regular meetings at such times and places as it may designate.

SECTION 10-4. – POWERS AND DUTIES

The Recreation Commission shall provide, maintain, operate, and supervise the public parks and playgrounds, athletic fields, recreation centers, and other recreational facilities owned or controlled by the town leased or loaned to the Recreation Commission by the owners thereof. The Recreation Commission shall have complete supervision of the facilities and activities provided and conducted on or in connection with the parks, playgrounds, athletic fields, and recreation centers provided, and shall have the power to conduct any form of recreational or cultural activity.

SECTION 10-5. – ACCEPTANCE AND USE OF GRANTS, BEQUESTS, ETC.; LIMITATION ON AUTHORITY TO MAKE CONTRACTS AND TO INCUR DEBT

The Recreation Commission may accept any grant, gift, bequest, or donation of any personal property offered or made for recreational purposes and, with the approval of the Board of Commissioners, may accept any grant, gift, or devise of real estate. Any gift, bequest of money, or other personal property, grant, or devise of real estate shall be held, used and finally disposed of in accordance with the terms or conditions under which such grant, gift, or devise is made and accepted. The Recreation Commission shall have no authority to enter into any contract or incur any obligation binding upon the town other than current obligations or contracts to be fully executed within the then current fiscal year and all within the budget appropriations made by the Board of Commissioners.

SECTION 10-6. – DIRECTOR OF RECREATION; OTHER PERSONNEL

The Recreation Commission shall have power to appoint a Director of Recreation. The person so appointed shall possess the necessary foundation training and shall demonstrate by actual work his or her ability to organize and direct a community recreation system. Such other trained persons as may be necessary in the maintenance and operation of the recreation facilities and system may be employed by the Recreation Commission.

SECTION 10-7. – FUNDS

Funds appropriated by the governing body of the town and budgeted to the Recreation Commission shall be disbursed by the fiscal disbursing officer of the town upon vouchers issued by the Recreation Commission and within the budget appropriations made. Funds received by the Recreation Commission from sources other than budget appropriations shall be deposited by the town to the credit and for the use of the commission and disbursed, except that funds received by gift, bequest, or otherwise shall be disbursed in accordance with the terms of such gift or bequest.

SECTION 10-8. – REPORTS; FISCAL YEAR

The Recreation Commission shall make full and complete reports to the Board of Commissioners at such times as may be requested and at such other times as to the Recreation Commission may seem proper. The fiscal year of the Recreation Commission shall conform to that of the town.

SECTIONS 10-9. – 10-10. – RESERVED**CHAPTER 2. - GENERAL PROVISIONS****SECTION 10-11. – COMPLIANCE WITH REGULATIONS**

All persons entering or using any park, playground, tennis court, recreation or community area or center, swimming pool or facility (collectively "park") owned or operated by the town shall be obedient to the rules and regulations governing the use of such park. All such rules and regulations and other provisions of this chapter pertaining to a park shall be enforced in the same manner that other ordinances of the town may be enforced.

SECTION 10-12. – OPENING AND CLOSING OF TOWN PARK

- (a) Town parks and open spaces shall be open to the public daily during the times specified by the Board of Commissioners. These times may be extended to accommodate programs offered by the Town.
- (b) The Town may close one or more parks or recreational facilities temporarily at any time if a sufficient reason exists on account of severe weather or other emergency that would endanger persons using these facilities.

- (c) It shall be unlawful to enter into or remain within any public park owned or operated by the Town within the hours they are closed to public use and a sign to that effect is posted prominently at the main entrance to same.
- (d) Any person who is drunk or disorderly or is or becomes disruptive to other persons using public parks, public greenways, or other public recreational areas shall have no right to the use of the park. Failure to leave when instructed to do so by a Town official or his designee, or a law enforcement officer shall be a misdemeanor.
- (e) In addition to any other enforcement remedies provided by law, violators of subsections (b) or (c) are subject to criminal penalties for trespass.

SECTION 10-13. – RULES AND REGULATIONS; ILLEGAL ACTS

- (a) No person shall willfully mark, deface, disfigure, damage, tamper with or without the authorization of the town, displace or move any structure, equipment, facility, or any other real or personal property that is the property of or under the control of the town.
- (b) No person shall willfully damage, cut, carve, transplant or remove any tree, shrub, bush or plant within any park except in maintenance or other activity under the direction of the town.
- (c) No person shall drive, park or ride any motorized vehicle in any public park or on any public greenway except in areas so marked, signed or designated for motorized vehicular traffic, except in maintenance or other activity under the direction of the town.
- (d) No person shall dump, deposit, leave or place trash, garbage, ashes, wastes, broken glass or other rubbish within any park, except in garbage, trash recycling or other proper receptacles provided for the purpose. No person shall dispose of garbage or rubbish within any park.
- (e) No person shall camp or stay overnight in any park, except with written permission from the town.
- (f) Except for authorized personnel or law enforcement personnel, no person shall enter any park or remain in any park during the hours the park is closed to the public.
- (g) Dogs are allowed within the public parks, subject to the provisions of the town's animal control regulations, except in those areas specifically marked and designated that no dogs shall be allowed.
- (h) No person shall solicit, peddle or beg or conduct private fundraising activities within any public park or on any public greenway, or sell, merchandise, wares, or distribute any product samples, informational literature of any type therein. This subsection shall not apply to:
 - (1) Any concession franchise granted by the parks and recreation and cultural resources department for a park; or
 - (2) Any solicitation or sale of goods by nonprofit or civic groups, provided that written permission is obtained in advance from the town. Such groups must provide proof of their approved 501-C3 nonprofit designation and must provide insurance, Hold Harmless, and other documentation as required by the town. No such permission shall be issued to any group more than once during a 12-month period.
- (i) No person shall use, consume or possess any alcoholic beverages, beer or wine within the park; no person shall use, consume or possess any narcotic drug or hallucinogen or any other controlled substance within any park without a valid physician's prescription for the substance.
- (j) All persons in any park shall obey all posted traffic regulations, signs and directions.
- (k) No person shall engage, either verbally or physically, in any loud, disruptive or offensive conduct, or engage in any activity or sport in a manner which threatens the safety or welfare of other patrons of the park, or which unreasonably impairs the public's opportunity to use and enjoy the park.
- (l) Participants in organized league sports shall obey the special rules and regulations relating to such activities in the park as prescribed by the town.

- (m) No person other than town personnel acting within the scope of their employment shall place, maintain or erect any sign, poster, notice or advertising device within any park.
- (n) The following activities shall be prohibited on all athletic fields, athletic courts, and playgrounds within public parks: the hitting of golf balls, the riding of bicycles, the use of motorized vehicles except those being used for emergency and maintenance purposes; and the exercising of pets and animals.
- (o) The maximum motorized vehicular speed allowed within any public park shall be 15 miles per hour, except that all users are expected to travel at lesser speeds where commensurate with existing conditions.
- (p) Open fires are prohibited within all public parks. Use of privately owned "pig cookers" and portable gas grills is permitted, provided that, such use of pig cookers and portable gas grills is limited to concrete or asphalt surfaces such as parking lots and shall be located a minimum distance of 15 feet from park shelters other and structures.
- (q) No person shall engage in any sport or recreational activity or an area designated for vehicle operation or parking.
- (r) No person shall engage in a sport or recreational activity in an area in which doing so endangers other park patrons and their pets and park wildlife, this may include, but is not limited to, driving golf balls, batting baseballs, throwing balls, throwing Frisbees, and throwing objects for animals to fetch.
- (s) No person shall set off fireworks within any public park or on any public greenway.
- (t) Any law enforcement officer may issue a citation for a civil penalty for any violation of this Section in the amount of \$100.00. This authority shall be in addition to any other authority under this Code or North Carolina law, and shall not preclude in any way any law enforcement officer from exercising any authority or carrying out the duties of a law enforcement officer. Enforcement of any unpaid citation may be by issuance of a criminal summons, by the filing of a civil complaint to collect the unpaid debt owed to the town, and/or by any other means authorized by law.

SECTION 10-14. – CRIMINAL HISTORY RECORDS CHECK

- (a) The town is authorized to obtain criminal history records for applicants to be volunteers for the department. The town shall obtain such information through the Bladen County Sheriff's Department which shall access such police information from the State of North Carolina Criminal History repository through SBI/DCI or through the use of private contractors.
- (b) Each applicant for a volunteer position with the town shall provide it with his or her full legal name, address, and telephone number. Each applicant shall display to the town a valid North Carolina driver's license (or some other form of equally reliable picture identification) as a means of identification. Each applicant shall sign a written consent for the town to obtain a State of North Carolina criminal history check through DCI/SBI or through a private contractor.
- (c) In the event that the criminal history records show the conviction of any felony or show the conviction of any misdemeanor involving violence, potential violence, sexual crime, or moral turpitude, then the applicant shall be denied volunteer status.

SECTIONS 10-15. – 10-20. – RESERVED.

TITLE 11. – PLANNING AND ZONING**CHAPTER 1 – GENERAL****SECTION 11-1. – IN GENERAL**

The Town of Clarkton, North Carolina, Code of Ordinances incorporates the Town of Clarkton, North Carolina Zoning Code, which was adopted on October 4, 2022, along with all subsequent amendments. The following amendments have been made to the Zoning Code:

These amendments and the adoption of the Zoning Code ensure compliance with state regulations and facilitate orderly development within the Town of Clarkton.

SECTION 11-2. – 11-10. – RESERVED

TITLE 12. – PUBLIC RECORDS**CHAPTER 1. - GENERAL****SECTION 12-1. – CUSTODIAN AND RECORDS MANAGEMENT PROGRAM.**

The Town Clerk shall be the custodian of all official town records and shall be responsible for administering the records management program.

SECTION 12-2. – MUNICIPAL RECORDS RETENTION AND DISPOSITION.

All official town records, both paper and those maintained in electronic form, shall be maintained in accordance with the municipal records retention and disposition schedule issued by the division of archives and history, department of cultural resources, which is on file in the office of the Town Clerk.

SECTION 12-3. – PUBLIC ACCESS.

Records shall be made available to the public, under the supervision of town personnel in the department in which the record is maintained, during regular office hours. No town record may be removed from the premises.

State Law Reference— Inspection and examination of records, N.C. GEN. STAT.132-6.

SECTION 12-4. – COPYING.

Photocopies of any public record, unless the document has been deemed, according to state law, to be a confidential record, shall be provided to any citizen upon request and payment of the appropriate fee. Further provided as follows:

- a) *Need to create records.* If the information requested is contained in a set of records, but would require compilation in order to create the record desired, it will be the requester's responsibility to perform such compilation and not the responsibility of the town. If the town finds it appropriate to provide such service, it may negotiate a reasonable charge to provide the information to the requester.
- b) *Computer database records.* Requests for copies of computer databases must be submitted, in writing, to the department in which the record is maintained. Any copies furnished shall exclude any information which has been determined by state law to be confidential. Any confidential data contained in a record shall be eliminated from the record furnished to the public.
- c) *Geographic information systems (GIS).* Any person requesting a copy of information contained in the geographic information system (GIS) must sign a document agreeing not to resell or otherwise use the information for trade or commercial purposes. If a person requesting a copy of the GIS wishes to resell the information or otherwise use it for trade or commercial purposes, the cost for the information supplied by the town shall be negotiated by the Town Clerk.
- d) *Forms of available records.* If a record is maintained in non-electronic form, the town will not be required to create an electronic version for the sole purpose of public distribution.

- e) *Diskettes and/or CDS.* All diskettes and/or CDS used to obtain town data shall be furnished by the town. No other diskettes and/or CDS shall be used in town owned computers.

SECTION 12-5. – FEES AND CHARGES.

Copies of records may be obtained at the current rates which are set from time to time and a schedule of such rates is on file and available in the town Clerk's office. A special service charge, in addition to the actual cost of duplication, shall be charged where:

- a) The request requires extensive use of information technology resources or extensive clerical or supervisory assistance by personnel; or
- b) Producing the record in the medium requested results in a greater use of information technology resources than that established by the town for reproduction of the volume of information requested. This special service charge will be based on the actual cost incurred for such extensive use of the resources or personnel involved in the fulfillment of the request.

SECTION 12-6. – CONFIDENTIAL INFORMATION TO BE REMOVED.

If the records being requested contain confidential information which is commingled with public information, the confidential information shall be deleted from the record before it is distributed to the public or made available for review by the public.

State Law Reference— Requests, scope, examination, copying, N.C. GEN. STAT.132-6—132-6.2.

SECTION 12-7. – 12-10. – RESERVED.

TITLE 13. – PUBLIC SAFETY**CHAPTER 1. – POLICE PROTECTION****ARTICLE 1. GENERAL.****SECTION 13-1. – ESTABLISHED, EXTRATERRITORIAL JURISDICTION OF POLICE OFFICERS.**

There shall be a town police department, which shall be maintained in accordance with the provisions of the Charter and the laws of the state. The duties of the police officers shall be prescribed by and their conduct regulated by such rules and regulations as may be established by the chief of police, with the approval and consent of the town board of commissioners. (Ord. of 5-11-1998, § 3.1.01)

The police officers shall, in addition to their authority within the corporate limits, have all the powers invested in law enforcement officers by statute or common law within one mile of the corporate limits of the town, and on all property owned or leased by the town, wherever located.

(Ord. of 5-11-1998, § 3.1.02)

SECTION 13-2. – COMPOSITION; RANKS AND DESIGNATIONS OF MEMBERS.

The police department shall consist of a chief of police and as many police officers, patrol officers and auxiliary law enforcement personnel as the town board of commissioners shall from time to time determine and elect and as many special police officers as the town board of commissioners may deem necessary.

(Ord. of 5-11-1998, § 3.1.03)

SECTION 13-3. – QUALIFICATIONS OF APPOINTEES.

Law enforcement officer appointees shall:

- (1) Be a citizen of the United States;
- (2) Be at least 21 years of age;
- (3) Be of good moral character;
- (4) Be fingerprinted and a search made of local, state and federal fingerprint files;
- (5) Not have been convicted of a felony or an offense involving moral turpitude;
- (6) Have a high school diploma or its equivalent;
- (7) Pass an examination conducted by a physician employed by the town to determine physical fitness to perform the duties prescribed for law enforcement personnel;
- (8) Submit to and pass an initial approved drug and alcohol test and submit to and pass periodic approved drug and alcohol tests;
- (9) Be interviewed and approved by the town board of commissioners; and
- (10) Be certified in accordance with state law. (Ord. of 5-11-1998, § 3.1.09)

SECTION 13-4. – AUXILIARY POLICE DEPARTMENT.

- (a) There is hereby created within the police department an auxiliary police unit made up of volunteer members. Each member shall be appointed by the chief of police and shall serve so long as the chief of police shall direct or until such member submits his resignation. Members of this unit shall assist and aid the regular police force of the town.
- (b) The chief may appoint a minimum of six auxiliary officers and up to as many as the chief deems necessary.
- (c) The auxiliary police unit shall have full police powers while on duty or while under the control and direction of the chief of police or his designated agent. Its members shall perform only such police duties as may be assigned by the chief of police, and then only when dressed or uniformed as prescribed by the chief of police or the agent of the chief of police, and shall be available for any departmental emergencies as the chief of police may determine. Such duties shall be performed only within the corporate limits or the town's extraterritorial jurisdiction or on property owned or leased by the town, wherever located.
- (d) Members of the auxiliary police unit shall obey all lawful orders of any members of the police department.
- (e) The chief of police shall prescribe rules and regulations for the conduct, control and administration of the auxiliary police unit. Each auxiliary member's record shall be subject to inspection and reviewed for approval at six-month intervals by the chief of police.
- (f) All disciplinary action shall be for cause, require notice and be administered by the auxiliary police unit.
- (g) The chief of police shall prescribe the uniform to be worn by the member of the auxiliary police unit.
- (h) Neither the town nor its police department shall be liable to the auxiliary law enforcement personnel for any additional fringe benefits, wages, other compensation, or insurance coverage, except as follows: While undergoing official training and while performing duties on behalf of the town pursuant to orders or instructions of the chief of police of the town, auxiliary law enforcement personnel shall be entitled to benefits under the North Carolina Worker's Compensation Act.
- (i) Neither the town nor its police department shall be liable to any third parties for any actions, intentional or otherwise, malicious or not, including negligence and/or gross negligence, unless the auxiliary law enforcement personnel were engaged in the performance of duties on behalf of the town pursuant to orders or instructions of the chief of police of the town.
- (j) Neither the town nor the town board of commissioners shall be held responsible for the discipline, good order or proper conduct of the auxiliary police unit.
- (k) Every person appointed as a volunteer auxiliary police unit member shall:
 - (1) Be a citizen of the United States;
 - (2) Be at least 21 years of age;

- (3) Be of good moral character;
- (4) Not have been convicted of a felony or any offense involving moral turpitude;
- (5) Have a high school diploma or its equivalent;
- (6) Be interviewed and approved by the town board of commissioners;
- (7) Upon request by the chief of police, pass an examination conducted by a physician employed by the town to determine physical fitness to perform the duties prescribed for law enforcement personnel;
- (8) Submit to and pass an initial approved drug and alcohol test, and submit to and pass periodic approved drug and alcohol tests; and
- (9) Complete the basic law enforcement training, be certified as a law enforcement officer, and meet any additional requirements of law.

(Ord. of 5-11-1998, § 3.1.11; Motion of 1-11-1999)

Statutory reference: *Auxiliary law enforcement personnel, see N.C. GEN. STAT.160D-282*

SECTION 13-5. – CHIEF OF POLICE, SUPERVISION

- (a) The chief of police commands the force under his order, and is responsible for its discipline and efficiency. Further, he shall recommend to the town board of commissioners the reforms and changes in the police department which practical experience shows should be instituted. The chief will be required to submit a quarterly report of the activities of the department, and shall include therein any suggestions for the improvement in the service of law enforcement personnel.
- (b) Additional, specific functions of the chief of police are as follows:
 - (1) Issue to the force under his command such orders and directives as may be necessary to preserve the public peace, prevent crime, arrest offenders, and protect the public and private property and persons in the town.
 - (2) Enforce the laws, ordinances, police regulations, and executive orders applicable to the town's jurisdiction.
 - (3) Require the proper submission and handling of the necessary required reports. (Ord. of 5-11-1998, § 3.1.10)

The chief of police, subject to the general supervision of the town board of commissioners, is held responsible for the discipline, good order, and proper conduct of the police department. (Ord. of 5-11-1998, § 3.1.06)

SECTION 13-6. – POLICE OFFICERS; AUTHORITY, DUTIES.

- (a) Enforcement of ordinances. The chief of police and the members of the police department shall have the duty of enforcing all the ordinances of the town and the laws of the state within the town and extraterritorial jurisdiction, and other duties as may be prescribed by ordinance.
- (b) Warrants. It shall be the duty of each member of the police department, on information furnished them, on their knowledge of any violation of the ordinances of the town or of the laws of the state, to secure proper warrants for the arrest and trial of any and all offenders against any ordinances or laws.
- (c) Reporting of defective sidewalks and streetlights; reporting of nuisances. It shall be the duty of the police officers to report to the town board of commissioners all sidewalks or streetlights on their beats or which come under their observation that are in bad condition, stating the location of the sidewalk or streetlight and the names of the owners of property adjacent thereto, or their agents, and all officers shall report all nuisances to the town board of commissioners.

*Cross reference-Authority and duties of police and fire department officials, § 26-4.

(Ord. of 5-11-1998, § 3.1.04)

Statutory reference: *Powers and duties of police officers, see N.C. GEN. STAT.160D-285*

SECTION 13-7. –RESERVED FOR FUTURE USE.

Reserved for future use.

SECTION 13-8. – HIRING & DISCHARGING PERSONELL

The town board of commissioners shall have the duty of hiring persons as may be necessary to man the police department and to provide the town with adequate police protection, together with duty of discharging such members.

(Ord. of 5-11-1998, § 3.1.05)

SECTION 13-9. – CONDITIONS OF EMPLOYMENT

- (a) Members of the police department shall be appointed by the town board of commissioners.
- (b) An appointee shall serve 12 months' probation, or as extended by the town board of commissioners.
- (c) An appointee serving in a probationary period following initial employment in a permanent law enforcement position shall receive all benefits provided in accordance with the town's personnel policy.

(Ord. of 5-11-1998, § 3.1.07)

SECTION 13-10. – RESIDENCY REQUIREMENTS.

Pursuant to N.C. GEN. STAT.§ 160D-281, police officers may reside in places other than within the town limits, provided approval for such domicile privileges is obtained from the Town Clerk.

SECTION 13-11. – UNIFORMS & EQUIPMENT

The chief of police and other police officers shall dress as prescribed by the town board of commissioners, and shall keep themselves, including attire, in a neat and clean condition, and, upon discharge, resignation or dismissal, surrender any possessions that have been purchased by the town for their use.

(Ord. of 5-11-1998, § 3.1.08)

SECTION 13-12.- INTERMUNICIPALITY POLICE ASSISTANCE AGREEMENTS.

The town does hereby authorize entry into agreements with the towns of Bladenboro, White Lake and Elizabethtown in the county, or with so many of them as shall similarly agree with the town, pursuant to N.C. GEN. STAT.160D-288, to provide to and receive from such towns mutual police assistance as contemplated by such statute, upon emergency conditions as declared in accordance with such statute. The mayor and town clerk/finance officer are hereby authorized, directed and empowered to execute an appropriate contract with the town for the providing of emergency police assistance as provided in N.C. GEN. STAT.160D-288, which executed contract shall be a prerequisite to the providing of such emergency police assistance by officers of this town to any other town, or to the request for or acceptance of such emergency police assistance by this town from any other

town. The contract approved and authorized pursuant to this section shall be effective upon execution as to each municipality executing it.

(Ord. of 5-11-1998, § 3.1.12)

SECTIONS 13-13. – 13-20. – RESERVED.

CHAPTER 2. – FIRE DISTRICT & FIRE DEPARTMENT

ARTICLE 1. IN GENERAL

SECTION 13-51. – FIRE DISTRICT

The Clarkton Fire District shall include all properties located within the fire district boundaries as shown on the fire district map on file in the clerk's office.

(Code 1991, § 3.2.31)

SECTION 13-52.- EXCLUSION FROM STATE LAW.

The volunteer fire department of the town is excluded from the operation and requirements of N.C. GEN. STAT.95-148. This exclusion shall terminate at such time as the town employs paid firefighters.

(Motion of 9-13-1993)

ARTICLE 2 : FIRE DEPARTMENT

SECTION 13-53.- COMPOSITION AND ORGANIZATION; TEMPORARY MEMBERS

(a) The fire department shall consist of the chief of the fire department and a sufficient number of volunteer firefighters to maintain and operate the department. The board of commissioners shall appoint the chief and approve the appointment to the department of all members. The department may from time to time adopt its own rules and regulations governing the department subject to the approval of the board of commissioners.

*Cross reference-Authority and duties of police and fire department officials, § 26-4. State law reference-Fire protection, N.C. GEN. STAT.160D-291 et seq.

(b) The chief is authorized and empowered at his discretion to appoint in any emergencies he deems necessary such temporary members of the department as he desires to serve as members temporarily, and each such member so appointed shall be entitled to the same rights and benefits as all other members of the department for the duration of such temporary service, no matter how limited his length of service may be.

(Code 1991, § 3.2.01)

SECTION 13-54.- COMPENSATION OF MEMBERS.

The members of the fire department shall receive such compensation as the board of commissioners shall direct.

(Code 1991, § 3.2.08)

SECTION 13-55.- GENERAL POWERS AND DUTIES OF CHIEF.

The chief of the fire department, subject to supervision by the board of commissioners, shall:

- (1) Have general control of the department, personnel, apparatus and fire alarm systems;
- (2) Command the department and supervise the firefighting and extinguishing of all fires and have the authority to keep away from the vicinity of all fires any and all idle, disorderly or suspicious persons;
- (3) Inspect or cause to be inspected all trucks and other equipment of the fire department to ascertain that the equipment is being kept in proper condition. He shall report annually to the board of commissioners the condition of all equipment; and
- (4) Inspect or cause to be inspected all fire hydrants and fire alarm systems and make a report of such inspections to the board of commissioners.

(Code 1991, § 3.2.02)

State law reference-Duties of fire chief, N.C. GEN. STAT.160D-292.

SECTION 13-56- DUTIES OF CHIEF AS FIRE INSPECTOR.

- (a) The chief of the fire department is to assume the functions of fire inspector. As such, he or his designated agent shall have authority to enter any and all premises, at a reasonable time, for purposes of inspection.
- (b) The chief shall make regular inspections of all structures located within the fire district.
- (c) The chief shall, upon receipt of a complaint, forthwith investigate.
- (d) The chief shall investigate the causes of fires and shall keep records of his findings as to origin, location, owner, extent of damage and injury, amount of insurance carried, and date.
- (e) The chief shall cause the removal of fire hazards by serving the proper order to the owner or agent of premises in question, the order to state a reasonable time limit. Failure to comply with the order shall be considered a misdemeanor.

(Code 1991, § 3.2.03)

SECTION 13-57- AUTHORITY OF CHIEF AND OTHER OFFICIALS AT FIRES; CONGREGATING AT FIRE; RIGHT-OF-WAY OF VEHICLES RESPONDING TO FIRE

- (a) During the continuance of a fire, the fire chief, his assistant or the mayor shall have authority to call upon any citizen to render assistance in pulling down or demolishing any building on fire or in danger of fire, but not without the consent of the officer of the fire department or the police department who may be in charge.
- (b) It shall be unlawful to congregate on the streets or alleys near a fire in a manner which would interfere with the activities of the fire department.

(c) In the event of an alarm or fire the apparatus of the fire department responding to it shall have the right-of-way in and upon all streets, lanes, alleys and other public ways. (Code 1991, § 3.2.04)

SECTION 13-58- INTERFERING WITH FIREFIGHTERS OR FIRE APPARATUS.

No person shall interfere with a firefighter in the discharge of his duty or hinder him in the performance of his duty, nor shall any person other than members of the fire department loiter about any fire station or change, handle or tamper in any manner with any fire engine or any other fire apparatus.

(Code 1991, § 3.2.05)

SECTION 13-59- RIDING ON FIRE TRUCKS.

No person other than a member of the fire department shall mount any fire engine or apparatus before it leaves the station, while on its way to or from a fire, or at any other time, unless by permission of the driver or officer in command of the engine or other apparatus. (Code 1991, § 3.2.06)

SECTION 13-60- MUTUAL AID AGREEMENTS WITH OTHER JURISDICTIONS.

(a) The fire chief is hereby authorized to negotiate with other localities for mutual aid agreements. Any agreement shall be effective upon approval of the governing bodies of the participating governments.

(b) The board of commissioners may establish a schedule of supplementary compensation for firefighters answering out-of-town calls.

(Code 1991, § 3.2.09)

SECTION 13- 61- REPORTS.

The fire chief may be required to make an annual written report, accompanied by affidavit, of all meetings of the fire department personnel, all fires occurring in the town, and all out-of-town calls made by members of the department.

(Code 1991, § 3.2.10)

SECTION 13-62- TESTING OF HYDRANTS.

The fire chief shall have all fire hydrants tested periodically and shall notify the proper town officials of any hydrants that are not in good working order.

(Code 1991, § 3.2.11)

SECTION 13-63- TAMPERING WITH HYDRANTS.

It shall be unlawful for any person to injure, deface, open the valves of, tamper with or otherwise use the fire hydrants of the town, except fire department personnel of the town while engaged in the official performance of their firefighting duties.

(Code 1991, § 3.2.12)

SECTIONS 13-64. – 13-80. - RESERVED

ARTICLE 3. FIRE PREVENTION CODE

SECTION 13-81. – ADOPTION.

The 1982 edition of the NFPA-1 Fire Prevention Code, as amended, recommended by the National Fire Protection Association, is hereby adopted by reference as fully as though set forth in this section as the fire prevention code for the town. An official copy of the code shall be kept on file in the office of the clerk.

(Code 1991, § 3.2.21)

SECTION 13-82. – ENFORCEMENT

The county office of emergency services shall enforce the fire prevention codes. (Motion of 10-14-1991)

SECTIONS 13-83. – 13.100. – RESERVED.

CHAPTER 3. – CIVIL EMERGENCIES**SECTION 13-101. – PURPOSE OF ARTICLE**

The purpose of this article is to provide an avenue whereby the mayor can take action, on an emergency basis, to minimize possible suffering of citizens or possible property damage by limiting access to certain areas, and/or to limit the movement of objects or people during certain periods.

(Code 1991, § 3.3.01)

SECTION 13.102. – STATUTORY AUTHORITY.

This article is enacted under the authority of N.C. GEN. STAT.14-288.1 et seq., as amended. (Code 1991, § 3.3.02)

SECTION 13.103. – PENALTY

Any person violating any prohibition or restriction imposed by a proclamation authorized by this article shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$500.00 or imprisonment not exceeding 30 days, as provided by N.C. GEN. STAT.14-4.

(Code 1991, § 3.3.14)

SECTION 13.104. – TERRITORIAL APPLICABILITY OF ARTICLE; COORDINATION WITH COUNTY.

This article shall not apply outside the corporate limits of the town, or where the town does not have jurisdiction to enact general police power ordinances. This article is adopted in conjunction with the county and will be used to coordinate efforts of both the town and the county during the time of an emergency.

(Code 1991, § 3.3.16)

SECTION 13.105. – STATE OF EMERGENCY DEFINED; AUTHORITY OF MAYOR.

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

(b) In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the town or threatening damage to or destruction of property, the mayor is hereby authorized and empowered under N.C. GEN. STAT.14-228.12 and N.C. GEN. STAT.166A-8 to issue a public proclamation declaring to all persons the existence of such a state of emergency, and, in order to more effectively protect the lives and property of people within the town, to place in effect any or all of the restrictions authorized by this article.

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

(Code 1991, § 3.3.03)

Cross reference-Definitions generally,§ 1-2.

SECTION 13.106. – ISSUANCE OF PROCLAMATION; EVACUATIONS.

(a) The mayor by proclamation may impose the prohibitions and restrictions specified in sections 10-37 through 10-41 in the manner described in those sections. The mayor may impose as many of those specified prohibitions and restrictions as he finds are necessary because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The mayor shall recite his findings in the proclamation.

(b) The proclamation shall be in writing. The mayor shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the town hall. The mayor shall retain a text of the proclamation and furnish upon request certified copies of it for use as evidence.

(c) The chairperson of the county board of commissioners may direct and compel the evacuation of all or part of the population of the county, prescribe routes, transportation, and destination in connection with evacuation, and control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises therein. Details of the evacuation may be set forth or amended in a subsequent proclamation which shall be well publicized.

(Code 1991, § 3.3.04)

SECTION 13-107- CURFEW.

(a) The proclamation authorized by this article may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of anyone who is not a member of an exempted class. The proclamation shall specify the geographical area and the period during each 24-hour day to which the curfew applies. The mayor may exempt from some or all of the curfew restrictions classes of people whose exemption the mayor finds necessary for the preservation of public health, safety, and welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

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

(Code 1991, § 3.3.05)

SECTION 13-108- RESTRICTIONS ON POSSESSION, CONSUMPTION OR TRANSFER OF ALCOHOLIC BEVERAGES.

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

(Code 1991, § 3.3.06)

SECTION 13-109- RESTRICTIONS ON POSSESSION, TRANSPORTATION OR TRANSFER OF DANGEROUS WEAPONS AND SUBSTANCES.

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

(b) For purposes of this Section, the term "dangerous weapon or substance" means any deadly weapon, ammunition, explosive, incendiary device, or radioactive material or device, as defined in N.C. GEN. STAT.14-288.8(c)(5), or any instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property; or any instrument or substance that is capable of being used to inflict serious bodily injury, when the circumstances indicate a probability that such instrument or substance will be so used; or any part or ingredient in any instrument or substance included in this subsection, when the circumstances indicate a probability that such part or ingredient will be so used.

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

(Code 1991, § 3.3.07)

Cross reference-Weapons,§ 20-91 et seq.

SECTION 13-110- RESTRICTIONS ON ACCESS.

(a) The proclamation authorized by this article may prohibit obtaining access or attempting to obtain access to any area designated in the manner described in this Section, in violation of any order, clearly posted notice, or barricade indicating that access is denied or restricted.

(b) Areas to which access is denied or restricted shall be designated by the chief of police and his subordinates when directed in the proclamation, and the chief of police and his subordinates may restrict or deny access to any area, street, highway or location within the town if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency. (Code 1991, § 3.3.08)

SECTION 13-111- RESTRICTIONS ON ACTIVITIES AND BUSINESSES.

The proclamation authorized by this article may prohibit or restrict:

- (1) Movements of people in public places;
- (2) The operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate; and
- (3) Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the proclamation.

(Code 1991, § 3.3.09)

SECTION 13-112- AMENDMENTS TO PROCLAMATION.

The mayor may amend or extend the proclamation authorized by this article from time to time, making such modifications as he would have been authorized to include in the original proclamation.

(Code 1991, § 3.3.10)

SECTION 13-113- REMOVAL OF PROHIBITIONS AND RESTRICTIONS.

The mayor shall by proclamation remove the prohibitions and restrictions as the emergency no longer requires them, or when directed to do so by the town board of commissioners. However, the proclamation shall expire five days after its last imposition unless sooner terminated.

(Code 1991, § 3.3.11)

SECTION 13-114- ADDITIONAL PROCLAMATIONS.

The mayor in his discretion may invoke the restrictions authorized by this article in separate proclamations, and may amend any proclamation by means of a superseding proclamation.

(Code 1991, § 3.3.12)

SECTION 13-115- EXERCISE OF POWERS IN CASE OF ABSENCE OR DISABILITY OF MAYOR.

In case of the absence or disability of the mayor, the mayor pro tern (or, if the mayor pro tern is not available, then either one of the other members of the town board of commissioners) shall have and exercise all of the powers given to the mayor in this article.

(Code 1991, § 3.3.13)

SECTION 13.116. – 13.120. – RESERVED.

TITLE 14. – PUBLIC WORKS: WATER & SEWER SERVICE**CHAPTER I. - GENERAL****SECTION 14-1 – DEFINITIONS.**

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

Improved street means any street having a wearing surface of concrete, asphalt, brick, stone block, tar treatment or similar hard material.

Lateral means a pipe connecting a sanitary sewer or water main with the line of adjacent property or extending from the main to the inside of the curb.

Person- includes a corporation, firm, partnership, association,-organization and any other group acting as a unit, as well as an individual.

Unimproved street means any street having a dirt surface. (Code 1991, § 5.1.01)

Cross reference- Definitions generally, § 1-2.

*State law reference- Authority to require water connection, N.C. GEN. STAT.160D-317.

SECTION 14-2 – WATER AND SANITARY SEWER SERVICE EXTENSIONS, ENVIRONMENTAL IMPACT FEE FOR WATER AND SEWER CONNECTIONS, AND WATER CONSERVATION INCENTIVE.**Water and sanitary sewer service extensions.**

- (a) *Application for and approval of extensions required.*
- (1) Any property owner desiring water or sanitary sewer service shall apply in writing to the board of commissioners, requesting the extension of water or sanitary sewer service, or both. No request for extension of services shall be considered unless submitted in writing in accordance with the requirements of this Section.
 - (2) The town may require the applicant to submit as part of the written application such information, plans or other data as may be required to adequately determine if the requirements of this Section are to be met.
 - (3) When application is made for a water or sewer extension, or both, to serve an area or development that is planned as part of a larger development project or subdivision, all of which is not to be developed at the time application is made, the owner shall submit plans in sufficient detail in order to determine the size and type officialities which will be necessary to serve the entire development or subdivision, when completed.
 - (4) No extension to the water or sanitary sewer system of the town shall be made and no application shall be approved except in accordance with the requirements of this Section.
 - (5) No extension to the water or sanitary sewer system of the town shall be made unless the owner shall have first made application to the appropriate agencies of the state to obtain permits therefor. If the town is assessed any penalty by virtue of the actions of any landowner or contractor for failing to obtain such permit or authority, then the

landowner or contractor shall be responsible to the town for any such penalty in addition to any other civil penalty set forth in this chapter.

- (b) *General extension requirements.* All extensions of either water or sanitary sewer service shall be governed by the following:
- (1) The minimum distance for any extension of a water main or sanitary sewer main shall be determined by the board of commissioners. In general, the minimum distance for extensions shall be one platted block, or in the case of water mains, from main line valve to valve, and in the case of sanitary sewer extension, from manhole to manhole.
 - (2) The size of water mains and sanitary sewer mains to be installed and the other required system facilities shall be determined by the board of commissioners in accordance with the recognized standards and accepted engineering practices and design and in accordance with applicable system plans adopted by the board of commissioners.

(a) *Financing of extensions within corporate limits.*

(1) *Extensions to property within previously approved subdivisions or upon previously dedicated and accepted streets.*

- a. When an application is received requesting the extension of water or sanitary sewer service, or both, to serve property within the corporate limits which is developed or has been previously approved as a subdivision, or where streets have previously been dedicated and accepted by the town and where such area is not part of a new subdivision which has not been approved by the town, the town engineer or other person designated by the board of commissioners shall estimate the cost of the project and present the application for such extension, the estimated cost and other required information to the board of commissioners for approval. If the application is approved by the board of commissioners, subject to the availability of funds, the town will install, or have installed by contract under its supervision, the extensions which have been approved, and such extension shall be financed in accordance with this subsection.
- b. When an approved water or sanitary sewer extension project has been completed and the total cost thereof has been determined, 75 percent of the total cost of such water or sanitary sewer extension, or both, shall be assessed against the property owners whose property abuts upon such extension, at an equal rate per front foot in accordance with and under the authority granted to the town by N.C. GEN. STAT.160D-216-160D-238. The remaining 25 percent of the total cost of such extension shall be borne by the town from funds appropriated for this purpose.

(2) *Extensions to proposed developments or subdivisions.*

- a. When an application is received requesting the extension of water or sanitary sewer service, or both, to proposed developments or subdivisions within the corporate limits which have not been approved by the board of commissioners, the owner or developer shall present the application for such extension, the estimated cost and other required information to the board of commissioners for its approval. If the application is approved, the owner or developer will install or have installed by contract under the supervision of the town such extensions, which shall be financed in accordance with this subsection.
- b. All water and sewer mains extended to and within new subdivisions shall be installed by the owner or developer at his cost, according to specifications and standards of the town, and methods required by the town, and subject to the approval of the town and its engineer. Costs incurred by the developer may be reimbursed by the town through tap-on fees collected during a three-year period following completion of construction. Such reimbursement shall not exceed the cost of the materials installed pursuant to such construction, these costs to be certified to the town by the owner's or developer's engineer.

- c. Upon completion of the construction as set forth in this subsection, and the commencement of service by the town, the mains and meters shall become the sole property of the town, and will be repaired, maintained and serviced by the town.
- (3) *Facilities excluded in determining owner's share of cost.*
 - a. When the town determines that it is advisable to install larger size facilities than are necessary to serve the property requesting an extension, the difference in the cost of the larger size facilities over and above the cost of the facilities required to serve the property requesting such extension shall be paid by the town and excluded from the total cost to be shared by the property owner and the town as set forth in subsection (c)(1) of this Section or paid by the owner or developer under subsection (c)(2) of this Section.
 - b. Fire hydrants, pumping stations and other system facilities installed for general public use which are expressly identified in the application or agreement approved by the board of commissioners shall be paid for by the town and excluded from the total cost to be shared by the property owner as provided for in subsection (c)(1) of this Section or paid by the developer under subsection (c)(2) of this Section.
- (4) *Right of board of commissioners to extend service without application by property owner:* Nothing in this subsection (c) shall prevent the board of commissioners from extending water or sanitary sewer mains, or both, within the corporate limits on its own motion, without receipt of an application from property owners, and assessing the cost of such extension in accordance with subsection (c)(1) of this Section, when, in the opinion of the board of commissioners, the general public interest demands such extension of service.
- (b) *Financing extensions outside corporate limits.*
 - (1) All applications for water and sewer extensions outside the corporate limits shall be made in the same manner and under the same requirements as provided for in subsections (a) and (b) of this Section.
 - (2) If an application is approved by the board of commissioners, the owners shall be required to pay 100 percent of the total cost of all extensions; provided that the town may participate to the extent agreed upon by the board of commissioners in the cost of larger size mains that are in excess of the size mains required to serve the project. The developer may be reimbursed as provided in subsection (c)(2)b of this Section. No reimbursements shall be made upon annexation except as provided in subsection (c)(2)b of this Section, and all water and sewer lines connected to the town system and located outside the corporate limits shall become the property of the town at the time such facilities are connected.
 - (3) Prior to the beginning of any construction, the owner shall deposit with the town funds in an amount equal to 100 percent of the total estimated cost of such extension. Upon

receipt of such funds, a written contract shall be entered into by and between the town and the property owner in accordance with the requirements of this Section. Such contract shall provide that, if the funds deposited exceed the amount of the total extension cost when completed, then that portion in excess of the total cost will be refunded to the owner without interest. Such contract shall also provide that, if the amount deposited is less than the total cost when completed, the owner shall pay such additional amount to the town.

- (4) In lieu of depositing funds, the owner may execute a surety bond guaranteeing payment for such extension or the owner may have such extension work performed under private contract with the approval of the board of commissioners, provided the work is to be performed in accordance with all construction requirements of the town and subject to inspection and approval of the town. If the owner elects to have the extension work performed by a private contractor, then the provisions of subsection (c)(2)b of this Section shall govern such extension. The policies set forth in subsection (c)(2)b of this Section shall also govern such extension.
- (c) *Specifications; ownership.* Any water mains or sanitary sewer mains extended under the provisions of this Section shall be installed and constructed in accordance with the approved plans, specifications and other requirements of the town. All facilities installed under the provisions of this Section, whether within or outside the corporate limits, shall become the sole property of the town and under its jurisdiction and control for any and all purposes whatsoever, at the time such facilities are connected to the town system. When required, the property owner shall grant to the town such utility easements as the town may require. In addition, a deed to the town for water and/or sewer facilities installed, which are located outside the corporate limits, the cost of which is borne by individual property owner, shall be executed prior to the time any extensions provided for in this Section are connected to the town systems.
- (d) *Authority to require additional subdivision improvements as condition of extension.* The board of commissioners may, in its discretion, as a condition under which water or sewer service, or both, will be extended, require the owner of a proposed subdivision to enter into an agreement to improve the proposed streets therein at his own expense and in accordance with the ordinances then in force governing the acceptance of public streets for the town. If required, this subsection shall apply to subdivisions which are located either within or outside the corporate limits of the town.
- (e) *Penalty; additional remedies.*
 - (1) The violation of any provision of this Section shall subject the offender to a civil penalty in the amount of \$50.00, to be recovered by the town. Violators shall be issued a written citation, which must be paid within 72 hours.
 - (2) Each day's continuing violation of this Section shall be a separate and distinct offense.
 - (3) Notwithstanding subsection (g)(l) of this Section, this Section may also be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

(Ord. of 4-10-1995, §§ 5.3.01-5.3.07)

State law reference- Financing public enterprises, N.C. GEN. STAT.160D-313.

Environmental impact fee for water and sewer connections.

- (a) *Established.* From and after February 13, 1995, the owner of every tract of land, parcel or lot which is developed to be connected to the town's water or sewer system shall be charged an environmental impact fee (EIF) per structure site developed. The fee, based on the town's residential equivalency unit schedule, shall be set from time to time by the town board of commissioners. It is the intent of this Section that the environmental impact fee shall be due at the time a water meter is set in place for the purpose of providing water service to the tract of land, parcel, or lot. If a water meter is already set in place, the environmental impact fee shall be due at the time a zoning permit is obtained for expansion or extension of the use of the tract, parcel or lot. The environmental impact fee shall be due no later than the date a structure is first placed upon any structure site located on the tract, parcel or lot. For purposes of this Section, the term "structure" means, by way of illustration and not by way of limitation, any dwelling cottage, dwelling house, apartment house, hotel, motel, house trailer, mobile home, commercial building, office building, or rooming house, any unit in a group housing development, planned unit development, townhouse, or condominium development, or any motorized home, self-contained travel trailer, travel trailer, or other structure.
- (b) *Determination of fee.* The environmental impact fee is based on the number of residential equivalent units in the structure. A residential equivalent unit is based upon uniform standards set by the town to approximate the gallons-per-day water/sewer use by a single-family residence and to use such a figure as a common denominator to determine fees for other types of structures.
- (c) *Residential equivalent unit schedule.* The residential equivalent unit schedule is as follows:

350 GPD* = 1 REU

Condominium : IREU

Mobile home : IREU

House: IREU

Apartment : IREU

Campground: 0.35 REU per space

Travel trailer park: 0.35 REU per space

Restaurant: 0.11 REU per seat

Motel or hotel : 0.35 REU per bedroom or 0.50 REU per efficiency bedroom

Office building: IREU

Retail establishment: IREU

*Gallons per day.

- (d) *Appeals.* Appeal may be made to the board of commissioners when the applicant deems the charge excessive. The board of commissioners shall have the authority to establish the impact fee upon such appeals.

(Ord. of 4-10-1995, §§ 5.4.01-5.4.04)

Water conservation incentive.

- (a) The town will allow a one-time reduction of \$15.00 of the town utility bill for any business or home that demonstrates the installation of a low-flow toilet, low-flow shower head, or low-flow faucet.
- (b) To qualify for the \$15.00 reduction of the town utility bill, the home or business owner shall provide proof of installation to the town clerk. Proof of installation shall be in the form of a signed letter from a licensed plumber or contractor who completed the installation. The homeowner shall provide copies of receipts showing purchase date,

price, and place of purchase. Information regarding the brand and model of the fixtures installed shall also be provided. The town shall have the authority to enter the premises and verify that the low-flow device has been installed. The following will verify the functionality of low-flow devices as deemed necessary.

(c) The \$15.00 reduction of the town utility bill shall be a one-time offer. The \$15.00 reduction of the town utility bill is a maximum reduction and will be applied once, regardless of the number of low-flow devices installed. The credit will be applied to the bill after evidence satisfactory to the town to show proof of installation has been provided to the town.

(Ord. of 9-27-2000)

SECTION 14-3 – AUTHORITY.

The Town has the authority to own and operate a drinking water and/or a wastewater (sewer) system under the North Carolina General Statutes. The Public Works Director shall have the responsibility and authority to manage this department.

State Law Reference: Public Enterprises, G. S. § 160D-311.

SECTION 14-4 – PROVISIONS OF ARTICLE TO BE PART OF CONTRACTS.

All pertinent provisions of this article are hereby made a part of the terms and conditions whereby the town furnishes water service to any person or whereby the town makes any water connection or performs any work of any kind in connection with the furnishing of water service.

(Code 1991, § 5.1.02)

Section 14-5 – LOCATION OF LATERALS.

A water lateral laid as a part of any water main improvement shall be laid only to the inside of street right-of-way, unless, in the resolution ordering the improvement, the town specifically directs otherwise.

(Code 1991, § 5.1.03)

SECTION 14-6 – CONNECTION REQUIRED, CONSTRUCTION & MAINTIANCE OF CONNECTION

Within 30 days after a water main in any street is completed and ready for use, the owner of every abutting lot whereon water may be needed for human use shall cause such a lot to be connected with such water main.

(Code 1991, § 5.1.04)

Upon approval of any application for water connection, the town shall do the excavating, lay the pipe, install a meter where necessary, make the connection to the main, fill the excavation and replace the surface of the street.

(Code 1991, § 5.1.08)

For the purpose of this Section, the word "connection" shall be construed to mean that portion of water pipe between the main and the property line. Water connections shall be kept in repair by the town at the expense of the town. Necessary renewals of water connections shall be made by the town.

(Code 1991, § 5.1.09)

Section 14-7 –TAMPERING, DAMAGE AND UNLAWFUL CONNECTIONS.

It shall be unlawful for any person, except authorized persons, to:

- (a) Cut, break, obstruct, damage, change, alter or otherwise interfere or tamper with in any manner, any buildings, wells, reservoirs, pipes, main, hydrant, water tank or connections or any other thing being a part of the waterworks, sewer or other utility system of the town;

- (b) Make any connection to the town's utility systems, except as provided for, or to knowingly permit same to be done on their premises or premises in their possession or control as agent to knowingly use water from such unauthorized connection;
- (c) As an authorized consumer, supply water to other persons or to carry water from any authorized connection, or from any hydrant, watering trough or public fountain without the consent of the town.

If any person shall connect onto the water lines of the town without first applying to the town clerk as provided in Section 28-37, or if any person shall, after having been cut off, take water from the lines of the town before service is restored, as provided in Section 28-58, he shall be guilty of a misdemeanor punishable by a \$500.00 fine as provided in Section 1-6.

(Code 1991, § 5.1.28)

SECTION 14-8 – CONNECTIONS TO BE MADE BY TOWN.

The construction of laterals for the connection of water pipes on any lot with water pipes in any street, and also the necessary excavation therefor, shall be done by the town.

(Code 1991, § 5.1.05)

Section 14-9. – APPROVAL OF CONNECTION REQUIRED, STANDARDS FOR APPROVAL OF CONNECTION.

No connection shall be made to any water main or to any water lateral except after the written application therefor has been approved by the director of public works.

(Code 1991, § 5.1.06)

Every application for a water connection to be made in conformity with the provisions of this article shall be approved by the director of public works, unless the connection applied for is of such size or so located that it cannot be made without impairing the town's ordinary sewer and water service.

(Code 1991, § 5.1.07)

SECTION 14-10. – CONNECTION FROM OUTSIDE TOWN.

No connection of a water line or system outside the town shall be made to any part of the town water system without special permission from the board of commissioners and on such terms as the board of commissioners shall prescribe.

(Code 1991, § 5.1.10)

SECTION 14-11. – OWNERSHIP OF CONNECTION AND METER.

All meters, meter boxes, pipes, and other equipment furnished and used by the town in installing any water connection shall be and remain the property of the town.

(Code 1991, § 5.1.11)

SECTION 14-12. – MAINTENANCE OF METERS.

Unless otherwise provided by the town, all meters shall be kept in good repair and working order by the town.

(Code 1991, § 5.1.12)

SECTION 14-13. – CHARGES TO BE BASED ON METER; EXCEPTION.

All water, unless otherwise provided for in this article, shall be sold by measure, for which purpose the town will install and maintain a proper meter, but the right is reserved by the town to omit the meter for such a period as it may deem desirable, in which event the service shall be paid for at an estimated rate, based on the previous six months' charges.

(Code 1991, § 5.1.13)

SECTION 14-14. – APPLICATION FOR SERVICE.

Every application for water service must be made by the owner of the property to be benefited, or by an authorized agent of the owner, according to the form prescribed.

(Code 1991, § 5.1.14)

SECTION 14-15. – INSTALLATION OF SERVICE LINE.

Unless otherwise stipulated in this article, the town will furnish all material and labor necessary to deliver water from the main to the street right-of-way of the applicant's premises, and all material shall remain the property of the town and will be maintained by the town. All work and material beyond this point shall be furnished by the applicant and shall be maintained by the applicant.

(Code 1991, § 5.1.15)

SECTION 14-16. – FURNISHING OF METER AND METER BOX.

The town shall install the proper pipes necessary for meter connections. The town will also furnish the necessary meter and meter box.

(Code 1991, § 5.1.16)

SECTION 14-17. – TAPS TO BE MADE BY TOWN; OPENING OR CLOSING VALVES

No person but an authorized employee of the town shall tap any main or distribution pipe. No person not so authorized may open or close any valve on the system or open or close any stopcock at the curb on any service connection.

(Code 1991, § 5.1.17)

SECTION 14-18. – SEPARATE CONNECTION REQUIRED FOR EACH SERVICE.

Only one party shall be served through each curb cut-off, and each service shall be made through a separate tap. The minimum rate for such service, however, will be the same as for separate houses.

(Code.1991, § 5.1.18)

SECTION 14-19. – INSPECTION OF PLUMBING PRIOR TO TURNING ON WATER.

Whenever water is introduced into any premises, or changes which affect the water supply are made in water pipe or fixtures, the plumber shall make a report to the director of public works as soon as the work is completed, whereupon the plumbing will be inspected. No water will be turned on permanently until the inspector is satisfied that each and every rule relating to the subject has been complied with.

(Code 1991, § 5.1.19)

SECTION 14-20. – RIGHT OF ENTRY OF INSPECTORS.

The town reserves the right for its inspector to enter the premises of any consumer for the purpose of inspecting, at any reasonable time, to ascertain that no water is being wasted and that the prescribed regulations are being complied with.

(Code 1991, § 5.1.20)

SECTION 14-21. – RIGHT OF TOWN TO TURN OFF SERVICE.

The town reserves the right to cut off any water service in emergencies or in cases of failure to comply with the prescribed regulations.

(Code 1991, § 5.1.21)

SECTION 14-22. - INTERFERING WITH WATERWORKS SYSTEM; UNAUTHORIZED USE OF WATER.

It shall be unlawful to interfere in any way with the buildings, wells, reservoirs, tanks, pipes, meters or connections or with the water in the buildings, wells, reservoirs, tanks, pipes, meters or connections or with any apparatus forming a part of the waterworks system, to make any connection therewith except as provided for in this article, or to knowingly permit such connection to be done on a person's premises or premises in his possession or control as agent, or to knowingly use water from such unauthorized connection. No authorized consumer shall be allowed to supply water to other persons or families or to take or carry away water from any such authorized connection or from any hydrant, watering through or public fountain without the consent of the town.

(Code 1991, § 5.1.22)

SECTION 14-23.- 14-25 –RESERVED

CHAPTER 2. EXTENSION OF WATER OR SEWER OUTSIDE OF TOWN**SECTION 14-26 – GENERAL.**

The policy of the town regarding furnishing water and sewer outside the corporate limits of the town is as follows.

- a) The town will extend its water and sewer lines in appropriate size to its corporate limits.
- b) The person desiring extension of the town's water and sewer lines outside of the town shall be known as the "Extender". The Extender shall cause to be prepared plans and specifications for the extension of the town's water and sewer mains to and within the Extender's property and same shall be approved by the town, its engineer and the appropriate state regulatory agencies. The work shall be performed to the approval of a NC Licensed Professional Engineer paid by the extender and overseeing the Extender's project, who shall present to the Town of Clarkton and the appropriate state regulatory agencies a Certificate of Completion along with "as-built" plans and specifications of the work.
- c) The extender shall furnish all materials and fittings and shall perform all labor to construct water and sanitary sewer mains, service laterals and meter setters on portions of his or her property in accordance with the approved locations, plans and specifications. All meters shall be furnished and installed by the town.
- d) Water and sewer tapping fees and service lateral charges shall be collected by the town in accordance with its standard charges for service connections between water and sanitary sewer mains and structures along the utility mains for each structure served.
- e) Water and sewer services will be supplied to structures in accordance with the town's rules, regulations, and rate schedules applicable to its out-of-town service and in effect at the time of application for service, subject to charges as may be made by the Town Board. The plumbing code, and other applicable codes in effect in the town from time to time, shall apply to all plumbing installed in structures on the Extender's property and between meters and the structures
- f) Commencement of water and sewer service by the town through any water or sewer mains and any extensions made thereto, shall result in all mains and meters becoming the sole property of the town who will repair, maintain, and service all facilities.
- (g) The Extender shall agree for himself or herself and all his or her heirs, personal representatives, and assigns, that the town shall have the right, in its discretion, to extend its corporate limits to include any portion or all of the land in which the town is furnishing water and sanitary sewer to the extent and in a manner provided by law.
- (h) It shall be understood with the extender and his or her heirs, personal representatives, and assigns, or, in the event the extender is a corporation, with its successors and assigns, that in no event shall the town be subject to any liability whatsoever as a result of the water and sewer services rendered or the failure for any reason to render the services.
- (i) The town reserves the right to refuse to extend its water and sewer lines beyond its corporate limits.

SECTION 14-27. – CROSS CONNECTION

The purpose of this cross-connection control article is to define the authority of the Town of Clarkton as the water purveyor in the elimination of all cross connections within its public potable water supply.

(b) This article shall apply to all users connected to the Town of Clarkton public potable water supply regardless of whether the user is located within the town limits or outside of the town limits.

(c) This article will comply with the Federal Safe Drinking Water Act (PL 93-523), the North Carolina State Administrative Code (15A NCAC 18C), and the North Carolina State Building Code (Volume II) as they pertain to cross connections with the public water supply.

Sec. 15-392. Objectives of article

The specific objectives of this cross-connection control article for the Town of Clarkton are as follows:

- (1) To protect the public potable water supply of the Town of Clarkton against actual or potential contamination by isolating within the consumer's water system contaminants or pollutants which could, under adverse conditions, backflow through uncontrolled cross connections into the public water system.
- (2) To eliminate or control existing cross connections, actual or potential, between the consumer's potable water system and nonportable or industrial piping system.
- (3) To provide a continuing inspection program of cross connection control which will systematically and effectively control all actual or potential cross connections which may be installed in the future.

Sec. 15-393. Responsibilities

(a) Health agency

The state department of environment and natural resources has the responsibility for promulgating and enforcing laws, rules, regulations, and policies to be followed in carrying out an effective cross connection control program. The state department ensures the water purveyor operates the public potable water system free of actual or potential sanitary hazards, including unprotected cross connections. They also ensure an approved water supply at the service connection to the consumer's water system and require the installation, testing, and maintenance of an approved backflow prevention assembly on the service connection when required.

(b) Water purveyor

Except as otherwise provided, the water purveyor's responsibility is to ensure a safe water supply begins at the source and includes the entire public water distribution system. The purveyor must ensure the consumer has taken proper steps to protect the public system. The Town of Clarkton determines the degree of hazard and potential protection required. If a backflow prevention assembly is required, it must be installed immediately and tested, repaired, and maintained as directed.

(c) Plumbing inspection

The plumbing inspection departments are responsible for inspecting plumbing as it is installed and reviewing building plans to prevent cross connections. The inspector ensures that cross connections are properly eliminated or protected. Their responsibility continues through the entire length of the consumer's water system to ensure proper installation and protection approved by state and local codes.

(d) Consumer

The consumer has the primary responsibility for preventing pollutants from entering their water system. They must install, operate, test, and maintain approved backflow prevention assemblies as directed by the Town of Clarkton. Accurate records of tests and repairs must be maintained for a minimum of three years.

Records and Repairs

Records shall be on forms approved by the Town of Clarkton and include a list of materials or replacement parts used. Following any repair, overhaul, repiping, or relocation of an assembly, the consumer shall have it tested to ensure it is in good operating condition and will prevent backflow. Tests, maintenance, and repairs must be made by a certified backflow prevention assembly tester.

(e) Certified backflow prevention assembly testers

When employed by the consumer for testing, repair, or maintenance, testers must have the following responsibilities: competent inspections, repairs, and reports on assemblies, approved by the Town of Clarkton. Testers must have the necessary tools and equipment, and ensure that original manufacturer parts are used for repairs. They must submit accurate test results and maintain records for a minimum period, ensuring they are competent and certified by the Town of Clarkton. Testers must re-certify every two years through an approved program.

Sec. 15-394. Definitions

Definitions explain terms such as:

- **Air-gap separation:** A physical gap preventing backflow.
- **Approved:** Refers to a water supply or devices approved by relevant authorities.
- **Backflow:** The undesired reversal of flow in a water system.
- **Backflow prevention assembly:** A device used to prevent backflow, approved by recognized organizations like ASSE and AWWA.

Approval

Assemblies must be accessible for testing and maintenance. The Town of Clarkton can evaluate any backflow prevention assembly for approval.

Backflow prevention assembly—Unapproved

"Unapproved" means an assembly deemed unacceptable by the Town of Clarkton. Reasons for disapproval include failure rates, unavailability of parts, or poor service from the manufacturer.

Backflow prevention assembly—Type

Assemblies prevent backflow into the water system. Types include:

1. Double check valve assembly (DCVA)
2. Double check detector assembly (fire system) (DCDA)

3. Pressure vacuum breaker (PVB)
4. Atmospheric vacuum breaker (AVB)
5. Reduced pressure principle assembly (RP)
6. Reduced pressure principle detector assembly (fire system) (RPDA)

Backflow prevention assembly tester—Certified

A "certified tester" must demonstrate competency, hold relevant licenses, and have training in testing and repair. Certification is required every two years.

Backflow prevention device—Approved

"Approved" devices meet standards by organizations like ASSE and AWWA.

Back-pressure backflow and Back-siphonage backflow

These terms refer to the reversal of normal water flow due to pressure changes.

Check valve—Approved

An "approved check valve" prevents leakage and ensures proper flow direction.

Consumer

Refers to any entity using water from the Town of Clarkton water system.

Consumer's potable water system

Refers to the part of the privately owned water system from the point of delivery and includes all components used to produce, convey, or use potable water.

Consumer's water system

Any water system starting at the point of delivery and continuing through the consumer's plumbing system. It can be a potable or industrial system.

Containment

Involves installing a backflow prevention assembly at the service connection to protect the public water supply.

Contamination

Refers to the impairment of water quality, posing a health hazard through hazardous substances.

Cross connection

An unprotected connection between a water system and other sources, allowing potential contamination.

Double check detector assembly

A specially designed assembly to protect against nonhealthy hazards with specific water meters.

Double check valve assembly

Composed of two independent check valves to protect against nonhealthy hazards.

Hazard—Degree

Classified as either "pollutional" (nonhealthy) or "contamination" (health) hazards.

Health agency

The state department responsible for environmental and natural resources.

Industrial fluids

Any fluids that pose a health or nonhealthy hazard if introduced into a potable water system.

Industrial piping system—Consumer's

Systems used by the consumer for transmitting substances other than an approved water supply.

Isolation

Confines hazards within a consumer's water system using approved backflow prevention assemblies.

Point of delivery

Generally where the Town of Clarkton's meters are located.

Pollution

Impairs water quality without posing a direct health hazard.

Potable water

Water approved for human consumption.

Public potable water system

Any water system approved by state authorities.

Reduced pressure principle backflow prevention assembly

Designed to protect against health hazards by maintaining pressure differences.

Service connection

The point where the Town of Clarkton loses jurisdiction over the water system.

Vacuum breaker—Atmospheric type

Prevents back-siphonage by using a float-check mechanism.

All industrial and commercial facilities not identified as a health hazard shall be considered nonhealth hazard facilities. All nonhealth hazard facilities must install, as a minimum containment assembly, a double check valve assembly within 90 days.

(4) If, in the judgment of the Town of Clarkton, an imminent health hazard exists, water service to the building or premises where a cross connection exists may be terminated unless an air gap is immediately provided, or the cross connection is immediately eliminated.

(5) Based upon recommendation from the Town of Clarkton, the consumer is responsible for installing sufficient internal isolation backflow prevention assemblies and/or methods (i.e., air gap, pressure vacuum breakers, reduced pressure principle backflow prevention assembly, double check valve assembly).

(6) Water mains served by the Town of Clarkton but not maintained by the Town of Clarkton should be considered cross connections, with degree of hazard to be determined by the Town of Clarkton. Degree of protection shall be based upon the degree of hazard, as determined by the Town of Clarkton.

(7) In the event that a Town of Clarkton cross connection control inspector does not have sufficient access to every portion of a private water system (e.g., classified research and development facilities; federal government property) to allow a complete evaluation of the degree of hazard associated with such private water systems, an approved reduced pressure principle assembly shall be required as a minimum of protection.

(b) No person shall fill special use tanks or tankers containing pesticides, fertilizers, other toxic chemicals or their residues from the public water system except at a location equipped with an air gap or an approved reduced pressure principle backflow prevention assembly properly installed on the public water supply.

Sec. 15-395 – 15-396. Installation of assemblies.

(a) All backflow prevention assemblies shall be installed in accordance with the specifications furnished by The Town of Clarkton and/or the manufacturer's installation instructions and/or in the latest edition of the state building code, whichever is most restrictive. All assemblies installed above ground outside must be protected from freezing with an above ground enclosure that meets the ASSE 1060 standard. If the assembly is installed outside and intended for commercial domestic water use, a heat source must be made available at the assembly.

(b) All new construction plans and specifications, when required by the state building code and the state department of environment and natural resources, shall be made available to the Town of Clarkton for review and approval, and to determine the degree of hazard.

(c) Ownership, testing, and maintenance of the assembly shall be the responsibility of the customer.

(d) All double check valve assemblies must be installed in accordance with detailed specifications provided by the Town of Clarkton. Double check valve assemblies may be installed in a vertical position provided they have been specifically approved by the manufacturer and with prior approval from the Town of Clarkton Cross Connection Control Department provided the flow of water is in an upward direction. All double check valve assemblies 2 1/2"

and larger must be installed above ground covered by an above ground enclosure that meets the ASSE 1060 standard if they are installed outside. Inside installations must meet North Carolina Plumbing Code.

(e) Reduced pressure principle assemblies must be installed in a horizontal position and in a location in which no portion of the assembly can become submerged in any substance under any circumstances. The further most portion of the body must be at a minimum of 12" above grade, no more than 4'. Pit and/or below grade installations are prohibited.

(f) The installation of a backflow prevention assembly which is not approved must be replaced with an approved backflow prevention assembly.

(g) The installer is responsible to make sure a backflow prevention assembly is working properly upon installation and is required to furnish the following information to the Town of Clarkton Cross Connection Control Department within 15 days after a reduced pressure principle backflow preventer (RP), double check valve assembly (DCVA), pressure vacuum breaker (PVB), double check detector assembly (DCDA), or reduced pressure principle detector assembly (RPDA) is installed:

(1) Service address where assembly is located. (2) Owner and address, if different from service address. (3) Description of assembly's location. (4) Date of installation. (5) Installer, include name, plumbing company represented, plumber's license number, and project permit number. (6) Type of assembly, size of assembly. (7) Manufacturer, model number, serial number. (8) Test results/report.

(h) When it is not possible to interrupt water service, provisions shall be made for a parallel installation of backflow prevention assemblies. The Town of Clarkton will not accept an unprotected bypass around a backflow preventer when the assembly is in need of testing, repair, or replacement.

(i) The consumer shall, upon notification, install the appropriate containment assembly not to exceed the following time frame:

Health hazard...60 days Nonhealthy hazard...90 days

(j) Following installation, all reduced pressure principle backflow preventers (RP), double check valve assemblies (DCVA), pressure vacuum breakers (PVB), double check detector assemblies (DCDA), or reduced pressure principle detector assemblies (RPDA) are required to be tested by a certified backflow prevention assembly tester within ten days.

Sec. 15-398. Testing and repair of assemblies

(a) Testing of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester or may be contracted out to the Town of Clarkton cross connection control department at the customer's expense. Such tests are to be conducted upon installation and annually thereafter or at a frequency established by the Town of Clarkton regulations. A record of all testing and repairs is to be retained by the customer. Copies of the records must be provided to the Town of Clarkton cross connection control department within ten business days after the completion of any testing and/or repair work.

(b) Any time that repairs to backflow prevention assemblies are deemed necessary, whether through annual or required testing or routine inspection by the owner or by the Town of Clarkton, these repairs must be completed within a specified time in accordance with the degree of hazard. In no case shall this time period exceed:

Health hazard facilities...14 days Non-health hazard facilities...21 days

(c) All backflow prevention assemblies with test cocks are required to be tested annually or at frequency established by the Town of Clarkton regulations. Testing requires a water shutdown usually lasting five to 20 minutes. For facilities that require an uninterrupted supply of water, and when it is not possible to provide water service from two separate meters, provisions shall be made for a parallel installation of backflow prevention assemblies.

(d) All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment which has been evaluated and/or approved by the Town of Clarkton. All test equipment shall be registered with the Town of Clarkton cross connection control department. All test equipment shall be checked for accuracy annually, at a minimum, calibrated, if necessary, and certified to the Town of Clarkton as to such accuracy/calibration, employing a calibration method acceptable to the Town of Clarkton. Ref. Sec. 15-393 (e)

(e) It shall be unlawful for any customer or certified tester to submit any record to the Town of Clarkton which is false or incomplete in any material respect. It shall be unlawful for any customer or certified tester to fail to submit to the Town of Clarkton any record which is required by this article. Such violations may result in any of the enforcement actions outlined in Section. 15-402. Enforcement

Sec. 15-399. Facilities requiring protection

(a) Approved backflow prevention assemblies shall be installed on the service line to any premises that the Town of Clarkton has identified as having a potential for backflow.

(b) The following types of facilities or services have been identified by the Town of Clarkton as having a potential for backflow of nonportable water into the public water supply system. Therefore, an approved backflow prevention assembly will be required on all such services according to the degree of hazard present. Other types of facilities or services not listed below may also be required to install approved backflow prevention assemblies if determined necessary by the Town of Clarkton. As a minimum otherwise listed in this subsection, all commercial services will be required to install a double check valve assembly, unless otherwise listed in this subsection.

DCVA = Double check valve assembly RP = Reduced pressure principle assembly DCDA = Double check detector assembly RPDA = Reduced pressure detector assembly AG = Air gap PVB = Pressure vacuum breaker

(1) Aircraft and missile plants: RP

(2) Automotive services stations, dealerships, etc. a. No health hazard: DCVA b. Health hazard: RP

(3) Automotive plants: RP

(4) Auxiliary water systems: a. Approved public/private water supply: DCVA b. Unapproved public/private water supply: AG c. Used water and industrial fluids: RP

(5) Bakeries: a. No health hazard: DCVA b. Health hazard: RP

(6) Beauty shops/barber shops: a. No health hazard: DCVA b. Health hazard: RP

(7) Beverage bottling plants: RP

(8) Breweries: RP

(9) Buildings--Hotels, apartment houses, public and private buildings, or other structures having unprotected cross connections. a. (Under five stories) no health hazard: DCVA b. (Under five stories) health hazard: RP c. (Over five stories) all: RP

(10) Canneries, packing houses, and rendering plants: RP

(11) Chemical plants--Manufacturing, processing, compounding or treatment: RP

(12) Chemically contaminated water systems: RP

(13) Commercial car-wash facilities: RP

(14) Commercial greenhouses: RP

(15) Commercial sales establishments (department stores, malls, etc.) a. No health hazard: DCVA b. Health hazard: RP

(16) Concrete/asphalt plants: RP

(17) Dairies and cold storage plants: RP

(18) Dye works: RP

(19) Film laboratories: RP

(20) Fire systems: a. Systems three-fourths inch to two inches:

1. No health hazard: DCVA
2. Health hazard: (booster pumps, foam, antifreeze solution, etc.): RP

b. Systems 2 1/2 inches to ten inches or larger:

1. No health hazard: DCDA
2. Health hazard (booster pumps, foam, antifreeze solution, etc.): RPDA

(21) Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes, medical clinics, and veterinary hospitals: RP

(22) Industrial facilities: a. No health hazard: DCVA b. Health hazard: RP

(23) Laundries: a. No health hazard: DCVA b. Health hazard: (i.e., dry cleaners): RP

(24) Lawn irrigation systems (split taps): RP

(25) Metal manufacturing, cleaning, processing, and fabricating plants: RP

(26) Mobile home parks: a. No health hazard: DCVA b. Health hazard: RP

- (27) Oil and gas production, storage or transmission properties: RP
- (28) Paper and paper products plants: RP
- (29) Pest control (exterminating and fumigating): RP
- (30) Plating plants: RP
- (31) Power plants: RP
- (32) Radioactive materials or substances plants or facilities handling: RP
- (33) Restaurants: a. No health hazard: DCVA b. Health hazard: RP
- (34) Restricted, classified, or other closed facilities: RP
- (35) Rubber plants (natural or synthetic): RP
- (36) Sand and gravel plants: RP
- (37) Schools and colleges: RP
- (38) Sewage and storm drain facilities: RP
- (39) Swimming pools: RP
- (40) Waterfront facilities and industries: RP
- (c) All assemblies and installations shall be subject to inspection and approval by the Town of Clarkton.

Sec. 15-400. Connections with unapproved sources of supply

- (a) No person shall connect or cause to be connected any supply of water not approved by the state department of environment and natural resources to the water system supplied by the Town of Clarkton. Any such connections allowed by the Town of Clarkton must be in conformance with the backflow prevention requirements of this article.
- (b) In the event of contamination or pollution of a public or consumer potable water system, the consumer shall notify the Town of Clarkton immediately in order that appropriate measures may be taken to overcome and eliminate the contamination or pollution.

Sec. 15-401. Fire protection systems

- (a) All connections for fire protection systems connected with the public water system, two inches and smaller, shall be protected with an approved double check valve assembly as a minimum requirement. All fire systems using toxic additives or booster pumps shall be protected by an approved reduced pressure principle assembly at the main service connection.

(b) All connections for fire protection systems connected with the public water system greater than two inches shall be protected with an approved double check detector assembly as a minimum requirement. All fire protection systems using toxic or hazardous additives or booster pumps shall be protected by an approved reduced pressure principle detector assembly at the main service connection.

(c) All existing backflow prevention assemblies 2 1/2 inches and larger installed on fire protection systems that were initially approved by the Town of Clarkton shall be allowed to remain on the premises, as long as they are being properly maintained, tested and repaired as required by this article. If, however, the existing assembly must be replaced once it can no longer be repaired, or in the event of proven water theft through an unmetered source, the consumer shall be required to install an approved double check detector assembly or reduced pressure principle detector assembly as required by Sec. 15-399. Facilities requiring protection

Sec. 15-402. Enforcement

(a) The owner, manager, supervisor, or person in charge of any installation found not to be in compliance with the provisions of this article shall be notified in writing with regard to the corrective action to be taken. The time for compliance shall be in accordance with Sections Sec. 15-402 (g) (1-4)

(b) The owner, manager, supervisor, or person in charge of any installation which remains in noncompliance after the time prescribed in the initial notification, as outlined in Section Sec. 15-402 (g) (1-4), shall be considered in violation of this article, and may be issued a civil citation by the Town of Clarkton. The citation shall specify the nature of the violation and the provision of this article violated, and further notify the offender that the civil penalty for such violation is as set forth in subsection (c) of this Section and is to be paid to the Town of Clarkton within 30 days. If the penalty prescribed in this subsection is not paid within the time allowed, the Town of Clarkton may initiate a civil collection in the nature of a debt and recover the sums set forth in subsection (c) of this Section plus the cost of the action.

(c) Any offender who shall continue any violation beyond the time limit provided for in the aforementioned notification shall be subject to a civil penalty of up to \$1,000.00 per violation. Each day in which a violation of any provision of this article shall occur or continue shall constitute a separate and distinct offense.

(d) If, in the judgment of the Town of Clarkton, any owner, manager, supervisor, or person in charge of any installation found to be in noncompliance with the provisions of this article neglects his responsibility to correct any violation, such neglect may result in discontinuance of water service until compliance is achieved.

(e) Failure of a customer or certified tester to submit any record required by this article, or the submission of falsified reports/records may result in a civil penalty of up to \$1,000.00 per violation. If a certified backflow prevention assembly tester submits falsified records to the Town of Clarkton, the Town of Clarkton shall take the necessary actions to revoke their certification to test backflow prevention assemblies within the potable water system for a time period not to exceed one year. The tester will then be required to complete an approved certification course to acquire a new certification. Falsification made to records/reports after becoming recertified shall result in the permanent revocation of backflow testing certification, in addition to a civil penalty as provided for in this subsection.

(f) Enforcement of this program shall be administered by the Public Works Director of the Town of Clarkton or his authorized representative.

(g) Requests for extension of time shall be made in writing to the Public Works Director of the Town of Clarkton or his authorized representative. All other appeals shall be made in accordance with the following procedures:

(1) Adjudicatory hearings. A customer assessed a civil penalty under this Section shall have the right to an adjudicatory hearing before a hearing officer designated by the Public Works Director of the Town of Clarkton upon making written demand, identifying the specific issues to be contended, to the Public Works Director of the Town of Clarkton within 30 days following notice of final decision to assess a civil penalty. Unless such demand is made within the time specified in this subsection, the decision on the civil penalty assessment shall be final and binding.

(2) Appeal hearings. Any decision of the Town of Clarkton hearing officer made as a result of an adjudicatory hearing held under subsection (g)(1) of this Section may be appealed by any party to the Town of Clarkton board of Commissioners upon filing a written demand within ten days of receipt of notice of the decision. Hearings held under this Section shall be conducted in accordance with the Town of Clarkton hearing procedures. Failure to make written demand within the time specified in this subsection shall bar further appeal. The Town of Clarkton shall make a decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.

(3) Official record. When a final decision is issued under Sec. 15-402 (g)(2) of this Section, the Town of Clarkton shall prepare an official record of the case that includes: a. All notices, motions, and other like pleadings; b. A copy of all documentary evidence introduced; c. A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken; d. A copy of the final decision of the Town of Clarkton.

(4) Judicial review. Any customer against whom a final decision of the Town of Clarkton is entered, pursuant to the hearing procedure under subsection Sec. 15-402 (g)(2) of this Section, may appeal by order or decision by filing a written petition for judicial review within 30 days after receipt of notice by certified mail of the order or decision to the general court of justice of the county or the county where the order of the petition of judicial review, along with a copy to the Town of Clarkton. Within 30 days after receipt of the copy of the petition of judicial review, the Town of Clarkton shall transmit to the reviewing court the original or a certified copy of the official record, as outlined in subsection (g)(3) of this Section.

Sec. 15-403. Severability

If any Section, subsection, sentence, or clause of this article is adjudged to be unconstitutional or otherwise invalid, such adjudication shall not affect the validity of the remaining portion of this article. It is hereby declared that this article would have been passed, and each Section, sentence, or clause thereof, irrespective of the fact that any one or more Sections, subsections, sentences, or clauses might be adjudged to be unconstitutional, for any other reason invalid.

SECTION 14-28 – 14-30. RESERVED

CHAPTER 3. RATES AND CHARGES

SECTION 14-31 – GENERAL.

The following shall be the policies and rules of the Town of Clarkton regarding rates and charges for water and sewer services provided by the Town.

SECTION 14-32 – SCHEDULE OF RATES AND FEES.

The fee schedule of monthly water rates is hereby adopted, effective for each water customer, and is on file in the office of the town clerk and is made a part of this article as if set out at length in this Section.

(Code 1991, § 5.1.26)

SECTION 14-33 – DEPOSIT REQUIRED.

(a) Residential uses. A deposit for water service shall be required of all persons for which a water connection is made for residential purposes. The amount of the deposit shall be determined by the board of commissioners. A schedule of required deposits shall be available in the office of the town clerk.

(b) Business uses. A deposit for water service shall be required of all persons for which a water connection is made for business purposes. The amount of the deposit shall be determined by the board of commissioners. A schedule of such deposits shall be available in the office of the town clerk.

(Code 1991, § 5.1.24)

State Law Reference: *Enforcement of utility charges, see N.C. GEN. STAT. § 160D-314.*

SECTION 14-34 – WATER AND SEWER TAP-ON FEES.

The fee schedule for making taps and furnishing all material necessary to deliver the water service to the curb line, including the meter, is on file in the office of the town clerk and is hereby adopted and made a part of this article as is set out at length in this Section.

(Code 1991, § 5.1.23)

State Law Reference: *Connection charges, see N.C. GEN. STAT. § 160D-317*

SECTION 14-35 – TEMPORARY SUSPENSION OF SERVICE AT CUSTOMER'S REQUEST.

(a) The temporary suspension of water service for a period of less than 60 days is prohibited.

(b) A fee to be determined by the board of commissioners shall be charged for the suspension and restoration of water service in all cases of suspension of service for a period of 60 days or longer. The schedule of fees shall be available in the office of the town clerk.

(c) This Section shall not apply when a bona fide change of occupancy is contemplated. (Code 1991, § 5.1.25)

Section 14-36 – TRANSFER FEE.

If the utility billing name is transferred, a transfer fee shall be paid by the new occupant or lessee. Such charge shall be included in the *Schedule of Rates and Fees*.

SECTION 14-37. – 14-40. – RESERVED.**CHAPTER 4. BILLING AND PAYMENTS****SECTION 14-41 – GENERAL.**

When a water meter is installed by the town, the customer will, from the date of the installation of the meter, be billed for water and sewer in accordance with the town's current rates. All customers shall be billed monthly by the town for water and sewer services according to the *Schedule of Rates and Fees* fixed from time to time by the Board of Commissioners.

Statutory reference: *Authority to fix and enforce rates, see N.C. GEN. STAT. § 160D-314.*

SECTION 14-42 – BILLING CYCLE.

Water bills shall be mailed by the town clerk on or about the first day of each month for service rendered the preceding month and shall be due and payable on or before the 15th day of the month, at the town clerk's office. In case a bill is not paid by the 16th of the following month, when two months' charges have accumulated, the water shall be cut off and shall not thereafter be cut on until all delinquent bills are paid, plus a cut-off charge to be determined by board of commissioners. The schedule of such fees shall be available in the office of the town clerk. Any water bill which is disputed must be appealed in writing to the board of commissioners within ten days of receipt of such bill. The board of commissioners will promptly review such appeal.

(Code 1991, § 5.1.27)

SECTION 14-43 – ADJUSTMENT OF CHARGES.

A water and sewer customer requesting an adjustment shall be required to furnish a statement by a licensed plumber stating the nature of the water/sewer problem and a copy of a paid bill, or obtain the approval of the town's Public Works Director prior to presenting his or her request to the Town Clerk.

The Board of Commissioners shall, in its discretion, adjust water and sewer bills and, in adjusting same, the following formula shall be used: The entire water bill shall be paid, plus the amount of the sewer charges for the corresponding period for the previous year.

SECTION 14-44 – ADVANCE PAYMENTS.

A water customer can pay his or her water and sewer bill in advance by making a deposit with the town, to be applied against his or her bills until the deposit is exhausted or by the town drafting on the customer's account.

SECTION 14-45 – FORM OF PAYMENT.

The Town of Clarkton will accept payment for utility services in any commercially reasonable manner.

SECTION 14-46 – PENALTY FOR WORTHLESS CHECKS.

The following provisions apply for worthless checks:

- a) In the case where a water and/or sewer customer gives the town two checks which cannot be honored upon presentation (Non-Sufficient Funds – NSF), the Town will not accept any further personal checks from the customer and will require the customer to pay with cash, certified check, cashier's check or money order;
- b) If the bill is delinquent for which the NSF check has been submitted, service will be discontinued immediately without further notice;
- c) Personal checks will not be accepted from a customer whose services have been discontinued for non-payment.

SECTION 14-47. – 14-50. – RESERVED.

CHAPTER 5. DISCONNECTION AND RECONNECTION OF UTILITY SERVICE**SECTION 14-51 – GENERAL.**

It is the policy of the Town of Clarkton, before disconnecting a utility service, to give the customer a fair opportunity to avoid disconnection either by paying charges due or showing that the charges are in error. Under this policy, the customer has the right to request adjustments to his or her billing only one time per calendar year and only with acceptable proof.

- a) Service disconnections will be made between the hours of 8:30 a.m. and 3:00 p.m. on business days from Monday through Thursday only. Customers will be subject to a service fee for disconnection of the water service which shall be established in the *Schedule of Rates and Fees* as soon as a Town employee is dispatched to make the disconnection.
- b) Customers who have paid in full the past amounts due including any late charges and penalties are eligible to have the water service reconnected. Customers will be subject to a reconnection fee which shall be established in the *Schedule of Rates and Fees*. The Town shall reestablish water service as soon as possible after receipt of the payment.

State Law Reference: N.C. GEN. STAT.160D-314(b).

SECTION 14-52 – CUSTOMER REQUEST TO TURN WATER ON OR OFF.

There will be a service charge for turning the water on or off at the request of the customer. Such charge shall be included in the *Schedule of Rates and Fees*.

SECTION 14-53. – 14-60. – RESERVED.**CHAPTER 6. IRRIGATION WATER METERS****SECTION 14-61 – GENERAL.**

The following policies shall apply to irrigation meters.

- a) Any water and sewer customer of the town may request and have an irrigation water meter installed.
- b) The connection fee shall be the same charge applicable to water customers of the Town.
- c) A back-flow prevention device shall be installed and the customer shall be charged the cost of purchasing and installing the device.
- d) Irrigation water meter customers shall be billed monthly in accordance with the *Schedule of Rates and Fees*.
- e) The town reserves the right to draw water from faucets located inside and outside any structure located on property utilizing an irrigation water meter to facilitate usage checks and to ensure that no water is allowed to drain into the town's sewer system
- f) No customer utilizing an irrigation water meter shall intentionally allow water pumped through the meter to enter the town's sewer system.

SECTION 14-62. – 14-65. – RESERVED.**CHAPTER 7. RIGHT TO SUSPEND SERVICE****SECTION 14-66 – GENERAL.**

The Town of Clarkton reserves the right to discontinue its service without notice for the following additional reasons:

- a) To prevent fraud or abuse;
- b) Owner/customer's willful disregard of the town's rules and regulations;
- c) Making of connection to the system or emergency repairs to municipal property;
- d) Circumstances beyond the town's control;
- e) Legal process;
- f) Direction of public authorities having jurisdiction over such matters; and
- g) Strike, riot, fire, flood, accident or any unavoidable cause.

SECTION 14-67. – 14-70. – RESERVED.**CHAPTER 8. WATER SHORTAGE RESPONSE PLAN****SECTION 14-71. – SCOPE AND INTENT.**

- (a) The following measures in this water shortage response plan (WSRP) shall be enforced by the Town Clerk or his designee upon the determination of a water shortage. All municipalities, water corporations, or water authorities purchasing water from the town will adopt and enforce this WSRP as a condition of water sales agreements. Upon the declaration of a water shortage, all such entities will enforce the appropriate water use restrictions or percent reduction goals for each phase of response to a water shortage.
- (b) Generally, the Town Clerk shall issue a water shortage advisory (initiating voluntary phase of reductions of water usage), water shortage alert (initiating mandatory phase of restrictions of water usage), or water shortage emergency declaration (initiating emergency phase of restrictions, bans, or rationing of water usage). Depending on the specific water shortage occurrence, the issuance of advisories, alerts, or emergency declarations may be system-wide or limited to portions of the water system affected by the specific occurrence.
- (c) Water shortage advisories, alerts, or emergency declarations may be issued for a variety of reasons. They include, but are not limited to, the following:
 - (1) Contamination of well(s), raw water main(s), or potable water main(s);
 - (2) Drought conditions;
 - (3) Break in a potable water main that supplies a significant portion of the water system;
 - (4) Removal of elevated or other storage tanks for extended maintenance;

- (5) Equipment malfunction or failure, removal of wells from service, or other occurrences significantly affecting the town's capability of delivering raw water or adequately treating the raw water;
 - (6) Power failure significantly affecting the town's capability of delivering raw water or adequately treating the raw water.
- (d) Guidelines to be used to assess the need for advisories, alerts, or emergency declarations include, but are not limited to, the following:
 - (1) *Voluntary phase:*
 - a. Wells are operating in excess of twelve (12) hours daily to supply the system demand;
 - b. Ten (10) percent or more of the wells have been removed from service for any reason, or the pumping capacity of a majority of the wells has been significantly diminished for an extended period;
 - c. Power failure, affecting the water treatment plant or a significant portion of the wells, which Superintendent has estimated will last more than 24 hours;
 - d. Contamination of or breaks in potable water mains, extended maintenance or repair, or other occurrences requiring more than a few days or extraordinary means to satisfactorily resolve.
 - (2) *Mandatory phase:*
 - a. Voluntary phase measures and reductions have not achieved the desired goals, drawdown levels continue to increase, and pumping capacity continues to diminish;
 - b. Twenty (20) percent or more of the wells have been removed from service for any reason, or the pumping capacity of a majority of the wells has been significantly diminished for an extended period.
 - (3) *Emergency phase:*
 - a. Voluntary or mandatory phase measures and reductions have not achieved the desired goals, drawdown levels continue to increase, and well capacity continues to diminish;
 - b. Thirty (30) percent or more of the wells have been removed from service for any reason, or the pumping capacity of a majority of the wells has been significantly diminished for an extended period;
 - c. Extended power failure that cannot be adequately addressed with available stationary or portable standby generators.
- (e) For the purposes of this Section, "extended period" shall mean thirty (30) days. The Water Treatment Plant ORC shall make the determination of whether or not pumping capacity has been "significantly diminished" based on available pump or well design information, flow monitoring data, and operating drawdown levels.

SECTION 14-72. – EDUCATION AND OUTREACH PROGRAM

The town shall encourage year-round efficient use of potable water by all customers. The Water Treatment Plant ORC shall carefully monitor demand and supply and determine average daily demand as a percent of available supply, keeping an eye on regional water supply by checking on the North Carolina Drought Monitor.

SECTION 14-73. – WATER USE CLASSIFICATIONS.

- (a) *Class 1: Essential Water Uses.* The following water uses have been determined to be essential uses of potable water provided by the Town of Clarkton in the event of a water shortage:
- (1) Domestic use for drinking, personal hygiene, and sanitation;
 - (2) Patient care/rehabilitative services;
 - (3) Uses to sustain human life and the lives of domestic pets;
 - (4) Firefighting, fire department drills and testing;
 - (5) Flushing fire hydrants and public sewers as necessary to ensure public health and safety.
- (b) *Class 2: Socially/economically important water uses.* The following water uses have been determined to be socially or economically important uses of potable water provided by the town in the event of a water shortage:
- (1) Domestic use for laundry, cooking, and house cleaning;
 - (2) Industrial use to maintain jobs;
 - (3) Outdoor commercial watering (public or private) using conservation measures;
 - (4) Irrigation for commercial vegetable gardens and fruit orchards or the maintenance of livestock;
 - (5) Watering of trees where necessary for preservation;
 - (6) Watering by commercial nurseries at a minimum level necessary to maintain stock;
 - (7) Use of fresh water at a minimum rate necessary to establish vegetation following earth-moving, where such vegetation is required by law or regulation;
 - (8) Watering of golf course greens;
 - (9) Filling and operation of public swimming pools;
 - (10) Commercial car and truck washes;
 - (11) Commercial laundromats;

- (12) Restaurants and clubs;
- (13) Home vegetable gardens;
- (14) Convenience stores, gas stations, and other commercial establishments;
- (15) Schools and churches;
- (16) Hotels, motels, and inns;
- (17) Commercial air conditioning.

(c) *Class 3: Non-essential water uses.* The following water uses have been determined to be non-essential uses of potable water provided by the town in the event of a water shortage.

- (1) Fountains, reflecting pools, and artificial waterfalls;
- (2) Gardens, lawns, parks, golf courses (except greens), playing fields and other recreational areas;
- (3) Water hoses or sprinklers for recreational purposes;
- (4) Non-commercial washing of motor vehicles;
- (5) Serving water in restaurants, clubs, or eating places except by specific request;
- (6) Watering of inedible plants except as specified in Class 2;
- (7) Filling and operation of residential swimming pools.

SECTION 14-74. – CONSERVATION MEASURES AND WATER USE RESTRICTIONS.

(a) *Voluntary phase: water use reduction:*

- (1) Review WSRP and modify as necessary;
- (2) Issue water shortage advisory and increase conservation educational campaign;
- (3) Ten (10) percent potable water use reduction goal (system-wide);
- (4) Encourage continued voluntary conservation;
- (5) Monitor compliance with voluntary water use;
- (6) Explore alternatives for supplementing water supply.

(b) *Mandatory phase: water use restrictions:*

- (1) Issue a water shortage alert.

- (2) Twenty (20) percent potable water use reduction goal (system-wide);
 - (3) Encourage water use reduction for Class 2 and 3 uses;
 - (4) Restrict irrigation of outdoor landscaping, including grass, shrubbery, trees, flowers:
 - a. Irrigation shall be limited to the hours of 7:00 p.m. to 7:00 a.m.;
 - b. For customers whose address numbers end in an even digit, such watering shall be restricted to watering on Tuesday, Thursday, and Saturday;
 - c. For customers whose address numbers end in an odd digit, such watering shall be restricted to watering on Wednesday, Friday, or Sunday;
 - d. No irrigation shall take place on Monday or in the daylight hours of any day between 7:00 a.m. and 7:00 p.m.;
 - e. Exceptions to these restrictions may be granted temporarily to persons engaged in the business of landscaping on a site-by-site basis for one (1) to three (3) days, by permit issued by the Town Clerk.
 - (5) Monitor compliance with water use restrictions and increase restrictions as necessary;
 - (6) Fine enforcement.
- (c) *Emergency phase: water use restrictions, bans, or rationing:*
- (1) Issue a water shortage emergency declaration;
 - (2) Thirty (30) percent potable water use reduction goal (system-wide);
 - (3) Ban all Class 3 uses;
 - (4) Ban or restrict Class 2 uses;
 - (5) Aggressive compliance monitoring and enforcement;
 - (6) Implement specific restrictions, bans, or rationing measures on industrial water customers.

SECTION 14-75. – ENFORCEMENT.

For violations of the restrictions implemented during the mandatory or emergency phases of a water shortage, the following civil penalties are imposed:

First offense:	\$50.00 fine
Second offense:	\$100.00 fine

Third and succeeding offenses: \$250.00 fine

The town may disconnect the water service of any user determined to be responsible for persistent violations.

SECTION 14-76. – 14-80. – RESERVED.

CHAPTER 9. SEWER SERVICE

SECTION 14-81. – PURPOSE AND POLICY.

This Section sets forth uniform requirements for direct and indirect contributors into the wastewater collection system for the **TOWN OF CLARKTON** hereafter referred to as the Town, and enables the Town to comply with all applicable State and Federal laws, including, the Clean Water Act (33 United States Code §1251 *et seq.*) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

- (a) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge; and
- (b) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the State or otherwise be incompatible with the system; and
- (c) To promote reuse and recycling of industrial wastewater and sludges from the municipal system; and
- (d) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public; and
- (e) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
- (f) To ensure that the municipality complies with its NPDES or Non-discharge Permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the municipal wastewater system is subject.

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

This ordinance shall apply to all users of the municipal wastewater system, as authorized by N.C.N.C. GEN. STAT.160D-312 and/or 153A-275. The Town shall designate a Manager of the Publicly Owned Treatment Works or POTW and pretreatment program hereafter referred to as the Director of Treatment Plants. Except as otherwise provided herein, the Director of Treatment Plants shall administer, implement and enforce the provisions of this

ordinance. Any powers granted to or imposed upon the Director of Treatment Plants may be delegated by the Director of Treatment Plants to other Town personnel.

By discharging wastewater into the Town wastewater system, industrial users located outside the Town limits agree to comply with the terms and conditions established in this Ordinance, as well as any permits, enforcement actions, or orders issued hereunder.

SECTION 14-82. – DEFINITIONS AND ABBREVIATIONS.

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:

Building sewer means that portion of the sewer line between the end of the building drain, located ten feet from the building, and the end of the municipal sewer, usually at the street right-of-way.

Health director means the county health director or his authorized representative.

Individual disposal facility means a septic tank with absorption field.

Municipal sanitary sewer system. The municipal sanitary sewer system (or "system" or "main") consists of a collection system of 12-inch, ten-inch, eight-inch, and four-inch concrete, vitrified clay, and cast-iron sewer lines located in the street right-of-way and in certain areas on private property and a treatment facility including a sewage stabilization lagoon and pumping stations.

(Code 1991, § 5.2.01)

Cross reference-Definitions generally, § 1-2.

SECTION 14-83. – SUPERVISION OF SEWER SYSTEM AND INDIVIDUAL DISPOSAL FACILITIES.

(a) The municipal sewer system and all individual disposal facilities shall be under the control and authority of the town and be regulated and operated as the town shall ordain and direct.

*State law reference-Authority to require sewer connection, N.C. GEN. STAT.160D-317.

(b) The town shall appoint a qualified person to supervise the operation and regulation of the system and individual facilities under the direction of the town, and such person appointed shall be known as the public works director. The town may appoint an inspector to assist the public works director in his duties of supervising the sewer system and individual facilities. (Code 1991, § 5.2.02)

SECTION 14-84. – PERMIT FOR INSTALLATION OR REPAIR OF BUILDING DRAIN, BUILDING SEWER OR INDIVIDUAL DISPOSAL FACILITY.

- (a) Application. Application shall be made to the office of the public works director at the town hall for the installation, connection to the main, alteration or repair of the building drain, building sewer, or individual disposal facilities on application forms provided by the town before beginning installation or alterations to the service.
- (b) Issuance. Permits will be issued only to qualified plumbers or installers as defined in Section 28-84. No person shall install, connect to the main, alter or repair any building drain, building sewer or individual disposal facility until a written permit therefor is secured from the office of the public works director. Permits will not be issued until the director or inspector has determined the character of the waste to be received by the system, the type of connection required and compliance of the building drain, sewer, plumbing and individual disposal facility where applicable to the requirements of the state building code, article XX, Plumbing. Individual disposal facilities shall be approved by the county health director before a permit is granted by the town.

(Code 1991, § 5.2.03)

SECTION 14.85. – QUALIFICATIONS OF PLUMBERS AND INSTALLERS.

- (1) Master plumber. The term "master plumber" shall be deemed and held to mean a person who holds a current license issued by the state board of examiners of plumbing and heating contractors in accordance with the provisions of N.C. GEN. STAT.87-16 et seq.
- (2) Journeyman plumber. The term ".journeyman plumber" shall be deemed and held to mean a person skilled in the plumbing trade who is employed by and works under the supervision of a master plumber.
- (3) Installer: The term "installer" shall be deemed and held to mean a person, not otherwise qualified as a master or journeyman plumber, who installs plumbing or who is responsible for the installation or alteration of the work and who can submit satisfactory evidence and surety as required by the town to the public works director that the work will be performed in accordance with the provisions of this article and the state building code, article XX, Plumbing.

(Code 1991, § 5.2.04)

Section 14-86. – INSPECTIONS, PLANS AND TESTS OF PLUMBING INSTALLATIONS.

(a) Inspections required. All plumbing installed or altered shall be inspected and approved by the office of the public works director prior to being covered in the ground. A certificate of approval will be issued by the public works director upon satisfactory completion of the work and receipt of a plan describing the installation by the plumber or installer.

(b) Plans required. A plan or sketch of the installation shall be furnished to the public works director by the plumber or installer on completion of the work. The plan shall show the location of the work with reference to the property corner or house, length and slope of lines, type of installation and materials, location of all traps, fixtures, cleanouts, bends, and connection to building drains or the municipal system, and depth of cover at the ends of the line and over cleanouts.

(c) Tests. If, in the opinion of the county inspector, a test of the installation is necessary, the plumber or installer will perform all work and provide all materials and equipment that will be required to perform an approved smoke test.

(Code 1991, § 5.2.05)

SECTION 14-87. – LIMITS OF INSTALLATION AND MAINTENANCE WORK BY TOWN.

All of the sanitary sewer system work in the public right-of-way as described in Section 28-81 shall be performed by authorized employees of the town or persons under direct contract with the town only. Connections to and maintenance of septic tanks shall be done by town employees or persons under contract with the town except as provided for installation by the owner in Section 28-89.

The limit of work by the town employees shall be deemed and held to be at the property line or street right-of-way, and for that portion of the system on private property the limit of work shall be held to the sewer main proper; except, where required, the town will maintain septic tank installations as stated under Section 28-89.

(Code 1991, § 5.2.06)

SECTION 14-88. – CONNECTION TO SEWER SYSTEM OR INDIVIDUAL DISPOSAL SYSTEM REQUIRED.

Every dwelling or establishment or other structure used for human occupancy or habitation that is located within 300 feet of and has reasonable access to the sanitary sewer system shall connect such dwelling, establishment, or structure to the municipal sanitary sewer provided. No person will be required to provide right-of-way across the private property of another person. Dwellings or other occupied structures located more than 300 feet from the sewer system shall provide for sewage disposal as required under Sections 28-89 and 28-90.

(Code 1991, § 5.2.07)

SECTION 14-89. – DISCONTINUATION OF USE OF EXISTING SEPTIC TANKS.

Every Dwellings or establishments or structures being served by a septic tank facility on the effective date the ordinance from which this article is derived in the town shall connect to the sanitary sewer if located within 300 feet of the sewer as stated in Section 28-87. Connection shall be made so as to bypass the septic tank facility. The septic tank shall be rendered inoperable by sealing or filling with soil in a manner that will meet the approval of the county health department. Each facility shall be inspected by the town inspector and covered in the ground.

(Code 1991, § 5.2.08(1))

SECTION 14-90. – USE OF SEPTIC TANKS WHERE PUBLIC SEWER IS NOT AVAILABLE; MAINTENANCE OF SEPTIC TANKS.

The septic tank of each dwelling being served by septic tanks on the effective date of the ordinance from which this article is derived located more than 300 feet from the sanitary sewer will be inspected by the town inspector and the county health director, be thereafter maintained by the town and be subject to the established sewer rate as stated in Section 28-95. The owner will bear all costs necessary to place the tank in acceptable condition to the town. At the option of the owner, septic tank maintenance can be accomplished by the owner after being inspected and approved by the town inspector. Adequate maintenance shall be provided by the owner under this option and will be subject to approval by the town. The owner will not be subject to the sewer rate charge under this option.

(Code 1991, § 5.2.09(2))

Section 14-91. – INSTALLATION OF NEW SEPTIC TANKS.

Where sewage disposal facilities are required and the dwelling is located more than 300 feet from the sanitary sewer, a disposal or treatment facility conforming to the minimum standards set out in Bulletin 519 of the state board of health and subsequent revisions thereof shall be installed by the owner subject to approval by the town and the county health department. The minimum installation shall be an approved septic tank facility with absorption field. The option of the owner to maintain the facility shall be as stated in Section 28-89.

(Code 1991, § 5.2.09(3))

Section 14-92. – REPAIR OR RECONSTRUCTION OF SEPTIC TANKS PROHIBITED WHEN PUBLIC SEWER IS AVAILABLE.

It is hereby deemed unlawful in the town for any person to attempt to repair or reconstruct, for the purpose of extending its present serviceable life, a septic facility serving a dwelling within 300 feet of the sanitary sewer that is considered to have reasonable access to the sewer. (Code 1991, § 5.2.11)

SECTION 14-93. – SEPARATE CONNECTION REQUIRED FOR EACH DWELLING OR BUILDING; EXCEPTIONS.

Each separate dwelling or building provided with a waste or sewage drain shall have a separate connection to the sanitary sewer or septic tank, except as provided in Section 2.12 and as provided for apartments or trailer parks or other multi-use dwellings in the state building code, article XX, Plumbing.

(Code 1991, § 5.2.13)

SECTION 14-94. – MAINTENANCE RESPONSIBILITIES OF PROPERTY OWNER.

Whenever the building sewer or service or building drain or any portion of the sewer service outside the maintenance jurisdiction of the town as stated in Section 28-86 becomes clogged, broken, or otherwise inoperative or detrimental to the use of the sewer system, the owner, agent, or occupant having charge of such building or premises shall be held responsible for the immediate repair of the sewer system service necessary to maintain an uninterrupted sanitary disposal system.

(Code 1991, § 5.2.15)

Section 14-95. – DAMAGING OR TAMPERING WITH SEWER SYSTEM OR INDIVIDUAL DISPOSAL FACILITIES.

It shall be unlawful for any person to damage, tamper with, deposit or throw foreign matter into or otherwise do harm to the mains, piping or apparatus or other part of the sanitary sewer system or septic tank or to place or cause to be placed any harmful object of any nature whatsoever into the system or tank.

(Code 1991, § 5.2.16)

Section 14-96. – CONNECTION CHARGES AND MONTHLY RATES.

Current charges for connection to the sewer, as well as current monthly rates, will be kept on file in the clerk's office and shall be available for inspection during normal business hours. (Code 1991, § 5.2.17)

CHAPTER 10. WASTEWATER TREATMENT

SECTION 14-97. – PURPOSE AND SCOPE OF DIVISION.

(a) This division sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the town, and enables the town to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the General Pretreatment Regulations (40 CFR part 403).

(b) The objectives of this division are to:

(1) Prevent the introduction of pollutants into the municipal wastewater system that will interfere with the operation of the system or contaminate the resulting sludge;

(2) Prevent the introduction of pollutants into the municipal wastewater system that will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;

(3) Promote reuse and recycling of industrial wastewater and sludges from the municipal system;

(4) Protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment and the general public;

(5) Provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and

(6) Ensure that the town complies with its NPDES or no discharge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipal wastewater system is subject.

(c) This division provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this division.

(d) This division shall apply to all users of the municipal wastewater system. Except as otherwise provided in this division, the POTW director shall administer, implement, and enforce the provisions of this division. Any powers granted to or imposed upon the POTW director may be delegated by the POTW director to other town personnel. By discharging wastewater into the wastewater system, industrial users located outside the town limits agree to comply with the terms and conditions established in this division, as well as any permits, enforcement actions, or orders issued under this division.

(Ord. of 9-8-1997, § 1.1)

SECTION 14-98. – DEFINITIONS AND ABBREVIATIONS

(a) 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:

Act and the Act mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Approval authority means the director of the division of water quality of the state department of environment, health and natural resources, or his designee.

Authorized representative of the industrial use¹:

(1) If the industrial user is a corporation, authorized representative shall mean:

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

b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.

(3) If the industrial user is a federal, state or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his designee.

(4) The individuals described in subsections (1) through (3) if this definition may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the town.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius, usually expressed as a concentration (e.g., mg/l).

Building sewer means a sewer conveying wastewater from the premises of a user to the POTW.

Bypass means the intentional diversion of waste streams from any portion of an industrial user's treatment facility.

Categorical standards means federal categorical pretreatment standards or pretreatment standard.

Color means the true color due to the substances in solution, expressed in milligrams per liter or such units as the POTW director specifies.

Control authority means to the approval authority or the POTW director.

Environmental Protection Agency and EPA mean the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Federal categorical pretreatment standard and categorical standard mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 USC 1317) that applies to a specific category of industrial users, and that appears in 40 CFR chapter 1, subchapter N, parts 405 through 471.

Federal prohibitive discharge standard and prohibitive discharge standard mean absolute prohibitions against the discharge of certain substances. These prohibitions appear in Section 28-123(a) and are developed under the authority of Section 307(b) of the Act and 40 CFR part 403.5.

Grab sample means a sample taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

Holding tank waste means any waste from holding tanks, including but not limited to such holding tanks as in vessels, chemical toilets, campers, trailers or septic tanks, and vacuum- pump tank trucks.

Indirect discharge and discharge mean the discharge or the introduction from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act (33 USC 1317) into the POTW, including holding tank waste discharged into the system.

Industrial user means any person that is a source of indirect discharge.

Inflow means water other than sewage that enters a sanitary sewer system, including water entering through a building sewer from sources such as roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, stormwater, surface runoff, street wash water, or drainage.

Interference means the inhibition or disruption of the POTW treatment processes or operations, or its sludge processing, use, or disposal, that causes or contributes to a violation of any requirement of the POTW's NPDES or no discharge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, (33 USC 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 USC 6901 et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

Medical waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

National Pollutant Discharge Elimination System permit and NPDES permit mean a permit issued pursuant to Section 402 of the Act (33 USC 1342), or pursuant to N.C. GEN. STAT.143-215.1 by the state under delegation from the EPA.

New source means:

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

- a. The building, structure, facility, or installation is constructed at a site at which no other source is located;
- b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)b or c of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(3) For purposes of this definition, construction of a new source has commenced if the owner or operator has:

- a. Begun, or caused to begin, as part of a continuous on-site construction program:
 - 1. Any placement, assembly, or installation of facilities or equipment; or
 - 2. Significant site preparation work, including clearing, excavation, or removal of existing buildings, structures or facilities that is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies, do not constitute a contractual obligation under this definition.

Noncontact cooling water means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

No discharge permit means a disposal system permit issued by the state pursuant to G.S.

143-215.1.

Nondomestic discharge means any substances other than human excrement and household gray water (shower, dishwashing operations, etc.) discharged into the POTW. Common characteristics of nondomestic pollutants in wastewater discharges include, but are not limited to, pH, temperature, total suspended residue (solids), turbidity, BOD, COD, toxicity, odor, and color.

Pass-through means a discharge that exits the POTW into waters of the state in quantities or concentrations that, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation of the POTW's NPDES or no discharge permit or a downstream water quality standard.

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

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

Pollutant means any waste as defined in N.C. GEN. STAT.143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

POTW director means the town director of public works.

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater.

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

Pretreatment program means the program for the control of pollutants introduced into the POTW from nondomestic sources developed by the town in compliance with 40 CFR part 403.8 and approved by the approval authority as authorized by N.C. GEN. STAT.143-215.3(a)(14) in accordance with 40 CFR part 403.11.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

Pretreatment standards means prohibited discharge standards, categorical standards, and local limits.

Publicly owned treatment works (POTW) and municipal wastewater system mean a treatment works as defined by Section 212 of the Act (33 USC 1292), owned in this instance by the town. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial

wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this division, the POTW shall also include any sewers that convey wastewater to the POTW from persons outside the town who are, by contract or agreement with the town, or in any other way, users of the POTW.

Sanitary sewer means a sewer intended to receive domestic sewage and industrial waste, without the admixture of surface water with stormwater.

Severe property damage means substantial physical damage to property, damage to the industrial user's treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Significant industrial user means any industrial user of the wastewater disposal system who:

- (1) Has an average daily process wastewater flow of 25,000 gallons or more;
- (2) Contributes more than five percent of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge;
- (3) Is required to meet a federal categorical pretreatment standard; or
- (4) Is found by the town, the division of environmental management or the EPA to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.

Significant noncompliance and reportable noncompliance. A status of significant or reportable noncompliance is defined as follows:

- (1) Violations of wastewater discharge limits:
 - a. Chronic violations: 66 percent or more of the measurements exceed, by any magnitude, the same daily maximum limit or the same average limit in a six-month period.
 - b. Technical review criteria (TRC) violations: 33 percent or more of the measurements are equal to or exceed the TRC times the limit (maximum or average) in a six-month period. For conventional pollutant parameters (BOD, TSS, fats/oil and grease), TRC equals 1.4; for all other pollutant parameters, TRC equals 1.2.
 - c. Any other violation of an effluent limit (average or daily maximum) that the control authority believes has caused, alone or in combination with other discharges, interference or pass-through, or endangered the health of the sewage treatment plant personnel or the public.
 - d. Any discharge of a pollutant that has caused imminent endangerment to human health or welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- (2) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the scheduled date.
- (3) Failure to provide reports for compliance schedules, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.
- (4) Failure to accurately report noncompliance.
- (5) Any other violation or group of violations that the control authority considers to be significant.

Slug load means any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards in Section 28-123(a).

Standard Industrial Classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Superintendent means the person designated by the town to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this division, or his duly authorized representative.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and that is removable by laboratory filtering.

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

User means any person who contributes, causes, or has responsible charge over the contribution of wastewater into the POTW, including persons who discharge wastewater from mobile sources.

Wastewater means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, that are contributed into or permitted to enter the POTW.

Wastewater permit is defined as set forth in Section 28-125(b).

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

(b) The following abbreviations, when used in this division, shall have the meanings designated in this subsection:

BOD CFR COD EPA

gpd 1

mg mg/1 NCAC NPDES

O&M POTW RCRA SIC SWDA TKN

Biochemical oxygen demand Code of Federal Regulations Chemical oxygen demand Environmental Protection Agency Gallons per day

Liter Milligrams

Milligrams per liter

North Carolina Administrative Code

National Pollutant Discharge Elimination System Operation and maintenance

Publicly owned treatment works Resource Conservation and Recovery Act Standard Industrial Classification

Solid Waste Disposal Act Total Kjeldahl nitrogen

TSS Total suspended solids

USC United States Code (Ord. of 9-8-1997, § 1.2)

Cross reference-Definitions generally, § 1-2.

SECTION 14-99. - GENERAL SEWER USE REQUIREMENTS.

(a) Prohibited discharge standards.

(1) General prohibitions. No person shall contribute or cause to be contributed into the POTW, either directly or indirectly, any pollutant or wastewater that causes interference or pass-through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any federal, state, or local pretreatment standards or requirements.

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

a. Any liquids, solids or gases with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR part 261.21, including gasoline, kerosene, benzene and naphtha, or that by their nature or quantity are of sufficient concentration, either alone or with interaction with other substances, to cause fire or explosion in the POTW, or be injurious in any way to the POTW or its personnel, or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter taken of wastewater either at the point of discharge into the system or at any point in the system be more than five percent or any single reading over ten percent of the lower explosive limit (LEL) of the meter.

b. Solid or viscous substances, including ground paper products, wood, glass, ashes, cinders, hair, rags, mud, straw, metal, and whole blood, in amounts that will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one-half inch in any dimension.

c. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.

d. Any wastewater having a pH of less than 6.0 or more than 9.0 standard units except by permit authorization, and under no circumstance any wastewater having a pH lower than 5.0, or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.

e. Any wastewater containing pollutants, including oxygen-demanding pollutants (BOD, etc.), in sufficient quantity, either by flow or concentration, either singularly or by interaction with other pollutants, to cause interference with the POTW.

f. Any wastewater having a temperature greater than 150 degrees Fahrenheit (66 degrees Celsius), or that will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater that causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).

g. Any pollutants that result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

h. Any trucked or hauled pollutants, except at discharge points designated by the POTW director in accordance with subsection (i) of this Section.

i. Any noxious or malodorous liquids, gases, or solids or other wastewater that, either singularly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

- j. Any substance that may cause the POTW's effluent, or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under Section 405 of the Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
 - k. Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW director in compliance with applicable state or federal regulations.
 - l. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, inflow, swimming pool drainage, condensate, deionized water. cooling water and unpolluted industrial wastewater unless specifically authorized by the POTW director.
 - m. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/1.
 - n. Any sludges, screenings or other residues from the pretreatment of industrial wastes.
 - o. Any medical wastes except as specifically authorized by the POTW director in a wastewater discharge permit.
 - p. Any material containing ammonia, ammonia salts, or other chelating agents that will produce metallic complexes that interfere with the municipal wastewater system.
 - q. Any material that would be identified as hazardous waste according to 40 CFR part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW director.
 - r. Any wastewater causing the treatment plant effluent to violate state water quality standards for toxic substances as described in 15A NCAC 2B.0200.
 - s. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
 - t. Recognizable portions of the human or animal anatomy.
 - u. Any wastes containing detergents, surface active agents or other substances that may cause excessive foaming in the POTW.
 - v. Any wastewater that imparts objectionable color which cannot be removed by the POTW's treatment process.
- (3) Discharge of wastes from process or storage areas. Pollutants, substances, wastewater, or other wastes prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.
- (4) Enforcement. When the POTW director determines that a user is contributing to the POTW any of the substances enumerated in this subsection in such amounts that may cause or contribute to interference with POTW operation or pass-through, the POTW director shall:

- a. Advise the user of the potential impact of the contribution on the POTW in accordance with Section 28-129(a); and
- b. Take appropriate actions in accordance with Section 28-125 for such user to protect the POTW from interference or pass-through.
- (b) National categorical pretreatment standards. Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR chapter 1, subchapter N, parts 405 through 471, incorporated in this article.
- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW director may impose equivalent concentration or mass limits in accordance with 40 CFR part 403.6(c).
- (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW director shall impose an alternate limit using the combined waste stream formula in 40 CFR part 403.6(e).
- (3) An industrial user may obtain a variance from a categorical pretreatment standard if the industrial user can prove, pursuant to the procedural and substantive provisions in 40 CFR part 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (4) An industrial user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR part 403.15.
- (c) Local limits. To implement the general and specific discharge prohibitions listed in this division, industrial user-specific local limits will be developed ensuring that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern for each industrial user. Where specific local limits for a given parameter or pollutant are not contained in an industrial user permit, the following limits will apply to all industrial users:

BOD5 TSS

Total nitrogen TKN

Ammonia Cadmium Copper Lead Nickel

Total chromium Cyanide

Zinc

300 mg/1

300 mg/1

50 mg/1

40 mg/1

25 mg/1

0.0015 mg/1

0.15 mg/1

0.003 mg/1

0.10 mg/1

0.160 mg/1

0.35 mg/1

0.175 mg/1

Industrials-specific local limits for appropriate pollutants of concern shall be included in wastewater permits and are considered pretreatment standards. The POTW director may impose mass limits in addition to, or in place of, the concentration-based limits in this subsection.

(d) State requirements. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this division.

(e) Right of town to establish more stringent requirements. The town reserves the right to establish limitations and requirements that are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in Section 28-121 or the general and specific prohibitions in subsection (a) of this Section, as allowed by 40 CFR part 403.4.

(f) Dilution of discharge. No industrial user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard or in any other pollutant-specific limitation developed by the town or state.

(g) Pretreatment of wastewater.

(1) Pretreatment facilities. Industrial users shall provide wastewater treatment as necessary to comply with this division and wastewater permits issued under Section 28-125(b), and shall achieve compliance with all federal categorical pretreatment standards, local limits and the prohibitions set out in subsection (a) of this Section within the time limitations as specified by EPA, the state, or the POTW director, whichever is more stringent.

a. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense.

b. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted for review to the town and/or the state, as ordered by the POTW director. The authorization to construct the pretreatment facilities shall be issued by the town and/or the state, also as ordered by the POTW director.

c. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this division.

d. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW director prior to the user's initiation of the changes.

(2) Additional pretreatment measures.

a. Whenever deemed necessary, the POTW director may require certain users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and require such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this division.

b. The POTW director may require any industrial user discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

c. Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW director, they are necessary for the proper handling of wastewater containing excessive amounts of fat, oil, grease, or sand, except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the POTW director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at his expense.

d. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(h) Accidental discharge sludge control plans. At least once every two years, the POTW director shall evaluate whether each significant industrial user needs an accidental discharge/ slug control plan. The POTW director may require any user to develop, submit for approval and implement such a plan. Alternatively, the POTW director may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW director of any accidental or slug discharge, as required by Section 28-126.

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or

equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(i) Hauled wastewater.

(1) Septic tank waste may be introduced into the POTW only at locations designated by the POTW director, and at such times as are established by the POTW director. Such waste shall not violate this Section or any other requirements established by the town. The POTW director may require septic tank waste haulers to obtain wastewater discharge permits. The POTW director also may prohibit the disposal of septic tank waste.

(2) The POTW director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW director may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this division.

(3) Industrial waste haulers may discharge loads only at locations designated by the POTW director. No load may be discharged without prior consent of the POTW director. The POTW director may collect samples of each hauled load to ensure compliance with applicable standards. The POTW director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(4) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(j) Damaging or tampering with facilities or equipment. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any element or appurtenances of the POTW, including equipment belonging to the town used for the purposes of making tests or examinations and left upon the premises of a person discharging wastes into the sewers.

(k) Connection to sewer system.

(1) Except as provided in this Section, it shall be unlawful to construct or maintain any septic tank, cesspool, or other facility intended or used for the disposal of wastewater. Except as provided in this Section, every person owning a dwelling, building or other structure that is used for human habitation or occupancy within the POTW's jurisdiction that is situated on a lot or parcel of land that abuts or adjoins a street or other public way along which is located a sanitary sewer of the town shall connect such dwelling or structure to the sewer system.

(2) A connection shall not be required to the system unless the lot or parcel of land on which the dwelling, building, or structure is situated is accessible within 150 feet of the sewer system. In addition, no person shall be required to cross the private property of any other person to make such connection.

(3) Owners of properties whereupon exists a dwelling, building or other structure that is used for human habitation or occupancy that are not accessible to the sewer system for the reason they are more than 150 feet therefrom or would require crossing another person's private property to make connection shall install septic tanks or other facilities in accordance with the regulations of the county health department. Installation of the septic tank or other facility must also receive the approval of the POTW director prior to construction of such facilities.

(4) Where connections are required, all toilets, sinks, and other plumbing fixtures shall be installed, arranged, or rearranged to drain into the sanitary sewer and shall be installed in accordance with the requirements of the state plumbing code.

(5) In cases where a sanitary sewer is constructed where none before existed, such connection must be made within 90 days of completion of the sewer construction.

(l) Multiple connections through one building sewer. A separate and independent building sewer shall be provided for every building, except, where one building stands at the rear of another or on an interior lot and no sanitary sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(m) Discharge of wastewater to storm sewer, ditch, watercourse or pond. The discharge of treated or untreated domestic sewage or industrial wastes to any storm sewer, pond, open ditch, stream or watercourse is not allowed within the POTW's jurisdictional area, except that uncontaminated noncontact cooling water may be discharged provided that such discharge is constructed and operated within the laws of the state. However, where the board of commissioners decides that it is not in the best interest of the town to accept any particular industrial waste into its sanitary sewer, such waste may be discharged within the town provided such discharge meets the requirements of the state and the discharge is approved by the board of commissioners.

(n) Drainage of unpolluted water. No person shall make any connection of roof downspouts, exterior foundation drains, area drains, or other sources of inflow, groundwater, or other unpolluted waters to a building sewer or building drain which in turn is connected, directly or indirectly, to a public sanitary sewer. Unpolluted waters may be discharged to town storm sewers and drainage ditches subject to approval of the POTW director and provided that all required federal, state, and local permits required for such a discharge are secured by the person causing the discharge.

(o) Building sewers and connections. All connections to the sanitary sewer system under the control of and operated by the town shall be made by authorized employees of the town in accordance with requirements of the state plumbing code, town specifications, and all other applicable state and federal regulations. If authorized by the board of commissioners, connections may be made by plumbers licensed to perform plumbing work in North Carolina. Any sewer connection made by an authorized licensed plumber shall be inspected by the POTW director after such work has been completed and prior to the time the connection is covered.

(Ord. of 9-8-1997, §§ 2.1-2.15)

SECTION 14-100. – USER CHARGE SYSTEM.

(a) User charges generally.

(1) Authority. Pursuant to the provisions of PL 92-500, § 240(b), and subsequent amendments to it, the town, having received EPA financial assistance for the construction of treatment works, shall adopt a system of charges to ensure that each user pays a share of the annual administration, operation, and maintenance (including replacement) costs of the POTW.

(2) Intent. The intent of such user charges is to equitably distribute the cost of administration, operation, and maintenance of the POTW to each user proportional to the amount of wastewater treatment service each user

receives, and to promote self- sufficiency of the POTW with respect to administration, operation, and maintenance costs.

(3) Definitions. The term "replacement" referred to in subsection (a)(l) of this Section is defined as those expenditures for obtaining and installing equipment, accessories, or appurtenances that are necessary during the service life of the treatment works to maintain the treatment works capacity and performance. The term "operation and maintenance" includes replacement.

(4) User classes. Each user shall be charged a share of the treatment works operation and maintenance cost based on the measured proportional contribution to the treatment works loading. Generally, the user charge will be dependent upon flow insofar as BOD, COD, TSS, and other pollutant contributions discharged by all users are approximately equal. Where such pollutants exceed the range of concentration of these pollutants in normal domestic sewage, a surcharge will be added to the base charge. The models used in calculating the user charge are defined in subsection (a)(6) of this Section.

(5) User charge criteria. The user charge system shall be approved by the regional administrator of the Environmental Protection Agency and shall be maintained by the town in accordance with the following requirements:

a. The user charge system must result in the distribution of the cost of operation and maintenance of treatment works within the town jurisdiction to each user (or user class) in proportion to such user's contribution to the total wastewater loading of the treatment works. Factors such as strength, volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance costs to each user (or user class).

b. The user charge system must generate sufficient revenue to offset the cost of all treatment works operation and maintenance provided by the town.

(6) Model user charge system. The user charge system adopted by the town shall result in the equitable distribution of annual treatment works administration, operation, and maintenance costs to each user (or user class) in approximate proportion to the contribution of each user's (or user class) towards the total wastewater loading of the treatment works. The following user charge models shall be used for this purpose. The symbols used in the models are defined as follows:

Cr =

ct =

cu =

cs =

vu =

Vt =

Total fixed operation and maintenance (O&M) costs per unit of time. Total variable operation and maintenance (O&M) costs per unit of time. A user's charge for O&M per unit of time.

A surcharge for wastewaters of excessive strength. Volume contribution from a user per unit of time.

Total volume contribution from all user per unit of time.

B_c = O&M cost for treatment of a unit of biochemical oxygen demand (BOD). B = Contribution of BOD from a user above a base level.

S_c = O&M cost for treatment of a unit of suspended solids. S = Contribution of SS from a user above a base level.

N_c = O&M cost for treatment of a unit of ammonia.

N = Concentration of ammonia from a user above a base level.

P_c = O&M cost for treatment of a unit of any pollutant having identifiable contributions to overall treatment costs.

P = Concentration of a pollutant from a user above a base level.

a. Model No. 1: Whereas the treatment works is primarily flow dependent as the BOD, suspended solids, and other pollutant concentrations discharged by the majority of users are approximately equal; therefore, the user charge will be developed on a volume basis in accordance with the following model:

No. of Users V_t

b. Model No. 2: When determined by the town that BOD, COD, TSS, ammonia and any other appropriate pollutant concentrations from a user exceed the range of concentration of these pollutants typically found in normal domestic sewage, a surcharge calculated by means of Model No. 1 shall be levied in addition to the base sewer use charge. The surcharge shall be computed by the following model:

$$cs = [B_c(B) + S_c(S) + N_c(N) + P_c(P)]$$

(7) Baseline pollutant concentrations shall be BOD₅, 300 mg/1; TSS, 300 mg/1; total nitrogen, 50 mg/1; TKN, 40 mg/1; and ammonia nitrogen, 25 mg/1; or as established by the POTW director and held as a standard for the town.

(8) Model No. 1 shall include all costs for operation and maintenance associated with extraneous flows not attributable to any one user or user class, thereby distributing those costs to all users.

(9) User charges may be established based on a percentage of the charge for water usage. However, the unit rate sewer charge for the largest volume users must be as great as or greater than the unit cost of operation and maintenance (excluding debt service). In any event, a surcharge shall still be levied in accordance with the provisions

of Model No. 2. The system of user charges for the wastewater treatment system shall be based on total annual system costs, including operation and maintenance expenses.

(10) Each user shall be notified no less often than annually of the rates for user charges. Such notification shall be done in conjunction with a regular bill, and, if the regular bill also includes charges for other services, shall clearly identify the portion of the bill attributable to wastewater user charges.

(11) The board of commissioners shall review annually the sewage contributions of users and the total annual costs of debt service, operation, and maintenance of the POTW and will make adjustments in the schedule of charges and fees as necessary to support the intent of this division.

(12) The user charge system shall take precedence over any terms or conditions of any contracts or agreements that are inconsistent with Section 204(b)(1)(a) of the Clean Water Act.

(b) Pretreatment program administration charges. The POTW director reserves the authority to establish a schedule of charges and fees for the reimbursement of costs incurred in operating and administering the required local pretreatment program in conjunction with the requirements of 40 CFR part 403. Such charges shall become effective upon presentation to and adoption by the board of commissioners. Costs to be provided for by the schedule may include:

- (1) Reimbursement of the costs of the initial setup and the operation of the pretreatment program.
- (2) Monitoring, inspection, and surveillance procedures.
- (3) Reviewing accidental discharge procedures and construction plans and specifications.
- (4) Permitting.
- (5) Labor and material used for enforcement actions.
- (6) Any other costs required of the town necessary to meet the requirements of the local pretreatment program and 40 CFR part 403.

(Ord. of 9-8-1997, §§ 3.1, 3.2)

SECTION 14-101. – DISCHARGE PERMIT.

(a) Wastewater dischargers generally. It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the town. When requested by the POTW director, a user must submit information on the nature and characteristics of its wastewater within 90 days of receipt of the request. The POTW director is authorized to prepare a form for this purpose and may periodically require users to update this information.

(b) Industrial users. All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the POTW director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the POTW director be required to obtain a wastewater discharge permit for nonsignificant industrial users.

(1) Significant industrial use determination. All industrial users proposing to discharge nondomestic wastewater, or proposing to change the volume or characteristics of an existing discharge of nondomestic wastewater, shall request from the POTW director a significant industrial user determination. If the POTW director determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.

(2) Contents of application. Users required to obtain a significant industrial user permit shall complete and file with the town an application in the form prescribed by the POTW director, accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW director's determination under subsection (b)(I) of this Section. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- a. Name, address and location (if different from the address).
- b. Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated.
- c. Analytical data on wastewater constituents and characteristics, including but not limited to those mentioned in Section 28-123, any of the priority pollutants (Section 307(a) of the Act) that the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR part 136, as amended.
- d. Time and duration of the indirect discharge.
- e. Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any.
- f. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation.
- g. Description of activities, facilities and plant processes on the premises including all materials that are or could be accidentally or intentionally discharged.
- h. Where known, the nature and concentration of any pollutants in the discharge limited by any town, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the user to meet applicable pretreatment standards.
- i. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:
 1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine months.

2. No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the POTW director.

J. Each product produced, by type, amount, process and rate of production.

k. Type and number of raw materials processed (average and maximum per day).

l. Number and type of employees, and hours of operation of the plant and proposed or actual hours of operation of the pretreatment system.

m. If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR part 403.12(b) and 15A NCAC 2H.0908(a), as outlined in Section 28-126(a).

n. Any other information as may be deemed by the POTW director to be necessary to evaluate the permit application.

(3) Application signatories and certification. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(4) Application review and evaluation. The POTW director will evaluate the data furnished by the user and may require additional information.

a. The POTW director is authorized to accept applications for the town and shall refer all applications to the POTW staff for review and evaluation.

b. Within 30 days of receipt, the POTW director shall acknowledge and accept the complete application, or, if not complete, shall return the application to the applicant with a statement of what additional information is required.

(5) Tentative determination and draft permit.

a. The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.

b. If the staff's tentative determination under subsection (b)(5)a of this Section is to issue the permit, the following additional determinations shall be made in writing:

1. Proposed discharge limitations for those pollutants proposed to be limited;

2. A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
 3. A brief description of any other proposed special conditions that will have significant impact upon the discharge described in the application.
 - c. The staff shall organize the determinations made pursuant to subsections (b)(5)a and b of this Section and the town's general permit conditions into a significant industrial user permit.
- (6) Permit synopsis. A fact sheet providing a brief synopsis of the application shall be prepared by the POTW staff for submission to the applicant and the approval authority and shall be made available to the public upon request. The contents of such fact sheets shall include at least the following information:
- a. A sketch and detailed description of the industrial facilities and pretreatment facilities including the location of all points of discharge to the POTW and all established compliance monitoring points.
 - b. A quantitative description of the discharge described in the application that includes at least the following:
 1. The rate or frequency of the proposed discharge; and, if the discharge is continuous, the average daily flow;
 2. The actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present: and
 3. The basis for the pretreatment limitations, including the documentation of any calculations in applying categorical pretreatment standards.
- (7) Final action on permit application.
- a. The POTW director shall take final action on all applications not later than 90 days following receipt of a complete application.
 - b. The POTW director is authorized to:
 1. Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this division and N.C. GEN. STAT.143-215.1.
 2. Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements.
 3. Modify any permit upon not less than 60 days' notice and pursuant to subsection (b)(9) of this Section.
 4. Revoke any permit pursuant to Section 28-129(a).
 5. Suspend a permit pursuant to Section 28-129(a).

6. Deny a permit application when in the opinion of the POTW director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of N.C. GEN. STAT.143-215.1.

(8) Hearings.

a. Initial adjudicatory hearing. An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under Section 28-129(b), or one issued in administrative order under Section 28-129(a) shall have the right to an adjudicatory hearing before a hearing officer designated by the POTW director upon making written demand, identifying the specific issues to be contested, to the POTW director within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified in this subsection, the action shall be final and binding. The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing. The POTW director shall transmit a copy of the hearing officer's decision by registered or certified mail.

l. New permits. Upon appeal, including judicial review in the state general courts of justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

2. Renewed permits. Upon appeal, including judicial review in the state general courts of justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

b. Final appeal hearing. Any decision of a hearing officer made as a result of an adjudicatory hearing held under subsection (b)(8)a of this Section may be appealed to the board of commissioners upon filing a written demand within ten days of receipt of notice of the decision. Hearings held under this subsection shall be conducted in accordance with the town's hearing procedures. Failure to make written demand within the time specified in this subsection shall bar further appeal. The board of commissioners shall make a final decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.

c. Official record. When a final decision is issued under subsection (b)(8)b of this Section, the board of commissioners shall prepare an official record of the case that includes:

1. All notices, motions, and other like pleadings.

2. A copy of all documentary evidence introduced.

3. A certified transcript of all testimony taken, if testimony is transcribed; or, if testimony is taken and not transcribed, then a narrative summary of any testimony taken.

4. A copy of the final decision of board of commissioners.

d. Judicial review. Any person against whom a final order or decision of the board of commissioners is entered pursuant to the hearing conducted under subsection (b)(8)b of this Section may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the superior court of the county, along with a copy to the town. Within 30 days

after receipt of the copy of the petition of judicial review, the board of commissioners shall transmit to the reviewing court the original or a certified copy of the official record.

(9) Permit modification.

a. Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as follows:

1. Changes in the ownership of the discharge when no other change in the permit is indicated.
2. A single modification of any compliance schedule not in excess of four months.
3. Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.

Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

b. Within nine months of the promulgation of a federal categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the timeframe prescribed by such standard. Where a user subject to a federal categorical pretreatment standard has not previously submitted an application for a waste- water discharge permit as required by subsection (b)(2) of this Section, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable federal categorical pretreatment standard.

c. A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by N.C. GEN. STAT.143-215.1(b) for modifications.

(10) Permit conditions.

a. The POTW director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this division and N.C. GEN. STAT.143-215.1. Wastewater permits shall contain, but are not limited to, the following:

1. A statement of duration (in no case more than five years);
2. A statement of no transferability;
3. Applicable effluent limits based on categorical standards or local limits or both;
4. Applicable monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law;
5. Notification requirements for sludge loads; and
6. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

b. In addition, permits may contain, but are not limited to, the following:

1. Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
2. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
3. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
4. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges.
5. Development and implementation of waste minimization plans to reduce the number of pollutants discharged to the municipal wastewater system.
6. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
7. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
8. Specifications for monitoring programs that may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
9. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation.
10. Compliance schedules for meeting pretreatment standards and requirements.
11. Requirements for submission of periodic self-monitoring or special notification reports.
12. Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in Section 28-126(m) and affording the POTW director, or his representatives, access thereto.
13. Requirements for prior notification and approval by the POTW director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
14. Requirements for the prior notification and approval by the POTW director of any change in the manufacturing and/or pretreatment process used by the permittee.
15. Requirements for immediate notification of excessive, accidental, or sludge discharges, or any discharge that could cause any problems to the system.
16. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those becoming effective during the term of the permit.

17. Other conditions as deemed appropriate by the POTW director to ensure compliance with this division and state and federal laws, rules, and regulations.

(11) Duration of permit. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

(12) Transfer of permit. Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

(13) Reissuance of permit. A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with subsection (b) of this Section a minimum of 180 days prior to the expiration of the existing permit.

(Ord. of 9-8-1997, §§ 4.1, 4.2)

SECTION 14-102. – REPORTING REQUIREMENTS.

(a) Baseline monitoring reports.

(1) Reporting deadlines.

a. Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR part 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW director a report containing the information listed in subsection (a)(2) of this Section.

b. At least 90 days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard shall submit to the POTW director a report that contains the information listed in subsection (a)(2) of this Section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) Required information. Users described in subsection (a)(1) of this Section shall submit the following information:

a. Identifying information. The name and address of the facility, including the name of the operator and owner.

b. Environmental permits. A list of any environmental control permits held by or for the facility.

c. Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operations carried out by such user. This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.

d. Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary to allow use of the combined waste stream formula set out in 40 CFR part 403.6(e).

(3) Measurement of pollutants.

- a. The categorical pretreatment standards applicable to each regulated process.
- b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection (j) of this Section.
- c. Sampling must be performed in accordance with procedures set out in subsection (k) of this Section.
- d. Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- e. Compliance schedule. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or operation and maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this subsection must meet the requirements set out in subsection (b) of this Section.

All baseline monitoring reports must be signed and certified in accordance with Section 28-125(b)(3).

(b) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by subsection (a)(2)g of this Section:

- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. Such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation.
 - (2) No increment referred to in subsection (b)(l) of this Section shall exceed nine months.
 - (3) The user shall submit a progress report to the POTW director no later than 14 days following each date in the schedule and the final date of compliance, including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.
 - (4) In no event shall more than nine months elapse between such progress reports to the POTW director.
- (c) Compliance reports for categorical pretreatment standard deadlines. Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW director a report containing the information described in subsections (a)(2)d through f of this Section. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR part 403.6(c), this report shall contain a reasonable measure of the user's

long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 28-125(b)(3).

(d) Periodic compliance reports.

(1) The POTW director may require any significant industrial user to submit reports at a frequency determined by the POTW director (but, in such cases, no less than twice per year in June and December), indicating the nature and concentration of pollutants in the discharge that are limited by pretreatment standards and the measured or estimated average and maximum daily flows. All such periodic compliance reports must be signed and certified in accordance with Section 28-125(b)(3).

(2) The town may sample and analyze permitted user discharges in lieu of requiring the permitted users to conduct any or all sampling and analysis.

(3) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are not representative of the user's discharge.

(4) If a user subject to the reporting requirement in this subsection monitors any pollutant more frequently than required by the POTW director using the procedures prescribed in subsection (j) of this Section, the results of that monitoring shall be included in the report.

(e) Reports of changed conditions. Each user must notify the POTW director of any planned significant changes to the user's operations or system that might alter the nature, quality, or volume of its wastewater at least 45 days before the change.

(1) The POTW director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 28-125(b)(3).

(2) The POTW director may issue a wastewater discharge permit under Section 28-125(b) or modify an existing wastewater discharge permit under Section 28-125(b) in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases or decreases of 20 percent or greater, or the discharge of any previously unreported pollutants.

(f) Reports of potential problems.

(1) In the case of any discharge, including but not limited to accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a sludge load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(2) Within five days following such discharge, the user shall, unless waived by the POTW director, submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW or natural resources, or any other damage to person or property, nor shall such notification relieve the user of any fines, penalties, or other liability that may be imposed pursuant to this division.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (f)(I) of this Section. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

(g) Reports from unpermitted users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW director as the POTW director may require.

(h) Notification of violation; repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the POTW director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW director within 30 days after becoming aware of the violation. The user is not required to resample if the POTW director monitors at the user's facility at least once a month, or if the POTW director samples between the user's initial sampling and when the user receives the results of this sampling.

(i) Notification of discharge of hazardous waste.

(1) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance that, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other).

(2) If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user:

a. An identification of the hazardous constituents contained in the wastes.

b. An estimation of the mass and concentration of such constituents in the waste stream discharge during the calendar month.

c. An estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months.

(3) All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under subsection (e) of this Section. The notification requirement in this Section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections (a), (c) and (d) of this Section.

(4) Dischargers are exempt from the requirements of subsection (i)(I) of this Section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR part 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR part 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(5) In the case of any new regulation under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW director, the EPA Regional Waste Management Waste Division director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(6) In the case of any notification made under this subsection, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(7) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this division, a permit issued thereunder, or any applicable federal or state law.

(j) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report, shall be performed in accordance with the techniques prescribed in 40 CFR part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA. Where the EPA has not approved procedures, the procedures used must be approved by the POTW director.

(k) Sample collection.

(1) Except as indicated in subsection (k)(2) of this Section, wastewater samples must be collected using flow proportional composite collection techniques. If flow proportional sampling is not feasible, the POTW director may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(1) Timing. Written reports will be deemed to have been submitted on the date postmarked. For reports that are not mailed, postage prepaid, into a mail facility serviced by the United

States Postal Service, the date of receipt of the report shall govern.

(m) Recordkeeping. Users subject to the reporting requirements of this division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this division and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person taking the samples, the dates analyses were performed, who performed the analyses, the analytical techniques or methods used, and the results of such analyses. These records shall remain available for a

period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or town, or where the user has been specifically notified of a longer retention period by the POTW director. (Ord. of 9-8-1997, §§ 5.1-5.13)

SECTION 14-103. – COMPLIANCE MONITORING.

(a) Monitoring facilities.

(1) The town may require users to provide and operate, at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the town may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(2) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(3) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the town's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the town.

(b) Inspection and sampling. The town will inspect the facilities of any user to ascertain whether the purpose of this division is being met and all requirements are being met. Persons or occupants of premises where wastewater is created or discharged shall allow the town, approval authority and EPA or their representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The town, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force that would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements so that, upon presentation of suitable identification, personnel from the town, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the POTW director's, approval authority's, or EPA's access to the user's premises shall be a violation of this division. Unreasonable delays may constitute denial of access.

(c) Search warrants. If the POTW director, approval authority, or EPA has been refused access to a building, structure, property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the town designed to verify compliance with this division or any permit or order issued under this division, or to protect the overall public health, safety and welfare of the community, then the POTW director, approval authority, or EPA may seek issuance of a search warrant from the state general court of justice to gain free and easy access to the building, structure, property or part thereof suspected to be contributing to the cause of the violation.

(Ord. of 9-8-1997, §§ 6.1-6.3)

Section 14-104. – CONFIDENTIAL INFORMATION.

(a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the POTW director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

(b) When requested by the person furnishing a report, the portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this division, the National Pollutant Discharge Elimination System (NPDES) permit, the no discharge permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(c) All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request.

(Ord. of 9-8-1997, § 7)

SECTION 14-105. – ENFORCEMENT AND PENALTIES.

(a) Administrative remedies.

(1) Notification of violation. Whenever the POTW director finds that any industrial user has violated or is violating this division, a wastewater permit, or any prohibition, limitation or requirements contained therein, or any other pretreatment requirement, the POTW director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the town by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(2) Consent orders. The POTW director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to subsection (a)(4) of this Section.

(3) Show cause hearing.

a. The POTW director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this division or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. If the POTW director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or

certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

b. The POTW director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

c. A show cause hearing under this Section is not a prerequisite to the assessment of a civil penalty under subsection (b) of this Section, nor is any action or inaction taken by the POTW director under this Section subject to an administrative appeal under Section 28-125(b)(8).

(4) Administrative orders. When the POTW director finds that an industrial user has violated or continues to violate this division, permits, or orders issued under this division, or any other pretreatment requirement, the POTW director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

a. Immediately comply with all requirements.

b. Comply in accordance with a compliance time schedule set forth in the order.

c. Take appropriate remedial or preventive action in the event of a continuing or threatened violation.

d. Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

An industrial user to whom an administrative order is issued may appeal the administrative order under the procedures set forth under Section 28-125(b)(8).

(5) Emergency suspensions.

a. The POTW director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge that presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or no discharge permit.

b. Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals.

c. The POTW director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW director prior to the date of the hearing.

(6) Termination of permit. Any user who violates the following conditions of this division, or applicable state and federal regulations, is subject to having its permit terminated:

- a. Failure to accurately report the wastewater constituents and characteristics of the user's discharge;
- b. Failure to report significant changes in operations, or wastewater constituents and characteristics;
- c. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
- d. Violation of conditions of the permit.

(7) Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under subsection of this Section why the proposed action should not be taken.

(b) Civil penalties.

(1) Any user who is found to have failed to comply with any provision of this division, or the orders, rules, regulations and permits issued under this division, may be fined up to \$10,000.00 per day per violation.

(2) In determining the amount of the civil penalty, the POTW director shall consider the following:

- a. The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation.
- b. The duration and gravity of the violation.
- c. The effect on groundwater or surface water quantity or quality or on-air quality.
- d. The cost of rectifying the damage.
- e. The amount of money saved by noncompliance.
- f. Whether the violation was committed willfully or intentionally.
- g. The prior record of the violator in complying or failing to comply with the pretreatment program.
- h. The costs of enforcement to the town.

(3) Appeals of civil penalties assessed in accordance with this subsection shall be as provided in Section 28-125(b)(8).

(c) Other remedies. Remedies in addition to those otherwise mentioned in this division are available to the POTW director, who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

(1) Criminal violations. The district attorney for the town's judicial district may, at the request of the town, prosecute noncompliant users who violate the provisions of N.C. GEN. STAT.143-215.6B. Under state law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (N.C. GEN. STAT.143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (N.C. GEN. STAT.143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a

pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury (N.C. GEN. STAT.143-215.6B(h)), and to falsify information required under N.C. GEN. STAT.ch. 143, art. 21 (N.C. GEN. STAT.143-215.6B(i)).

(2) Injunctive relief Whenever a user is in violation of the provisions of this division or an order or permit issued under this division, the POTW director, through the town attorney, may petition the state superior court of justice for the issuance of a restraining order or a preliminary and permanent injunction that restrains or compels the activities in question.

(3) Water supply severance. Whenever an industrial user is in violation of the provisions of this division or an order or permit issued under this division, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.

(4) Public nuisances. Any violation of the prohibitions or effluent limitations of this division or of a permit or order issued under this division is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW director. Any person creating a public nuisance shall be subject to the provisions of this Code governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying the nuisance.

(d) Remedies nonexclusive. The remedies provided for in this division are not exclusive. The POTW director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the town's enforcement response plan. However, the POTW director may take other action against any user when the circumstances warrant. Further, the POTW director is empowered to take more than one enforcement action against any noncompliant user.

(Ord. of 9-8-1997, §§ 8.1-8.4)

SECTION 14-106. – PUBLICATION OF NAMES OF USERS IN SIGNIFICANT NONCOMPLIANCE.

At least annually, the POTW director shall publish in the largest daily newspaper circulated in the service area a list of those industrial users found to be in significant noncompliance, also referred to as reportable noncompliance in 15A NCAC 2H.0903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.

(Ord. of 9-8-1997, § 9)

SECTION 14-107. – AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.

(a) Upsets.

(1) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (a)(2) of this Section are met.

(2) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

a. An upset occurred and the user can identify the cause of the upset:

b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

c. The user has submitted the following information to the POTW director within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

1. A description of the indirect discharge and cause of noncompliance;
2. The period of noncompliance, including exact dates and times, or, if not corrected, the anticipated time the noncompliance is expected to continue; and
3. Steps being taken and/or planned to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.

(3) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(4) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(5) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of the user's treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility fails, or is reduced or lost.

(b) Prohibited discharge standards defense. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 28-123(a)(l) or the specific prohibitions in Sections 28-123(a)(2)b, c and e through g if it can prove that it did not know, or have reason to know, that its discharge, whether alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:

(1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to and during the pass-through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the town was regularly in compliance with its NPDES permit, and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(3) Pursuant to 40 CFR part 403.5(a)(2), the affirmative defense outlined in this subsection (b) cannot apply to the specific prohibitions in Section 28-123(a)(2)a, d and i.

(c) Bypass.

(1) Permitted bypasses. A user may allow any bypass to occur that does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of subsections (c)(2) and (3) of this Section.

(2) Notice.

a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW director at least ten days before the date of the bypass, if possible.

b. A user shall submit oral notice to the POTW director of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(3) Prohibited bypasses.

a. Bypass is prohibited, and the POTW director may take an enforcement action against a user for a bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

3. The user submitted notices as required under subsection (c)(2) of this Section.

b. The POTW director may approve an anticipated bypass, after considering its adverse effects, if the POTW director determines that it will meet the three conditions listed in subsection (c)(3)a of this Section.

(Ord. of 9-8-1997, §§ 10.1-10.3)

CHAPTER 11. WATER SHORTAGES AND CONSERVATION

SECTION 14-108. – INTRODUCTION.

(a) Purpose. The purpose of this water shortage and conservation article is:

- (1) To implement permanent seasonal water conservation measures;
- (2) To provide for the declaration of increasingly serious stages of water shortages, and
- (3) To define mandatory water conservation measures to be implemented during these various stages.

This water shortage and conservation article is intended to preserve the water demands for human consumption, sanitation, and fire protection of its customers can be met as cost- efficiently as possible throughout the service area of the Town of Clarkton, North Carolina.

(b) Applicability. This article shall apply to all users connected directly or indirectly to the Town of Clarkton public potable water supply and private wells regardless of whether user of town water is located within the city limits or outside of the city limits.

(Ord. of 6-9-2003)

Section 14-109. – OBJECTIVES.

The specific objectives of the water shortage and conservation article are as follows:

- (1) To establish permanent seasonal water conservation measures for all customers in the interest of conserving the town's water supply;
- (2) To establish the authority of the town mayor (or board of commissioners) of the Town of Clarkton to declare water shortage conditions and to implement and enforce the procedures established herein;
- (3) To establish mandatory water conservation measures; and
- (4) To establish enforcement protocol for violations of mandatory water conservation measures outlined herein.

(Ord. of 6-9-2003)

SECTION 14-110. – DEFINITIONS.

For purpose of this article, the following definitions shall apply:

Contamination shall mean the addition to any watershed area, reservoir, storage tank, or distribution system of any material that appears in an above-normal concentration or as high nuisance or harmful effect on the consumer or the system.

User shall mean any person using water for any purpose from the Town of Clarkton water distribution system (either directly or indirectly) and for which either a regular charge is made or, in the case of bulk sales, a cash charge is made at the site of delivery.

Emergency, when referring to water shortage, shall mean that conditions exist such that treated water supplies cannot meet customer demands and that serious treated water shortages exist.

Essential use shall mean:

- (1) Use of water to sustain normal life and the lives of domestic pets, and to maintain minimum standards of hygiene and sanitation;
- (2) Use of water for patient care and rehabilitation;
- (3) Fire-fighting (includes certain testing and drills by the fire department if conducted in the interest of public safety and if approved by the town mayor (or board of commissioners);
- (4) Health and public protection purposes, if specifically approved by health officials and the town mayor or board of commissioners (includes flushing of water lines and hydrants).

Hand watering shall mean the use of a hand-held water device. The device can be attached to the end of a garden hose, but must be attended and held in the hand of a person at all times that watering is taking place.

Mandatory conservation shall mean that conservation measures are not voluntary, and that if users fail to comply, they are subject to the penalties outlined herein.

Person shall mean any natural person, any group of persons, any firm, partnership, association, corporation, company, or any other organization or entity.

Potable water shall mean the water in the Town of Clarkton water distribution system. Rationing shall mean procedures established by the Town of Clarkton to provide for the equitable distribution of critically limited treated water supplies, in order to balance demand and limited availability, and to ensure that sufficient treated water is available to preserve public health and safety.

Shall is mandatory; may is permissive.

TOG shall mean the Town of Clarkton acting through its mayor (or board of commissioners).

Water shortage shall mean that conditions exist when the demands and requirements of water customers served by the Town of Clarkton cannot be satisfied without depleting the available supply of potable water or the available water supply to or below a critical level, i.e., the level at which the continued availability of water for human consumption, sanitation, and fire protection is jeopardized. Conditions contributing to a water shortage may include but are not limited to the following:

- (a) Water supplies are below the level necessary to meet needs;

- (b) Water quality has been threatened due to a contamination situation;
- (c) Power outages or equipment malfunction;
- (d) Peak customer demands on the water system;
- (e) Inability to maintain adequate pressure and/or water supply throughout every portion of the Town of Clarkton water distribution system;
- (f) Natural disasters. (Ord. of 6-9-2003)

SECTION 14-111. – PERMANENT SEASONAL WATER CONSERVATION MEASURES.

Every Town of Clarkton customer shall comply with the following schedule for the irrigation of outdoor landscaping (such as grass, shrubbery, trees, flowers and vegetable gardens) from May 1 through September 30 annually:

- (1) Irrigation shall be limited to the hours of 7:00 p.m. to 7:00 a.m.
- (2) Water lawns, gardens, and shrubbery only as necessary on Mondays, Wednesdays and Fridays.
- (3) No irrigation shall take place in the daylight hours of any day between 7:00 a.m. and 7p.m.
- (4) Exceptions to these restrictions, on a temporary one-to-three-day basis, may be granted for persons engaged in the business of landscaping on a site-by-site basis, by permit issued by the Town of Clarkton.

(Ord. of 6-9-2003)

SECTION 14-112. – WATER CONSERVATION-STAGE I WATER SHORTAGE WARNING.

Whenever the Town of Clarkton experiences a potential water shortage, the town's mayor (or board of commissioners) shall be empowered to declare a water shortage warning.

An extensive publicity campaign will be initiated with conservation efforts publicized through the general news media or any other appropriate method for making such notification public. While water shortage warning conditions are declared; the following mandatory conservation measures shall be imposed:

It shall be unlawful to use water from the public water system supplied by the Town of Clarkton for the following purposes:

- (1) To water lawns, grass, shrubbery, trees, flower and vegetable gardens except by hand watering on the schedule outlined under "Permanent Seasonal Water Conservation Measures." Provided, however, that any person regularly engaged in the sale of plants shall be permitted to use water for such purposes, and shall not be restricted to hand watering.
- (2) To wash automobiles, trucks, trailers, boats, airplanes, or any other type of mobile equipment. Provided, however, that any person regularly engaged in the business of washing motor vehicles and any commercial car wash facility shall be permitted to use water for such purposes.
- (3) To wash down outside areas such as streets, driveways, service station aprons, parking lots, office buildings, exteriors of existing or newly constructed homes or apartments, sidewalks, or patios, or to use water for other similar purposes. Provided, however, that any person regularly engaged in the business of washing such areas shall be permitted to use water for such purposes.
- (4) To introduce water into any ornamental fountain pool, pond, or other structure making similar use of water.
- (5) To use water from public or private fire hydrants for any purpose other than fire suppression or other public emergency or water department need.
- (6) To use water for dust control, compaction, or construction testing of new waterlines.
- (7) To intentionally waste treated water and misuse of irrigation meters.

The owner or occupant of any land or building which either (1) receives water from the Town of Clarkton and that also utilizes water from a well or supply other than that of the Town of Clarkton or (2) is in the city limits and uses a well or pond for irrigation purposes, shall post and maintain in a prominent place thereon a sign furnished by the Town of Clarkton (for a fee) giving public notice of the use of the well or other sources of supply.

(Ord. of 6-9-2003)

Section 14-113. – SAME-STAGE II WATER SHORTAGE EMERGENCY.

When the Town of Clarkton experiences a shortage of treated water, or when the water supply is not adequate to meet normal needs, the town's mayor (or board of commissioners) shall be empowered to declare a water shortage emergency. The declaration shall exist for the duration of the shortage or until it is declared to have ended by the Town of Clarkton.

In the event of a water shortage emergency, in addition to the restrictions heretofore imposed, the following mandatory water conservation measures shall apply:

It shall be unlawful to use water from the public water system supplied by the Town of Clarkton for the following purposes:

- (1) To water or sprinkle any lawn, grass, shrubbery, trees, or flowers with treated water.
- (2) To wash automobiles, trucks, trailers, boats, airplanes, or any other type of mobile equipment.
- (3) To wash down outside areas such as streets, driveways, service station aprons, parking lots, office buildings, exteriors of homes or apartments, sidewalks, patios, or other similar purposes.
- (4) To fill newly constructed swimming and/or wading pools or refill swimming and/or wading pools that have been drained.
- (5) To serve drinking water in restaurants, cafeterias, or other food establishments, except upon request.
- (6) To use treated water outside a structure for any use other than an emergency use involving fire or as needed by the Town of Clarkton to maintain the water system.
- (7) To make any nonessential use of treated water for commercial or public use. (Ord. of 6-9-2003)

Section 14-114. – SAME-STAGE III WATER SHORTAGE CRISIS.

Whenever the town's mayor (or board of commissioners) has declared a water shortage crisis and finds a need to provide for the equitable distribution of critically limited treated water or water supplies to ensure that sufficient treated water is available to preserve public health and safety of the citizens, he shall enforce a water rationing policy. Such rationing policy may be developed at the time of the declaration of the water shortage crisis and should be reflective of the following criteria:

- (1) It is imperative that water customers achieve an immediate further reduction in water use in order to extend existing water supplies and, at the same time, assure that sufficient water is available to preserve the public health and sanitation and to provide fire protection service. This immediate further reduction in water usage is another step along a continuum of responses to any water shortage crisis. Should the crisis continue, further reductions in water usage might be required. It must be emphasized that additional usage reductions in the rationed area is a valid and attainable goal reflective of the conditions of the crisis.
- (2) The policy must provide for equitable reductions in water usage and for equal sacrifice on the part of each water customer. The success of this policy depends on the cooperation of all water customers in the emergency area.
- (3) The policy must ensure that fire protection is maintained where possible; tank trucks shall use nonportable water.

(4) The policy shall make it unlawful to fail to act in accordance with the restrictions on treated water use or to attempt to evade or avoid such water rationing restrictions.

(5) The policy may include additional measures of mandatory conservation controls such as a percentage reduction in consumption, termination of service to specific areas in the water system on a rotating basis, prohibition of all industrial uses of potable water, etc., or whatever is necessary to protect the health and safety of the customers of the water system.

(Ord. of 6-9-2003)

SECTION 14-115. – REGULATIONS.

During the effective period of any water shortage, warning, emergency, or crisis, the Town of Clarkton is empowered to promulgate such regulations or policies as may be necessary to carry out the provisions of this article. The mayor (or board of commissioners) of the Town of Clarkton, or his duly authorized agent charged with implementation and enforcement of this article, shall be and is hereby granted the authority to implement and enforce any of the treated water use restrictions.

The town's mayor (or board of commissioners) shall have authority to implement, maintain and rescind any one or more of the above restrictions and to make them applicable during various times of the day as he deems appropriate to protect the public health, safety and welfare until he determines that the conditions requiring their imposition no longer exist. (Ord. of 6-9-2003)

SECTION 14-116. – ENFORCEMENT.

Any person who violates the provisions of this article, who fails to carry out the duties and responsibilities imposed by this article, or who impedes or interferes with any action undertaken or ordered pursuant to this article shall be subject to enforcement actions.

Enforcement actions may include, but are not limited to the following:

(1) Notice of violation (NOV). Whenever the Town of Clarkton finds that any user has violated or is violating his article or any prohibition, limitation, or requirement contained therein, the town mayor (or board of commissioners), or his duly authorized agent, shall serve upon such a person a written notice stating the nature of the violation. The written notice of the violation shall be (1) mailed, certified with return receipt requested, to the customer of record and to any other person known to the Town of Clarkton who is responsible for the violation or its correction, or (2) hand delivered to the customer of record or to the person in charge of the premises where the violation(s) occurred. The NOV shall inform the user of the violation and their responsibility to halt the activity within a specified period of time.

(2) Suspensions of service. In the event any treated water use restriction implemented by the town mayor (or board of commissioners) is violated, the town mayor (or board of commissioners) shall terminate or restrict the service of the person(s) where such violation occurs and may, in addition thereto or in the alternative, take such other appropriate legal action as provided by law.

At such time as the town mayor (or board of commissioners) is satisfied that the person is no longer in violation of any treated water use restrictions, the town mayor (or board of commissioners) shall reinstate the person's water service pursuant to the following:

- (a) After payment of a suspension/reconnection charge of \$75.00 for first-time offenders;
 - (b) After payment of a suspension/reconnection charge of \$300.00 for second-time offenders;
 - (c) After payment of a suspension /reconnection charge of \$500.00 for each additional violation.
- (3) Civil penalties. The town mayor (or board of commissioners) shall assess a civil penalty of up to \$1,000.00 per violation to any offender who shall continue any violation beyond the time limit provided for in the aforementioned notice of violation. Each day in which a violation of any provision of this article shall occur or continue shall constitute a separate and distinct offense.

In determining the amount of the civil penalty, the Town of Clarkton shall consider the following:

- (a) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
- (b) The duration and gravity of the violation;
- (c) Whether the violation was committed willfully or intentionally;
- (d) The prior record of the violator in complying or failing to comply with the water shortage response ordinance;
- (e) The costs of enforcement to the Town of Clarkton. (Ord. of 6-9-2003)

CHAPTER 12. FATS, OILS AND GREASE

SECTION 14-117. – PURPOSE.

The purpose of this Section is to aid in the prevention of sanitary sewer blockages and obstructions from contributions and accumulations of fats, oils, and greases into the town's sewer collection system from industrial or commercial establishments, particularly food preparation and serving facilities

SECTION 14-118. – DEFINITIONS.

The following words, terms and phrases shall have the meaning ascribed to them in this Section.]

- (1) Fats, oils, and greases. Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases".
- (2) Grease trap or interceptor. A device for separating and retaining waterborne greases and grease complexes prior to the wastewater exiting the trap and entering the sanitary sewer collection treatment system. These devices also serve to collect solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection and treatment system. Grease traps and interceptors are sometimes referred to as "grease interceptors".

- (3) Inside interceptor. A device installed inside an establishment to separate and retain waterborne greases and grease complexes prior to entering the sanitary sewer collection system. Such are allowed by conditional use permit only.
- (4) Cooking establishments. Those establishments primarily engaged in activities of preparing, serving or otherwise making available for consumption foodstuffs and use one or more of the following preparation activities: Cooking by frying (all methods), baking (all methods), grilling, sauteing, rotisserie cooking, broiling, blanching, roasting, toasting, or poaching. Also included are infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot, no drinkable food product in or on a receptacle that requires washing.
- (5) Noncooking establishments. Those establishments primarily engaged in the preparation of precooked foodstuffs that do not include any form of cooking. These include cold dairy and frozen foodstuff preparation and serving establishments.
- (6) Minimum design capability. The design features of a grease interceptor and its ability or volume required to effectively intercept and retain greases from grease-laden wastewater discharged to the sanitary sewer.
- (7) User. Any person, including those located outside the jurisdictional limits of the town, who contributes, causes or permits the contribution or discharge of wastewater into the POTW, including persons who contribute such wastewater from mobile sources, such as those who discharge hauled wastewater.
- (8) Conditional use permit. A permit granted by the public works director to allow the use of alternate measures other than a traditional grease interceptor for the purpose of preventing the introduction of fats, oils and greases into the town sewer collection system. Such are allowed only when the user demonstrates a bona fide logistical hardship to installing an outside grease interceptor.
- (9) Meals served procedure formula.

Number of meals x (4.5) x kitchen loading (KL)= Trap volume (gal)

Kitchen Loading

Food grinder and dishwasher Without food grinder Without dishwasher

Without food grinder and dishwasher

KL

2.50

2.00

1.50

1.00

Example: 200 meals/day facility with food grinder and dishwasher, $200 \times (4.5) \times 2.5 = 2,250$ -gal interceptor

(10) Seating capacity procedure formula.

Number of seats x storage factor (SF) x $\frac{1}{2}$ number of homes open = Trap volume (gal)

Storage Factor SF

0-8 hours/day 1

8-16 hours/day 2

16-24 hours/day 3

Example: 50 seat restaurant open 12 hours/day, $50 \times (2) \times 6 = 600$ -gal interceptor-750 gal

(b) Grease interceptor maintenance, record keeping and grease removal.

(1) Grease interceptors shall be installed by users as required by the public works director or his designee. Grease interceptors shall be installed at the user's expense, when such user operates a restaurant, school, child care facility with 20 or more children, deli, meat market, grocery store, bakery, entertainment club, caterer, church and fraternal organization, or when deemed necessary by the public works director for the proper handling of liquid wastes containing grease or any other substance deemed harmful to the sewer system.

(2) The public works director may permit, at his sole discretion, alternative means of grease removal other than the traditional outside grease trap. Such granting shall be by way of the issuance of a conditional use permit. A conditional use permit may be granted only when the requesting establishment has a bona fide hardship with installing a traditional interceptor. Bona fide hardships may include, but are not limited to, insufficient property requirements and logistically impractical compliance issues.

(3) All grease interceptors shall be of a type, design, and capacity approved by the public works director or his designee and shall be readily and easily accessible for user cleaning and town inspection. The sizing of grease traps will be based on the number of seats (seating capacity procedure) or the number of meals served in a single day (meals served procedure) or other methods approved by the public works director. All such grease interceptors shall be serviced and emptied of accumulated waste content as required in order to maintain minimum design capability or effective volume of the grease interceptor, but not less often than once every other month or more often, as determined by the public works director. Inside interceptors shall be cleaned a minimum of once every 14 days. Users who are required to, based on solids, pass water through a grease interceptor shall:

a. Provide for a minimum hydraulic retention time of 24 minutes at actual peak flow or 12 minutes at the calculated theoretical peak flow rate as predicted by the uniform plumbing code fixture criteria, between the influent and effluent baffles with 20 percent of the total volume of the grease interceptor being allowed for sludge to settle to accumulate, identified hereafter as a "sludge pocket".

b. Remove any accumulated grease cap and sludge pocket as required, but at intervals of no longer than every other month at the user's expense.

Grease interceptors shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could settle into this pocket and thereby reduce the effective volume of the grease interceptor.

c. Abide by the following conditions: If any skimmed or pumped wastes or other materials removed from the grease interceptor are treated in any fashion on-site and reintroduced back into the grease interceptor as an activity of and after said on-site treatment, the user shall be responsible for the attainment of established grease numerical limit consistent with any contained in subsection (b)(l) on all discharges of wastewater from said grease interceptor into the Town of Clarkton's sanitary sewer collection and treatment system.

d. Operate the grease interceptor in a manner so as to maintain said device such that attainment to the grease limit is consistently achieved. "Consistent" shall mean any wastewater sample taken from said grease interceptor shall be subject to terms of numerical limit attainment described in subsection (b)(l). If legitimate space constraints (as determined by the public works director) exist that prohibit the sewer user from installing a grease interceptor, a conditional use permit application requesting variance to this article may be submitted.

e. Understand and agree that the use of biological additives as a grease degradation agent is conditionally permissible, upon approval by the public works director. Any establishment using this method of grease abatement shall maintain the trap or interceptor in such a manner that attainment of the grease wastewater discharge limit, as measured from the trap's outlet, is consistently achieved.

f. Understand and agree that the use of automatic grease removal systems is conditionally permissible, upon prior written approval by the public works director, Town of Clarkton Building Inspector and the Bladen County Department of Health. Any establishment using this equipment shall operate the system in such a manner that attainment of the grease wastewater discharge limit, as measured from the unit's outlet, is consistently achieved.

g. Understand and agree that the public works director reserves the right to make determinations of grease interceptor adequacy and need, based on review of all relevant information regarding grease interceptor performance, facility site and building plan review and to require repairs to, or modification or replacement of such traps.

(4) All grease traps must be pumped once every other month and records of such supplied to the public works director after each pumping. The public works director has the discretion to require more or less frequent pumping on a case-by-case basis to protect the operation of the town's sewer collection system. The town may provide a grease trap pumping program to allow for the convenient maintenance, record keeping and service payment.

(5) All users required to maintain a grease trap shall maintain the proper records at the establishment for inspection by the Town of Clarkton's Public Works Director.

(6) No nongrease-laden sources are allowed to be connected to sewer lines intended for grease interceptor service.

(7) Should an obstruction of the town sewer main(s) occur that causes a sewer overflow to the extent that an impact on the environment is realized and that said overflow or failure of the sanitary sewer collection system to convey sewage can be attributed in part or in whole to an accumulation of grease in the town's sewer main(s), the Town of Clarkton will take appropriate enforcement actions, as stipulated in the town's sewer use ordinance, against the generator or contributor of such grease.

(8) Access manholes shall be provided over each chamber and sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removeable covers to facilitate inspection, grease removal, and wastewater sampling activities.

(Ord. of 10-9-2006)

SECTIONS 14-119. – 14-120 – RESERVED.

TITLE 15. – PUBLIC WORKS: SOLID WASTE AND RECYCLING**CHAPTER 1. – GENERAL PROVISIONS.****SECTION 15-1. – 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:

Approved container means a receptacle (roll out cart) with two wheels and a properly designed axle and fittings, and a top lid that is to remain closed except when loading refuse, with a body consisting of approximately 90 to 96 gallons in capacity, constructed of heavy-duty plastic and having the strength to store normal household garbage and refuse and equipped with proper attachments for hydraulic loading into a collection vehicle by the hydraulic lifts affixed to such vehicle body. Bags, as defined in this Section, are also approved containers when the cart is full and periodic excess volume is generated and such bags are placed adjacent to or on top of the cart.

Also, for commercial purposes, the term "approved container" means a bulk container or metal container of not less than two cubic yards nor more than eight cubic yards, which shall be watertight, of all steel construction and supplied presently by a company under contract with the town. Bulk container does not include those which are to be serviced by the use of roll-off containers or compactors.

Bags means plastic sacks designed to store and enclose refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag with contents shall not exceed 40 pounds.

Brown goods means inoperative and discarded no appliance furniture items (e.g., sofas, chairs, tables, television sets, etc.).

Bulk container means a metal container of not less than two cubic yards nor more than eight cubic yards, which shall be watertight, of all steel construction and supplied by a town- authorized representative.

Collection means the act of removing solid waste (or materials that have been separated for the purpose of recycling) to a transfer station, processing facility, or disposal facility.

Commercial solid waste means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial waste.

Construction and demolition waste means solid waste resulting solely from construction, remodeling, repair or demolition operations on buildings, or other structures, but does not include inert debris, land-clearing debris, yard debris, or used asphalt, asphalt mixed with dirt, sand, gravel, rock, concrete or similar nonhazardous material.

Garbage means all putrescible waste, including animal offal and carcasses of less than ten pounds in weight except those slaughtered for human consumption; every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or

decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter, including, but not limited to, used tin cans and other food containers; and all putrescible or decomposable waste animal or vegetable matter which is likely to attract flies or rodents, but excluding sewage and human waste.

Hazardous waste means any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the state to be "hazardous" as that term is defined by or pursuant to federal or state law or regulations.

Industrial solid waste means solid waste generated by industrial processes and manufacturing.

Inert debris means solid waste that consists solely of material that is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal.

Institutional solid waste means solid waste generated by educational, health care, correctional and other institutional facilities.

Land clearing debris means solid waste that is generated solely from land-clearing activities.

Landfill means a disposal facility or part of a disposal facility where waste is placed in or on land and that is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility or a surface storage facility.

Medical waste means any solid waste that is generated in the diagnosis, treatment or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does not include any hazardous waste, radioactive waste, or those substances excluded from the definition of solid waste.

Pathological waste means human tissues, organs and body parts, and the carcasses and body parts of any animals that were known to have been exposed to pathogens that are potentially dangerous to humans during research, were used in the production of biologics or in vivo testing of a pharmaceutical, or that died with a known or suspected disease transmissible to humans.

Producer means an occupant of a residential unit, or town-approved small business waste generator, within the service area who generates waste.

Putrescible means solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen waste, offal and animal carcasses.

Radioactive waste means waste containing any material, whether solid, liquid or gas, that emits ionizing radiation spontaneously.

Recycling means the process by which solid waste or recovered materials are collected, separated or processed, and reused or returned to use in the form of raw materials or products.

Refuse means and refers to garbage and rubbish generated at a residential unit or town-approved small business, unless the context otherwise requires.

Residential unit means a dwelling within the service area as defined in this Section, occupied by a person or group of persons. A residential unit shall be deemed occupied when water service, either public or private is being supplied thereto. Each unit of an apartment of a condominium dwelling consisting of four or less living units, whether single or multi-level construction, shall be treated as a residential unit. On any one collection day, the company will collect from each residential unit, and town-approved small business, all garbage in approved containers.

Rubbish trash means all waste wood, wood products, Christmas trees, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging or wrapping crockery and glass, cinders, glass, mineral or metallic substances, and any or all other waste materials not included in the definition of bulky waste, construction debris, garbage, hazardous waste or stable matter.

Sanitary landfill means a facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted pursuant to N.C. GEN. STAT.130A-290 et seq.

Scrap tire means a tire that is no longer suitable for its original, intended purpose because of wear, damage or defect. The term "scrap tire" also includes a continuous solid or pneumatic rubber covering that normally encircles the wheel of a motor vehicle as defined in N.C. GEN. STAT.20-4.01(23).

Septage means solid waste that is a fluid mixture of untreated and partially treated sewage solids, liquids and sludge of human or domestic origin that is removed from a septic tank system.

Service area means all residential units and town-approved small businesses in the town.

Sharps means needles, syringes and scalpel blades.

Sludge means any solid, semisolid or liquid waste generated from a municipal, commercial, institutional or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects.

Solid waste disposal site means a location at which solid waste is disposed of by incineration, sanitary landfill or other approved method.

Solid waste, municipal means solid waste resulting from the operation of residential, commercial, industrial, governmental or institutional establishments that would normally be collected, processed and disposed of through a public or private solid waste management service. Municipal solid waste does not include hazardous waste or sludge, or solid waste from mining or agricultural operations.

Solid waste receptacle means an approved container used for the temporary storage of solid waste while awaiting collection.

Special wastes means solid waste that can require special handling and management, including white goods, brown goods, whole tires, used oil, lead-acid batteries and medical wastes.

Transfer station means a site at which solid waste is concentrated for transport to a processing facility or disposal site. A transfer station may be fixed or mobile.

White goods means inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

Yard waste means solid waste consisting solely of vegetative matter resulting from landscaping maintenance, including: grass cuttings, leaves, tree limbs, shrubbery, weeds and plants.

(Ord. of 11-8-1999)

SECTION 15-2. – PENALTIES AND REMEDIES FOR VIOLATIONS.

- (a) Violations of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor, punishable as provided in N.C. GEN. STAT.14-4, punishable upon conviction by a fine not to exceed \$500.00 or by imprisonment not to exceed 30 days.
- (b) Any act constituting a violation of the provisions of this chapter or failure to comply with any of its requirements shall also subject the offender to a civil penalty of \$50.00. If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of a debt.
- (c) This chapter may also be enforced by an appropriate equitable action.
- (d) Each day that any violation continues after notification that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this Section.
- (e) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this chapter.
- (Ord. of 11-8-1999)

SECTION 15-3. – ACCUMULATION OF GARBAGE AND REFUSE PROHIBITED.

All garbage and refuse shall be collected and placed in containers as required by this chapter, and it shall be unlawful for any person to permit garbage or refuse to accumulate or remain on any premises longer than is reasonably necessary to remove and deposit such garbage and refuse in approved containers as required in this chapter.

.(Ord. of 11-8-1999)

SECTION 15-4. – BURNING OR BURYING GARBAGE AND REFUSE REGULATED.

It shall be unlawful to burn or set fire to or bury any garbage for the purpose of disposal. In addition, it shall be unlawful to burn any yard waste for the purpose of disposal unless a permit therefor has been granted by the fire chief.

(Ord. of 11-8-1999)

SECTION 15-5. – 16-15. – RESERVED.**CHAPTER 2. – COLLECTION & DISPOSAL SERVICE.****SECTION 15-16. – GENERALLY.**

Garbage and refuse set out for collection as provided in this chapter shall be collected by the town for residences, businesses and industries. No persons, other than those authorized by the town, shall haul away or remove any garbage or refuse set out for collection as provided in this article except by written consent of the town administrator.

(Ord. of 11-8-1999)

SECTION 15-17. – REFUSE REQUIRED TO BE DEPOSITED IN APPROVED CONTAINERS

It shall be unlawful for any person to throw, place or deposit any garbage or refuse of any kind on any public or private property except in approved containers or as otherwise provided in this article.

(Ord. of 11-8-1999)

SECTION 15-18. – COLLECTION CHARGES.

For the service of collection and disposing of garbage and refuse, the owner or occupant of each premises from which garbage and refuse is collected by the town shall be charged such rates as may be established by the board of commissioners and kept on file with the town clerk. No owner or occupant of premises within the town shall be exempt from the collections and disposal service provided by the town, with one exception. Businesses choosing not to utilize town-provided services may contract with a town-approved private collection service by giving the town office ten days' notice of such action. All private collection services operating within the town limits shall be approved by the public works department and permitted with appropriate licenses. All owners and occupants of premises within the town shall be subject to the service charges as prescribed and revised from time to time by the board of commissioners and kept on file in the office of the town clerk.

(Ord. of 11-8-1999)

SECTION 15-19. – RECEPTACLES FOR GARBAGE AND REFUSE REQUIRED.

All householders and proprietors of businesses shall provide receptacles for all garbage and refuse for removal. The following rules and regulations shall be observed:

- (1) Residential. Garbage and refuse must be placed in approved containers. Typical approved containers are town-issued, 96-gallon roll-out containers. Bags are also approved containers when the cart is full and periodic excess volume is generated and such bags are placed adjacent to or on top of the cart. If excess volume is a common occurrence at any residence, the owner will be issued an additional roll-out container and will be charged a fee as prescribed and revised from time to time by the board of commissioners and kept on file in the office of the town clerk.
 - (2) Commercial and industrial
 - a. Properly sized containers for garbage and trash collection, as may be designated by the supervisor of public works or his agent shall be provided by all commercial and industrial establishments. The town will allow, when appropriate, commercial and industrial establishments to utilize roll-out containers and receive service as a residential customer rather than having a bulk container upon the approval of the supervisor of a public works or his agent.
 - b. It shall be unlawful for bulk containers to remain open, except while being serviced. The user of such containers shall be responsible for keeping containers closed. It shall be unlawful to burn trash in the bulk containers. Refuse set outside of the containers shall not be collected. The container shall not be serviced if ready access is not available to the container.
 - c. The town may allow the use of special designed containers, e.g., compactors or roll-off containers for commercial and industrial establishments upon the written approval of the supervisor of public works or his agent.
- (Ord. of 11-8-1999)

SECTION 15-20. – PLACEMENT OF REFUSE AND GARBAGE CONTAINERS FOR COLLECTION.

- (a) It shall be the duty of each householder or proprietor of a business establishment to see that all garbage and refuse receptacles and the contents are accessible to collection personnel. On the designated day of collection, all roll-out carts servicing residential units and small commercial businesses shall be placed within five feet of the curb or edge of the traveled portion of the road or street. Access routes shall not be obstructed by gates, steps, bicycles, motor vehicles, drainage ditches or fences. Service will not be provided if the containers are placed inside a garage, carport or storage shed or when dogs or other animals interfere with collectors.

(b) Roll-out containers shall not be placed curbside earlier than sunset on the day prior to the scheduled pickup and shall be removed from curbside not later than 8:00 p.m. on the day of the pickup. Collection shall be curbside except that backdoor service is available for household garbage only on a weekly basis for those persons who request such service and receive an exemption due to being unable to transport the roll-out container to curbside. (Ord. of 11-8-1999)

SECTION 15-21. – COLLECTION SCHEDULE.

Garbage and refuse set out for collection as provided in this article shall be collected as provided for and authorized by the town. The town shall provide collection of garbage and yard waste as set by the town board. A collection schedule is maintained in the office of the town clerk. Such schedule may be periodically revised.
(Ord. of 11-8-1999)

SECTION 15-22. – SOLID WASTE NOT COLLECTED BY TOWN.

Unless otherwise provided in this article, the town nor its authorized representative will not collect medical waste, hazardous waste, human and animal waste, used oil, rubber tires, dead animals weighing greater than 100 pounds, large rocks, tree trunks, tree stumps, or tree limbs exceeding five feet in length and/or five inches in diameter. No person shall place any of the items mentioned in this Section in any container or receptacle intended for collection by the town. The person in possession of the premises where such items are generated shall ensure that such items do not leak or go upon any public or private property and that such items are disposed of properly.
(Ord. of 11-8-1999)

SECTION 15-23. – SOLID WASTE REQUIRING SPECIAL PREPARATION.

(a) No person shall dispose of or discard any hypodermic syringe, needle or any instrument or device for making hypodermic injections before first breaking, disassembling, destroying or otherwise rendering it inoperable and incapable of reuse. In addition, such hypodermic syringe, needle, instrument or device shall be further disposed of by wrapping or securing such item in a container having an impenetrable surface so as to avoid the possibility of causing injury to the collection personnel.

(b) No person shall dispose of or discard any dialysis fluid bag unless it is first secured in a leak proof container so as to avoid the possibility of exposing the contents to the collection personnel.

(c) No person shall dispose of or discard any dangerous trash items such as broken glass, light bulbs, sharp pieces of metal, fluorescent tubes and television tubes unless it is securely wrapped to the prevent injury to the collection personnel. Simply placing these items in paper or plastic bags shall not be considered adequate protection.
(Ord. of 11-8-1999)

SECTION 15-24. – PREPARATION REQUIRED FOR COLLECTION BY TOWN.

(a) Solid waste shall be prepared in accordance with the provisions of this article. In order to comply with the preparation requirements, no person shall place in a roll-out container, required by this article to be provided at a residence, any of the following:

- (1) White or brown goods;
- (2) Construction or demolition waste;
- (3) Items too large to be placed in the containers;
- (4) Special waste; or
- (5) Dead animals.

(b) Residential garbage shall be wrapped, bagged or enclosed in paper or plastic material. All excess liquid shall be drained before such garbage is placed in a container. The garbage shall then be placed in the roll-out container designated as a garbage container.

(c) Construction or demolition waste will be collected on a call basis only when the waste does not result from repairs or construction performed by persons other than the householder for compensation. Such waste shall be placed in neat piles or in containers no greater than 30 gallons within ten feet of the traveled portion of the street and shall be placed no earlier than 24 hours before the scheduled pickup time.

(d) Tires will not be collected, but may be deposited at the county landfill.

(e) Dead animals less than 100 pounds shall be collected on a call basis. Placement for collection shall be within ten feet of the traveled portion of the street and shall be placed no earlier than 24 hours before the scheduled pickup time.

(f) Yard waste shall be placed in loose piles at curbside. Limbs must not exceed five feet in length or five inches in diameter and must be separated from other yard debris or service will not be provided. Such materials listed in this subsection (f) shall be collected and removed by the town only where an individual citizen within the town is individually performing the improvement work, without employing an independent builder, contractor, or laborer, to properties located within the town.

(Ord. of 11-8-1999)

SECTION 15-25. – OWNERSHIP.

Upon collection of solid waste by the town; all such solid waste shall become the property of the town.

(Ord. of 11-8-1999)

SECTION 15-26. – INTERFERENCE WITH CONTENTS OF RECEPTACLES.

No person shall overturn, molest or interfere with the contents of any refuse, recycling or garbage receptacle set out for removal by the town unless by permission of the public works supervisor.

(Ord. of 11-8-1999)

SECTION 15-27. – RESPONSIBILITY TO MAINTAIN ROLL-OUT CONTAINER.

It shall be the responsibility of the householder or proprietor of business to maintain proper care of the roll-out containers. If the roll-out container is stolen or damaged from improper use or neglect, it shall be the responsibility of the householder or proprietor of business to replace the container. If the town or its authorized representative damages the container, the town will repair or replace the container. The town shall have the authority to discontinue service when a container becomes unserviceable.

(Ord. of 11-8-1999)

SECTION 15-28. – IMPROPER USE OF THE ROLL-OUT CONTAINER.

- (a) Large motor parts, batteries, concrete blocks, tree stumps, ashes, charcoal, paints, solvents, flammable materials, used oil and nonacceptable refuse shall not be placed in roll-out containers. Yard waste shall not be placed in the roll-out container designated as a garbage container.
- (b) No person shall interfere or otherwise deter the normal refuse collection process by tampering with refuse containers or their contents unless by permission of the public works department, nor shall any person place any hazardous refuse in any collection receptacle.
- (c) A roll-out container shall not be removed from the premises to which it has been assigned.

(Ord. of 11-8-1999)

SECTION 15-29. – USE OF RECEPTACLES.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place, or upon private property.

(Ord. of 11-8-1999)

SECTIONS 16-30. – 16-40. –RESERVED.

CHAPTER 3. – ADMINISTRATION

SECTION 15-41. – ADMINISTRATION

The administration of the provisions of this chapter shall be the responsibility of the public works department. It shall be the duty of the public works department, police officer or other public official to enforce all of the provisions of this chapter and to make any and all inspections necessary to determine whether or not the provisions of the chapter are being met. (Ord. of 11-8-1999)

SECTION 15-42. – 16-45. – RESERVED.

TITLE 16. – STREETS AND SIDEWALKS**CHAPTER 1. - GENERAL****SECTION 16.1. – PENALTY.**

Violation of this chapter is a misdemeanor and subjects the offender to a fine of \$500.00 as provided in Section 1-6.

SECTION 16.2. – DAMAGING TOWN PROPERTY.

No person shall injure, tamper with, remove, paint on, or deface any bridge, culvert, ditch and drain, sign, signpost, streetlight, traffic signal, bulletin board, or other town property on the streets and sidewalks or elsewhere except employees of the town in the performance of their duties.

(Code 1991, § 4.1.22)

SECTION 16.3. – PERMIT FOR SIDEWALK CONSTRUCTION.

No sidewalk of any description shall be built by any individual, firm, or corporation of any brick, wood, or other material without a written permit from the town.

(Code 1991, § 4.1.20)

SECTION 16.4. – PERMIT FOR DRIVEWAY CONSTRUCTION.

No person shall begin to construct, reconstruct, repair, alter, or grade any driveway on the public streets unless a written permit has been issued by the town.

(Code 1991, § 4.1.23)

SECTION 16.5. – MOVING BUILDINGS OR MOBILE HOMES.

(a) Conformance with building codes. A building or mobile home moved into the town's zoning jurisdiction from outside of the town's zoning jurisdiction, or from one area within the town's zoning jurisdiction to another area within the town's zoning jurisdiction, shall be made to conform to the existing building, plumbing, electrical or mobile home codes of the county within 12 months from either:

(1) The date of the ordinance from which this Section is derived; or

(2) If moved subsequent to the date of adoption from which this ordinance derives, the earlier of either the date of receipt of a zoning permit or the date the building or mobile home is moved into the town's zoning jurisdiction.

(b) Permit fee. Any person moving a building or mobile home as described in subsection (a) of this Section shall pay a moving permit fee. The amount of the fee shall be set from time to time by the town board of commissioners.

(c) Applicability. For purposes of this Section, a trailer house or mobile home on any lot within the corporate limits of the town which is not parked in a lot designed and operated for the parking of mobile homes and house trailers shall be deemed to be a building and this Section shall apply thereto.

(d) Certificate of compliance. Mobile homes moved as provided in this Section shall be regulated by the Uniform Standards Code for Mobile Homes Act as contained in N.C. GEN. STAT.143-143.8 et seq. and N.C. GEN. STAT.143-144 et seq. The town's zoning officer is authorized to inspect any mobile home to determine whether it bears a certificate of compliance or label of compliance as required by N.C. GEN. STAT.143-144 et seq. Failure of a mobile home to bear such certificate of compliance shall be grounds for denying a moving permit.

(Ord. of 8-12-1996)

Cross reference-Buildings and building regulations, Ch. 6.

CHAPTER 2 : ROADS & BRIDGES

SECTION 16.6. – ACCEPTANCE OF NEW STREETS.

Before any new street offered for dedication to the town is accepted as such and officially recognized as a town-maintained street, the board of commissioners must give its approval, finding that the street complies with engineering standards set by the board of commissioners, and that the best interests of the town would be served by accepting the street as a town street. (Code 1991, § 4.1.01)

SECTION 16.7. – DAMAGING PAVED STREET WITH HARROWS OR OTHER EQUIPMENT.

(a) It shall be unlawful for any person to drag or run or cause to be dragged or run any harrow or other implement, engine, machine, or tool on any asphalt or other type of permanently paved street of the town which shall be likely in any way to injure or cut the surface thereof.

(b) Any person violating subsection (a) of this Section shall be liable to the town for the cost of repairing any and all damage caused.

(Code 1991, § 4.1.19)

CHAPTER 3 : EXCAVATIONS

SECTION 16.8. – PERMIT REQUIRED; EXCEPTION.

No person shall make any excavation or opening or dig any ditch, trench, tunnel or hole in, along, across, or under any street, sidewalk, or other public place for the purpose of laying or placing therein any pipe, wires, or poles or for any other purposes unless a written permit therefor has been issued by the director of public works, provided that a permit shall not be required where the work is performed under a contract with the town, but if the work requires a sidewalk or street to be wholly or partially obstructed, the party performing the work shall notify the town at least two hours before obstructing the sidewalk or street, unless prevented by sudden emergency.

(Code 1991, § 4.1.15)

SECTION 16.9. – APPLICATION FOR PERMIT; PERMIT FEE.

All persons desiring a permit to make an opening in any street or sidewalk, as set forth in Section 24-61, shall make written application therefor, which application shall show the location of the proposed opening, the purpose

therefor and the approximate number of square yards of surface to be cut. A fee may be required by the board of commissioners for such permit. (Code 1991, § 4.1.16)

SECTION 16.10. – GUARDRAILS AND LIGHTS.

It shall be unlawful for any person who obtains a permit under this article to do any excavation of any kind which may create or cause a dangerous condition in or near any street, alley, sidewalk, or public place of the town without placing and maintaining proper guardrails three feet from the ground and signal lights or other warnings at, in or around the excavation, sufficient to warn the public of the excavation or work, and to protect all persons using reasonable care from injuries on account of the excavation or work.

(Code 1991, § 4.1.18)

SECTION 16.11. – REFILLING.

When any part of any street, sidewalk, alley, or other public place of the town shall be torn up or dug up for any purpose, the person making the excavation or opening shall have the duty of refilling the excavation or opening, and the refilling shall be done in accordance with the standards and specifications of the town.

(Code 1991, § 4.1.17)

CHAPTER 4 : STREET NUMBERING**SECTION 16.12. – PURPOSE AND INTENT OF ARTICLE.**

The purpose and intent of this article is to provide a uniform system of rural addresses for all properties and buildings throughout the county in order to facilitate provision of adequate public safety and emergency response services and to minimize difficulty in locating properties and buildings for public service agencies and the general public.

(Ord. of 8-10-1992, § 1)

SECTION 16.13. – 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:

Address administrator means the official of the county, designated by the county manager, charged with the administration of this article, including his authorized agent or delegate.

Building means any structure, whether residential, commercial, industrial, or institutional in nature and use. When a structure is divided by division walls from the ground up without openings, each portion of such building may be deemed a separate building.

Campground. See Mobile home park.

Driveway means a private way beginning at the property line of a lot abutting a public or private road or another easement. A driveway may not serve more than a single lot unless it runs along a lot line shared by two lots and serves no more than two lots which face a named road.

Mobile home park means a site, lot, tract, or parcel of land upon which one or more mobile homes/manufactured homes or travel trailers are parked, for temporary or permanent use as living quarters of one or more families.

Private road means any road which serves two or more buildings and is not maintained by a governmental entity or agency through the use of public funds.

Public road means any road or street which is maintained by a governmental entity or agency through the use of public funds.

Road address means the combination of numbers and road name assigned by the county which uniquely identifies a particular building or lot.

Subdivision means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future), and includes all division of land involving the dedication of a new street or change in existing streets as outlined in N.C. GEN. STAT.153A-335.

(Ord. of 8-10-1992, § 2)

Cross reference-Definitions generally, § 1-2.

SECTION 16.14.- COUNTY SYSTEM ADOPTED.

- (a) In order to facilitate the completion of the enhanced 911 system in the county which serves the town, a consistent and comprehensive address system is essential. The town hereby resolves to adopt the addressing system used throughout the remainder of the county.
- (b) This system utilizes U.S. 701 (Business) as a baseline for the beginning point for address ranges, and this is consistent with the existing street signs within the town.
- (c) A comprehensive addressing system will facilitate the more efficient location and delivery of all types of services to the citizens of the town, especially fire, EMS, and law enforcement services.
- (d) The town does hereby endorse and adopt the addressing system set forth in this article for use within the town.

(Ord. of 8-10-1992)

SECTION 16.15.- ADMINISTRATION OF ARTICLE.

- (a) The address administrator will be responsible for the interpretation and administration of this article, including:
 - (1) Assigning all numbers for properties and buildings.
 - (2) Maintaining address records of each property and building.
 - (3) Recommending any changes necessary to facilitate sequential building numbers along a road.
 - (4) Designating individual unit addresses within any multiple housing units in conformity with this article.

- (b) Road address numbers will be assigned using the county addressing system listed in appendix B to the ordinance codified in this article, adopted August 10, 1992.
- (c) This article shall apply in all areas of the county not within a municipality.
- (d) The address administrator will be responsible for assisting the public in complying with the requirements of this article.
- (e) No subdivision, mobile home park, campground, or other nonpermanent dwelling unit park may be recorded, constructed, or otherwise begun without first submitting plans showing the layout of any proposed subdivision, mobile home park, campground, or other nonpermanent dwelling park to the address administrator. The address administrator will review the plans to ensure adequate access to and from the proposed subdivision or park and will assign address numbers for each proposed lot and ensure that other provisions of this article are complied with.

(Ord. of 8-10-1992, § 4)

Editor's note-Appendix B, referred to in this Section, is not printed herein, but is on file and available for public inspection at the town offices.

Cross reference-Administration, Ch. 2.

SECTION 16.16.- ENFORCEMENT OF ARTICLE.

- (a) No building permit shall be issued until an official road address number has been assigned for a lot. The record plat of any subdivision must show the address for each lot created or recorded, as required by Section 24-94(e).
- (b) No certificate of completion or certificate of occupancy will be issued by the building inspection department until the road address numbers are properly displayed.
- (c) No person may display or cause to be displayed on any building any number other than the number assigned by the address administrator.
- (d) No person may remove, obliterate, conceal, or destroy any number or sign displayed in accordance with this article.
- (e) Owners or occupants of buildings already constructed which do not comply with this article will be notified and requested to meet the requirements of this article within 30 days from the date of the notification. A warning notice will be issued after 30 days if the requirements have not been met. If the owner or occupant does not comply voluntarily with this article within 30 days of the delivery of a warning notice by certified mail or hand delivery to the building in violation, enforcement action pursuant to N.C. GEN. STAT.153A-123 may be initiated.

(Ord. of 8-10-1992, § 6)

SECTION 16.17.- ROAD NAMES; ROAD NAME SIGNS.

(a) The road names on file with the county office of emergency services are the official names of these roads, unless changed by action of the county board of commissioners. The address administrator is hereby authorized to determine the need for road name changes and to recommend such changes to the county board of commissioners. Unless there is a substantial documentable need for a change in an official road name, no changes will be made for a period of five years following the date of adoption of the ordinance from which this article is derived.

(b) All roads in the county shall be identified by a sign showing the official name of that road.

(c) Road name signs shall be uniform throughout the county in accordance with the following system:

(1) White with green background: Public roads.

(2) White with blue background: Private roads.

(3) White with brown background: Recreational and historical areas.

(d) All roads which meet the criteria for a private road shall be named using the procedures listed in appendix A to the ordinance codified in this article, adopted August 10, 1992.

(Ord. of 8-10-1992, § 3)

Editor's note-Appendix A, referred to in this Section, is not printed herein, but is on file and available for public inspection at the town offices.

SECTION 16.18.- DISPLAY OF ADDRESS NUMBERS.

(a) Road address numbers must be clearly displayed so that the location can be easily identified from the road.

(1) The official address number must be displayed on the front of a building or at the entrance to a building which is most clearly visible from the road during both day and night.

(2) If a building is more than 75 feet from any road, the address number shall be displayed at the end of the driveway nearest the road which provides access to the building.

(3) Numerals indicating the address number of a single-family dwelling shall be at least three inches in height and shall be posted and maintained so as to be legible from the road.

(4) Numerals for multiple dwelling units and nonresidential buildings shall be at least six inches in height and shall be placed on the front of the building facing the road or on the end of the building nearest the road.

(5) Numerals shall be of a contrasting color to the background.

(6) Mobile home and other nonpermanent dwelling unit lots shall have sequential address numbers throughout the park. Each lot will have a separate address number assigned. The address number of each lot must be clearly displayed on the lot so as to be legible from the road rather than maintained on the mobile home unit.

(b) The address administrator will have the authority to authorize and approve alternate methods of displaying road address numbers which meet the intent of this article when strict adherence to these standards cannot be reasonably met.

(Ord. of 8-10-1992, § 5)

CHAPTER 5: GOLF CARTS

SECTION 16.19.- DEFINITIONS.

(a) For the purpose of this article the following definitions shall apply:

Golf cart means an electric golf cart.

Operate means to drive, or be in physical control of a golf cart on a public street.

Public street means any public street or road, within the municipal limits of the Town of Clarkton, open to the general public and whose posted speed limit is 35 mph or less.

Town means the Town of Clarkton, North Carolina.

Registration period means July 1 through June 30 of each year.

Windshield means a one-piece unit or if a folding variety the windshield must be affixed in the upright position during operation.

(Ord. of 11-14-2006)

SECTION 16.20.- LIABILITY INSURANCE.

No golf cart shall be operated on any public street within the town without liability insurance coverage being provided for that golf cart. Any person who owns a golf cart that is operated within the town shall be responsible for procuring liability insurance sufficient to cover the risk involved in operating a golf cart on public streets.

(Ord. of 11-14-2006)

SECTION 16.21.- REQUIRED EQUIPMENT.

In addition to all other requirements stated herein, all golf carts operated within town shall have the following equipment installed on them and said equipment shall be operational at all times:

- (1) Headlights: Two-One on each side of front whose beam is visible under normal atmospheric conditions for at least 200 feet.
- (2) Brake lights: Two-One on each side of rear that exhibits a beam that is visible under normal atmospheric conditions for at least 200 feet.
- (3) Slow moving vehicle warning sign attached to rear: One.

- (4) Windshield.
- (5) Turn signal (front and rear left and right).
- (6) Seat belts (one per seat, lap belt only required, number of seats to be determined by designee of the town).
- (7) Rear view mirror.

(Ord. of 11-14-2006)

SECTION 16.22.- REGISTRATION, INSPECTION AND FEE PRIOR TO USAGE.

- (a) All golf cart owners must complete a golf cart registration form and submit it to the designee of the town prior to being eligible for an inspection.
- (b) Prior to being operated within town, a golf cart must be inspected by the designee of due each year. Registrations may be issued at any time during the year but all registrations will expire on June 30 of each year. New registrations will be due on July 1 of each year. The registration card must be located on the cart and available for review at all times.
- (c) Prior to receiving a golf cart registration, the applicant must produce proof of payment of the applicable golf cart registration fee and provide proof of liability insurance.
- (d) Registration fees may change, without notice. The current fee is \$25.00. Registration fees will not be prorated due to date of issuance.

(Ord. of 11-14-2006)

SECTION 16.23.- GENERAL OPERATION.

- (a) Golf carts can only be operated on public streets from sunrise (dawn) to sunset (dusk).
- (b) Golf cart drivers shall have a valid driver license.
- (c) Golf cart drivers shall stay to the far right of the roadway and shall yield the right-of-way to overtaking vehicles.
- (d) The maximum occupancy of a cart traveling on public streets shall be one person per designated seating area but in no case shall the total number of passengers exceed the total number of seat belts. Persons may not ride in or on areas not designed as a seat. For example: the baggage/storage area that is typical on most golf carts shall not be used as a passenger area.
- (e) Golf carts shall be operated in accordance with all applicable state and local laws. Carts will be subject to the same right-of-way, maneuvering and operating guidelines as those that apply to standard vehicles except as otherwise noted herein.
- (f) All applicable state laws concerning possession and use of alcoholic beverages or any other intoxicating substance shall also apply to golf cart drivers and passengers.

- (g) Golf carts shall not be operated at a speed more than 25 miles per hour.
- (h) Headlights must be on during all times of operation.
- (i) Seatbelts must be worn during all times of operation by every passenger.
- (j) No golf cart may be operated on sidewalks within the town limits.

(Ord. of 11-14-2006)

SECTION 16.24.- EXCEPTION.

Any golf cart that complies with the requirements of state law which make it a street-legal golf cart and therefore eligible for usage on public streets as prescribed by state law, shall be exempt from the requirements of this article and may be operated in town in accordance with all applicable state laws, except that the owner shall be required to register and pay all fees required by this article.

(Ord. of 11-14-2006)

SECTION 16.25.- VIOLATION.

- (a) Violation of any of the provisions of this article or applicable North Carolina motor vehicle law may result in revocation of the golf cart registration by the Town of Clarkton.
- (b) In lieu of revocation of the registration of the offender's first offense, any violations of the provisions of this article shall result in a civil penalty against the offender in the amount of \$100.00. Said penalty shall be payable to the town clerk within ten days of issuance.
- (c) A second or third violation of any of the provisions of this article within the same registration year shall result in a civil penalty of \$100.00 and may also result in revocation of the golf cart registration that is assigned to the cart.
- (d) The provisions of this article may be enforced through the authority granted in N.C. GEN. STAT.160D-175. The town may also, in addition, seek any and all appropriate equitable remedies, injunctions and/or abatement orders from the appropriate court of competent jurisdiction.

(Ord. of 11-14-2006)

SECTIONS 16.26. – 16.45 – RESERVED.

TITLE 17. – VEHICLES FOR HIRE**CHAPTER 1. - GENERAL****SECTION 17-1. – 17-10. – RESERVED****CHAPTER 2. – TAXICABS****DIVISION 1: GENERALLY****SECTION 17-11. - PENALTY.**

Any person who shall violate, fail, neglect or refuse to comply with any provision of this article shall, upon conviction, be guilty of a misdemeanor and shall be fined \$500.00 or imprisoned as provided by Section 1-6, and the violation of the provisions of this article shall on each and every day of its violation be considered separate and distinct acts, punishable as provided in this Section.

(Code 1991, § 7.4.08)

SECTION 17-12. – LICENSE.

Every person, before operating any taxicab within the corporate limits of the town, or within the limits specified in Section 30-51, shall apply to and secure from the tax collector an annual license for the privilege of operating each such taxicab, and shall pay for such annual license a tax in the sum of \$15.00 for each taxicab operated.

(Code 1991, § 7.4.07)

SECTION 17-13. – DISPLAY OF RATES.

Every taxicab operated within the corporate limits or within the limits specified in Section 30-51 shall have at all times prominently posted and displayed in the taxicab, so as to be visible to the passengers therein, the rates and/or fares for the use of such cab.

(Code 1991, § 7.4.06)

DIVISION 2: PERMIT**SECTION 17-14. – REQUIRED.**

No person shall drive any taxicab carrying passengers for hire from place to place within the corporate limits, or to points, not incorporated, within a radius of five miles from the boundary line of the town, unless that person shall have first applied to and secured from the board of commissioners a permit to operate a taxicab.

(Code 1991, § 7.4.01)

SECTION 17-15. – APPLICATION.

The application required of applicants to drive a taxicab, as provided in this division, shall be made upon blanks furnished by the town for such purpose, and shall, among other things, state the name, address, physical condition, physical description, former employers, court record and state chauffeur's license number. Such application shall be signed and sworn to by the applicant.

(Code 1991, § 7.4.02)

SECTION 17-16. – ISSUANCE.

If the board of commissioners finds that the applicant has not been convicted of a felony, a violation of any federal or state statute relating to the use, possession, or sale of intoxicating liquors, any federal or state statute relating to prostitution, or federal or state statute relating to the use, possession or sale of narcotic drugs, and that the applicant is a citizen of the United States and is not a habitual user of intoxicating liquors or narcotic drugs, and has not been a habitual violator of traffic laws, and has delivered to the clerk of the board of commissioners proof of insurance as required in N.C. GEN. STAT.20-280, then the permit will be granted under this division.

(Code 1991, § 7.4.03)

SECTION 17-17. – DISPLAY.

The driver of every taxicab shall, at all times while operating the taxicab, prominently post and display in such taxicab, so as to be visible to the passengers therein, his permit to drive a taxicab.

(Code 1991, § 7.4.05)

SECTION 17-18. – REVOCATION.

At any time after the issuance of a permit to any person to drive a taxicab, the board of commissioners may revoke the permit if the person holding such permit is convicted of a felony, a violation of any federal or state statute relating to the use, possession or sale of narcotic drugs, repeated violations of traffic laws or ordinances, or a violation of any state or federal statute relating to prostitution, or becomes a habitual user of intoxicating liquors or narcotic drugs. The revocation of any permit granted under this division may be appealed in writing to the superior court within ten days of the revocation.

(Code 1991, § 7.4.04)

SECTIONS 17-19. – 17-60 – RESERVED.

APPENDICES

