TOWN OF FARMVILLE, NORTH CAROLINA

CODE OF ORDINANCES

Local legislation current through Ordinances passed 4-5-2021

FARMVILLE, NORTH CAROLINA

CODE OF ORDINANCES

TABLE OF CONTENTS

Chapter

TITLE I: GENERAL PROVISIONS

10. Rules of Construction; General Penalty

11. Town Standards

TITLE III: ADMINISTRATION

30. Officers and Policies

31. Town Organizations

32. Civil Defense and Emergencies

33. Criminal History Checks

TITLE V: PUBLIC WORKS

50. Utilities Generally

51. Water

52. Fat, Oil and Grease Regulations

53. Sewers

TITLE VII: TRAFFIC CODE

70. General Provisions

71. Traffic Regulations

72. Parking Rules

TITLE VII: TRAFFIC CODE (Cont'd)

73. Recreational Vehicles

74. Traffic Schedules

75. Parking Schedules

76. Regulating the Operation of Golf Carts on Public Streets and Roads

TITLE IX: GENERAL REGULATIONS

90. Animals

91. Cemeteries

92. Demonstrations, Parades and Picketing

93. Trees and Community Appearance

94. Fire Protection and Prevention

95. Streets and Sidewalks

96. Recreation and Leisure

97. Solid Waste

98. Public Health and Sanitation; Nuisances

99. False Alarm Regulations

TITLE XI: BUSINESS REGULATIONS

110. General Licensing Provisions

111. Peddlers, Solicitors, Food Trucks, and Commercial Food Vendors

112. Carnivals

113. Taxicabs

114. Markets, Antique Stores, Yard Sales, and the Like

115. Alcoholic Beverages

116. Sexually Oriented Businesses

117. Health Massage Therapy

118. Junkyards and Junk Dealers

119. Abandoned Vehicle Enterprise

120. Sidewalk Cafés and Outdoor Dining Areas

121. Insulation Installers

122. Moving Buildings

TITLE XIII: GENERAL OFFENSES

130. General Offenses

TITLE XV: LAND USAGE

150. Building Regulations; Construction

151. Housing Regulations

152. Flood Damage Prevention

153. Manufactured Home Parks

154. Sedimentation and Erosion Control

155. Subdivisions

156. Landscaping

157. Zoning

TITLE I: GENERAL PROVISIONS

Chapter

10. RULES OF CONSTRUCTION; GENERAL PENALTY
11. TOWN STANDARDS

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

Section

10.01 Title of code

10.02 Interpretation

10.03 Application to future ordinances

10.04 Captions

10.05 Definitions

10.06 Rules of interpretation

10.07 Severability

10.08 Reference to other sections

10.09 Reference to offices; liability

10.10 Errors and omissions; alterations

10.11 Official time

10.12 Reasonable time; computing time

10.13 Ordinances repealed

10.14 Ordinances unaffected

10.15 Effective date of ordinances

10.16 Repeal or modification of ordinances

10.17 Ordinances which amend code; effect of new ordinances

10.18 Section histories; statutory references

10.99 General penalty

§ 10.01 TITLE OF CODE.

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

§ 10.02 INTERPRETATION.

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

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

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

BOARD OF COMMISSIONS. The governing body of the Town of Farmville, North Carolina.

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

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

COUNTY. The County of Pitt, in the State of 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 shall specifically designate or provide otherwise.

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

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

GOVERNING BODY. The words TOWN BOARD, COMMISSION or GOVERNING BODY shall refer to the duly constituted governing body of the Town of Farmville, North Carolina.

GOVERNOR. The Governor of North Carolina.

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

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

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

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

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

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

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms

PERSON or WHOEVER as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

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

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

PROPERTY. Includes real and personal property.

REAL PROPERTY. Includes lands, tenements and hereditaments.

SHALL. The act referred to is mandatory.

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

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

STATE. The State of North Carolina.

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

SUBCHAPTER.

(a) A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading.

(b) Not all chapters have **SUBCHAPTERS.**

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

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

TOWN. The Town of Farmville, in the County of Pitt, North Carolina.

TOWN LIMITS. The legal boundary of the Town of Farmville, North Carolina.

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

YEAR. A calendar year, unless otherwise expressed.

ZONING ENFORCEMENT OFFICER. One designated by the Board.

Statutory reference:

Computation of time, see G.S. § 1-593

§ 10.06 RULES OF INTERPRETATION.

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

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

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

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

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

§ 10.07 SEVERABILITY.

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

§ 10.08 REFERENCE TO OTHER SECTIONS.

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

§ 10.09 REFERENCE TO OFFICES; LIABILITY.

(A) 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.

(B) In the event of a violation of any provision of this code or other ordinance of the town by a corporation, in addition to the corporation being subject to punishment, the officer, agent or employee thereof who performs the act constituting the violation, or who controls, directs or supervises, any officer, agent or employee who performs the act, or who procures, aids or abets the performance of the act shall be subject to the same penalties as if the officer, agent or employee had personally committed the violation.

§ 10.10 ERRORS AND OMISSIONS; ALTERATIONS.

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

(B) 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 the code in any manner whatsoever, except pursuant to ordinance or resolution or other official act of the governing body which will cause the law of the town to be misrepresented thereby.

Penalty, see § 10.99

§ 10.11 OFFICIAL TIME.

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

§ 10.12 REASONABLE TIME; COMPUTING TIME.

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

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

§ 10.13 ORDINANCES REPEALED.

(A) 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.

(B) All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.14 ORDINANCES UNAFFECTED.

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

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

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

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

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

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

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

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

(7) Any appropriation ordinance;

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

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

(10) Any zoning ordinance or zoning map amendment;

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

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

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

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

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

(16) Any personnel ordinance.

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

Statutory reference:

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

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

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

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCES.

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

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

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

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

(A) All ordinances passed subsequent to this code which amend, repeal or, in any way, affect this code may be numbered in accordance with the numbering system hereof and printed for inclusion herein. When subsequent ordinances repeal any chapter, section or division, or any portion thereof, the repealed portions may be excluded from this code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence that the subsequent ordinances numbered or omitted are readopted as a new code by the town.

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

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

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

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

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

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

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

§ 39.01 PUBLIC RECORDS AVAILABLE.

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

Statutory reference:

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

(C) If a section of this code is derived from the prior code of ordinances of the town, the prior code section number shall be indicated in the history by "(2006 Code, §)". The history notes following sections and the references scattered throughout the code are not part of the code, but are merely for the benefit for the user of the code.

§ 10.99 GENERAL PENALTY.

(A) When, in any part of this code of ordinances, as amended, or in any order, rule or regulation issued by any order or agency of the town, any act is prohibited or declared unlawful or an offense or whenever any act is required and the failure to do the act is declared to be unlawful and no specific penalty is provided therefore, then, and in that case, the violation of the provision shall be a misdemeanor as provided for in G.S. § 14-4, as amended from time to time and the violator shall be subject to the punishment provided therein.

(B) A violation of any provision of this code of ordinances of the town shall be punishable by imposition of a civil penalty payable to the town as authorized by G.S. § 160A-175(c). All penalties imposed shall be in the amount of $50 per day unless otherwise provided in this code of ordinances, and each day's continuing violation of the ordinance after notice is received by the offending party shall be deemed a separate offense punishable by imposition of a separate civil penalty of the amount specified herein. All civil penalties imposed shall be collectible by the town by way of a civil action if the offender does not pay the penalty within ten days after being cited for violation of the ordinance. Notice of imposition of a civil penalty shall be delivered to the offending party by certified mail, return receipt requested or by personal service of written notice upon the offending party by the Town Police Department. Any appeal of a civil penalty imposed by any official of the town shall be made in writing to the Town Board of Commissioners.

(2006 Code, Ch. 1, § 4.0) (Added 12-6-2005)

Statutory reference:

Authority, see G.S. § 160A-175(c)

CHAPTER 11: TOWN STANDARDS

Section

11.01 Municipal boundaries

11.02 Committees and advisory boards

11.03 Town seal

11.04 Naming of public facilities and the like

§ 11.01 MUNICIPAL BOUNDARIES.

(A) Corporate limits. The boundaries of the town shall be, at all times, those boundaries drawn upon a map, set out by metes and bounds in a written description or shown by a combination of these two. The boundaries of the town shall be permanently shown in the town office and shall be in the hands of the Town Clerk, or the successor to that office. Any modifications in the boundaries of the town shall be shown upon the map and/or the metes and bounds description. The map and description kept in the town hall shall be the official town map.

(B) Extraterritorial jurisdiction.

(1) *General.* The extraterritorial jurisdiction of the town may extend to the maximum permitted by state law, currently one mile from existing boundaries, and this shall be shown on a map or by metes and bounds or both and shall be retained in the town hall as the official extraterritorial jurisdiction of the town. Changes in the boundaries of the town shall be reflected by extension as permitted by law of the extraterritorial jurisdiction of the town, to the maximum degree allowed, where practical.

(2) *Ordinance application.* The town hereby establishes boundaries for the extraterritorial enforcement of the following ordinances and other ordinances and statutes which may be enforceable in the jurisdiction:

(a) Town Zoning Ordinance;

(b) Town subdivision regulations;

(c) State Building Code;

(d) State Uniform Residential Building Code;

(e) State Plumbing Code;

(f) National Electric Code;

(g) American Insurance Association Fire Prevention Code;

(h) Town Minimum Housing Code;

(i) Ordinances creating:

1. The Municipal Planning Board; and

2. The Municipal Inspection Department.

(j) Town Soil Erosion and Sedimentation Control Ordinance.

(3) *Records.* The official copy of this section and map shall be on record in the office of the Town Clerk for public inspection during normal business hours. The Town Clerk shall cause a certified copy of this section and map and any subsequent amendment to be recorded in the office of the Register of Deeds of the county. The Town Clerk shall cause signs, signposts or similar readily-identifiable markers to be installed at all points of intersection of the above-described boundary with all roads, streets, highways and railroads.

(C) *Conflicts.* All ordinances or parts of ordinances of the town setting forth municipal boundaries which are in conflict herewith are hereby repealed to the extent of the conflict.

(2006 Code, Ch. 1, § 1.0) (Amended 12-6-2005; 11-7-2006)

§ 11.02 COMMITTEES AND ADVISORY BOARDS.

(A) Creation. The Mayor and Commissioners may create the boards or committees, of the Board or of other citizens, as they believe necessary or desirable.

(B) Appointments. The Mayor may nominate, and the Board of Commissioners may approve, the appointments to boards, commissions and committees as may be provided for by statute or ordinance.

(2006 Code, Ch. 1, § 2.0) (Amended 12-6-2005; 11-7-2006)

§ 11.03 TOWN SEAL.

(A) Description. The town seal shall be a circle, corded, within which shall be another circle, corded; between the two shall appear the words “Seal, the Town of Farmville, North Carolina” (date not now included).

(B) Custody. The Town Clerk shall be the custodian of the town seal.

(2006 Code, Ch. 1, § 3.0) (Amended 12-6-2005; 11-7-2006)

§ 11.04 NAMING OF PUBLIC FACILITIES AND THE LIKE.

The naming of parks, public buildings, structures, facilities and town sponsored festivals and other special observances shall be determined by the Board of Commissioners in accordance with the “Policy for Naming Streets, Public Facilities, Etc.”, as adopted by the Town Board of Commissioners on 8-3-2004, and including future amendments.

(2006 Code, Ch. 1, § 5.0) (Amended 12-6-2005; 11-7-2006)

TITLE III: ADMINISTRATION

Chapter

30. **OFFICERS AND POLICIES**
31. **TOWN ORGANIZATIONS**
32. **CIVIL DEFENSE AND EMERGENCIES**
33. **CRIMINAL HISTORY CHECKS**

CHAPTER 30: OFFICERS AND POLICIES

Section

General Provisions

30.01 Ordinances

30.02 Resolutions

30.03 Compensation of governing body

30.04 Finance, purchasing and liability

30.05 Waiver of immunity

30.06 Purchasing

30.07 Administration of town generally

Officers

30.20 Mayor

30.21 Town Manager

30.22 Town Attorney

30.23 Personnel Director

30.24 Department heads, relatives

30.25 Employees' bonds

30.26 Liability insurance

30.27 Retirement systems

Elections

30.40 Generally

30.41 County to conduct elections

30.42 Municipal elections method

30.43 Eligible voters; voting place

30.44 Voter Registrars

30.45 Absentee voting

30.46 Filing as candidates

30.47 Offices and terms

GENERAL PROVISIONS

§ 30.01 ORDINANCES.

(A) To be written. Every ordinance, before final enactment, shall be set out in writing for the Board's consideration.

(B) Amendments. Any ordinance amending, repealing or modifying an existing ordinance shall refer to the chapter and section which would be amended, modified or repealed.

(C) Effective date. Every ordinance shall be effective immediately unless a different date is stated or unless the effective date is controlled by a state statute, federal law or other superior authority.

(D) Custody. The official ordinances of the town shall be kept at the town hall and shall be in the custody of the Town Clerk.

(E) Applicability. All ordinances of the town and those which may be enacted in the future shall apply throughout the town, and insofar as lawful, its extraterritorial jurisdiction and to all property rights-of-way belonging to the town and located outside the town limits, unless specifically excluded.

(2006 Code, Ch. 2, § 1)

§ 30.02 RESOLUTIONS.

The Town Board may, from time to time, pass resolutions, the originals of which shall be kept in a resolutions book, the resolutions to be filed chronologically according to the date of their passage.

(2006 Code, Ch. 2, § 2)

§ 30.03 COMPENSATION OF GOVERNING BODY.

The Board may fix its own compensation and the compensation of the Mayor and any other elected officers of the town by publication of the annual budget ordinance; the salary of an elected officer other than a member of the Board may not be reduced during the then current term of office unless that officer agrees thereto. The Mayor, members of the Board and other

elected officers are entitled to reimbursement for actual expenses incurred in performing their official duties at rates not in excess of those allowed other town officers and employees or the amount which shall be established by the Board for travel and other personal expenses of officers; provided, any fixed allowance so established during the term of office shall not be increased during the term of office.

(2006 Code, Ch. 2, § 4)

Statutory reference:

Related provisions, see G.S. § 160A-64

§ 30.04 FINANCE, PURCHASING AND LIABILITY.

Any town employee purchasing goods, materials or services without a purchase order will be held responsible for the cost of same.

(2006 Code, Ch. 2, § 5)

§ 30.05 WAIVER OF IMMUNITY.

The town does not, under Ch. 105 of the Session Laws of 1951, or any other applicable statute, in any manner waive its governmental immunity as to damages to property or injuries to persons as a result of its activities, except to the extent of liability insurance that might be in force at the time of the accident.

(2006 Code, Ch. 2, § 6)

§ 30.06 PURCHASING.

(A) (1) In accordance with the Local Government Budget and Fiscal Control Act, being G.S. §§ 159-7 et seq., 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:

"Provision for the payment of this check has been made by an appropriation duly made, pursuant to the Local Government Budget and Fiscal Control Act."

(2) No contract, agreement or purchase order shall be valid unless it bears the Finance Officer's certificate as follows:

"Provision for the payment of moneys to fall due under this agreement has been made by appropriation duly authorized, as required by the Local Government Budget and Fiscal Control Act."

(B) The Town Manager shall serve as purchasing agent and as such shall:

(1) Make all purchases of material, equipment and supplies authorized by the Board at the most favorable price for the town and shall see that the material, equipment and supplies delivered are correct in number or amount and comply with the standards and specification agreed to at the time of purchase;

(2) Establish sets of standards and specifications to control purchases by the town;

(3) Prepare and publish specifications and notices to bidders;

(4) Advise the Board as to anticipated needs for purchases and make purchases in advance of needs as authorized by the Board;

(5) Store material, equipment and supplies in advance of actual need;

(6) Keep records of all purchases made by him or her and of the destination or ultimate use of the material, equipment and supplies; and

(7) Cause to be kept an inventory of all municipal property in his or her custody and of all municipal property in the custody of the other officers and employees of the town.

(C) The Town Finance Officer shall pay all bills, invoices and other indebtedness of the town on the due date of the payment and, if no due date, then the tenth day of each month. All checks of the town must be countersigned by the Mayor, Mayor Pro Tem or Town Manager. The Finance Director shall allow no penalty or late charge to be paid by the town without prior approval of the Town Board at a regular meeting.

(2006 Code, Ch. 2, § 8) (Amended 7-12-1994)

§ 30.07 ADMINISTRATION OF TOWN GENERALLY.

The Mayor of the town shall review the agenda and determine the order thereof for each meeting of the Town Board.

(2006 Code, Ch. 2, § 9) (Amended 7-12-1994)

OFFICERS

§ 30.20 MAYOR.

(A) It shall be the duty of the Mayor of the town, in addition to statutory duties, to enforce the ordinances of the town and decisions of the Town Board and to attend and preside over meetings of the Board.

(B) The Mayor shall perform other duties as the Board from time to time may require.

(C) The Mayor shall be the chief executive officer and official head of the town government.

(D) In the absence of the Mayor from the town, or in case of the Mayor's death or disability or inability to act, the Mayor Pro Tempore shall become acting Mayor and shall exercise all the authority and perform all the duties of the office of Mayor until the time as the Mayor returns, recovers or an election is held.

(2006 Code, Ch. 2, § 3.1)

Statutory reference:

Related provisions, see G.S. § 160A-70

§ 30.21 TOWN MANAGER.

(A) (1) Pursuant to the authority of G.S. § 160A-147 granting the Board of Commissioners the power to appoint the officers and agents as may be necessary to enforce their ordinances and regulations, keep their records and conduct their affairs, the Board shall appoint an officer whose title shall be Town Manager and who shall be the chief executive officer and the head of the administrative branch of the town government.

(2) The Town Manager shall be chosen by the Board solely on the basis of his or her executive and administrative qualifications with special reference to his or her actual experience in, or his or her knowledge of, accepted practice in respect to the duties of his or her office as hereinafter outlined. At the time of his or her appointment, he or she need not be a resident of the town or state; but, during his or her tenure of office, he or she shall reside within the town.

(3) No person elected to membership on the Board shall, subsequent to the election, be eligible for appointment as Town Manager.

(B) (1) The Town Manager shall be appointed for an indefinite term but may be removed by a majority vote of the members of the Board. At least 30 days before the removal may become effective, the Manager shall be furnished with a formal statement in the form of a resolution

passed by a majority vote of the members of the Board stating the Board's intention to remove him or her and the reasons therefor. The Manager may reply in writing to the resolution.

(2) If so requested by the Manager, the Board shall fix a time for a public hearing upon the question of his or her removal and the final resolution removing the Manager shall not be adopted until the public hearing has been held. Upon passage of a resolution stating the Board's intention to remove the Manager, the Board may suspend him or her from duty, but his or her pay shall continue until his or her removal shall become effective, as herein described. The action of the Board in removing the Manager shall be final.

(3) In case of the absence or disability of the Manager, the Board may designate a qualified administrative officer of the town to perform the duties of the Manager during the absence or disability.

(C) (1) The Town Manager shall be responsible to the Board for the proper administration of all affairs of the town placed in his or her charge and, to that end, subject to the provisions of the Town Charter, and, except as otherwise provided herein, he or she shall have the power to appoint and remove all officers and employees in the administrative service of the town.

(2) The Manager may authorize the head of a department or office responsible to him or her to appoint and remove subordinates in the department or office.

(3) Appointments made by, or under the authority of, the Town Manager shall be on the basis of executive and administrative ability and of the training and experience of the appointees in the work which they are to perform.

(4) All appointments shall be without definite term unless for provisional, temporary or emergency services.

(D) (1) Any officer or employee whom the Town Manager or a head of a department or office may appoint may be removed by the Manager or other appointing officer at any time.

(2) Subject to the provisions of division (C) above, the decision of the Manager, or other appointing officer, shall be final and there shall be no appeal therefrom to any other office, body or court whatsoever.

(E) (1) Neither the Board, nor any of its committees or members, shall direct or request the appointment of any person to, or his or her removal from, office by the Town Manager or any of his or her subordinates or in any manner take part in the appointment or removal of officers and employees in the administrative service of the town.

(2) Except for the purpose of inquiry, the Board and its members shall deal with the administrative service solely through the Manager, and neither the Board of Commissioners, nor any member thereof, shall give orders to any subordinate of the Town Manager either publicly or privately.

(F) It shall be the duty of the Town Manager:

(1) To act as chief conservator of the peace within the town;

(2) To supervise the administration of the affairs of the town;

(3) To see that the ordinances of the town and the laws of the state are enforced;

(4) To make recommendations to the Board of Commissioners concerning the affairs of the town as may seem to him or her desirable;

(5) To keep Board advised of the financial condition and future needs of the town;

(6) To prepare and submit to the Board the annual budget estimates;

(7) To prepare and submit to Board the reports as may be required by that body; and

(8) To perform other duties as may be required of him or her by ordinance or resolution of the Board of Commissioners.

(2006 Code, Ch. 2, § 3.2)

§ 30.22 TOWN ATTORNEY.

The Town Attorney shall:

(A) Prosecute or defend any and all 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;

(B) See the full enforcement of all judgments or decrees rendered or entered in favor of the town and of all similar interlocutory orders;

(C) Draft or review any contract, lease or other document or instrument to which the town may be a party;

(D) At the request of the Board, draft ordinances covering any subjects within the power of the town; and

(E) Perform any other duties required of him or her by G.S. § 160A-173 and other laws and ordinances.

(2006 Code, Ch. 2, § 3.3)

§ 30.23 PERSONNEL DIRECTOR.

The Town Manager shall serve as Personnel Director and as such shall:

(A) Establish and maintain a roster of all employees, in which there shall be set forth as to each employee the class title of the position held, the salary or pay status and any other necessary data:

(B) Assign and direct the work of any and all assistants provided for by the Board;

(C) Advise and consult with the department heads in the development of training programs;

(D) Develop in consultation with the department heads a system of periodic service ratings of employees, to be administered by the department heads;

(E) Make annual reports and special reports as he or she deems advisable regarding personnel administration and recommendations for improvement therein to the Board;

(F) Prepare and maintain the classification and compensation plans and after consultation with department heads prepare and present to the Board class specifications and amendments thereto;

(G) Recommend to the Board amendments to this section and cause all rules and regulations to be published and copies thereof to be given to the department heads and the Board, and to maintain copies in his or her office;

(H) Maintain all registers of eligible persons for appointment and make certification from the registers;

(I) Make regulations and other administrative memoranda as he or she may deem necessary, consistent with this code, relative to his or her authority hereunder; and

(J) Perform other duties as may be required of him or her by statute or ordinance.

(2006 Code, Ch. 2, § 3.7)

§ 30.24 DEPARTMENT HEADS, RELATIVES.

No two department heads shall be persons of the same immediate family; that is, husband and wife, brother and sister, parent or child.

(2006 Code, Ch. 2, § 3.8)

§ 30.25 EMPLOYEES' BONDS.

Every officer, employee or agent of the town who, in the course of the person's official duties, shall receive, handle or have custody or control over more than $1,000 of town funds, negotiable instruments or securities at any time, shall, before entering upon the duties give bond payable to the town with corporate surety in the amount not less than $5,000 as shall be determined by the Board of Commissioners and in accord with applicable statutes.

(2006 Code, Ch. 2, § 3.4)

§ 30.26 LIABILITY INSURANCE.

The Board of Commissioners may secure liability insurance covering the Board and other officers and employees of the town during the performance of their official duties.

(2006 Code, Ch. 2, § 3.6)

§ 30.27 RETIREMENT SYSTEMS.

(A) The employees of the town shall be eligible to participate in and receive the full benefits of the State Local Government Employees' Retirement System and State Law Enforcement Retirement Systems under and by virtue of the provisions of Ch. 390 of the Public Laws of 1939, amended by Ch. 357 of the Public Laws of 1941 and statutes as may apply.

(B) The Board of Commissioners of the town shall provide for and make the necessary appropriations and contributions required of participating employers by the provisions of the above mentioned Act.

(2006 Code, Ch. 2, § 3.7)

ELECTIONS

§ 30.40 GENERALLY.

(A) Elections in the town shall be nonpartisan run-off elections according to G.S. § 163-279.

(B) The town has heretofore requested that the County Board of Elections conduct its elections according to statute and herewith ratifies its request and agreement thereto so that municipal elections hereafter shall continue to be conducted by the County Board of Elections, according to the applicable state statute.

(2006 Code, Ch. 2, § 7.0)

§ 30.41 COUNTY TO CONDUCT ELECTIONS.

The County Board of Elections shall conduct municipal elections, both regular and special, and any referenda according to the Charter of the town and the applicable laws of the state.

(2006 Code, Ch. 9, § 1.0)

§ 30.42 MUNICIPAL ELECTIONS METHOD.

Municipal elections for the town shall be non-partisan run-off elections to be held at those times set by G.S. § 163-279.4.

(2006 Code, Ch. 9, § 2.0)

Statutory reference:

Municipal elections, see G.S. §§ 163-279 through 163-306

§ 30.43 ELIGIBLE VOTERS; VOTING PLACE.

The corporate limits of the town shall comprise boundaries for determining those persons eligible to vote in elections in and out of the town and the entire town shall comprise on precinct, the voting for which shall be at the fire station in the 100 block of North Main Street in the town or at another place as may from time to time be designated or approved by the County Board of Elections.

(2006 Code, Ch. 9, § 3.0)

§ 30.44 VOTER REGISTRARS.

There shall be one or more full-time Registration Commissioners in and for the town, as may be authorized and appointed by the County Board of Elections, to conduct registration in and for elections in and for the town.

(2006 Code, Ch. 9, § 4.0)

§ 30.45 ABSENTEE VOTING.

The absentee balloting for municipal elections, regular and special, and referenda, as authorized by state statute shall be allowed in municipal elections in and for the town according to G.S. § 163-302. A copy of this section shall be forwarded to the State Board of Elections in Raleigh and the County Board of Elections.

(2006 Code, Ch. 9, § 5.0)

§ 30.46 FILING AS CANDIDATES.

All persons filing as candidates for election in and for the town must personally appear and fill out their registration papers at the designated filing place during that time specified.

(2006 Code, Ch. 9, § 6.0)

§ 30.47 OFFICES AND TERMS.

The numbers of, and terms for, the Mayor and members of the Board of Commissioners for the town shall be as set out in the Legislative Charter for the town.

(2006 Code, Ch. 9, § 7.0)

CHAPTER 31: TOWN ORGANIZATIONS

Section

Police Department

31.001 Organization

31.002 General supervision

31.003 Uniforms

31.004 Duties of police officers

31.005 Chief of Police

31.006 Qualifications

31.007 Departmental regulations

31.008 Jurisdiction of police officers

Auxiliary Police Unit

31.020 Unit established

31.021 Organizations directed by Chief

31.022 Calling to duty

31.023 Powers when on duty

31.024 Firearms

31.025 Relieving of members

31.026 Identification

Dogwood Festival Advisory Board

31.040 Creation

31.041 Appointment, term and removal

31.042 Powers

31.043 Meetings

31.044 Officers

31.045 Officer’s duties

31.046 Quorum

Planning Board

31.060 Creation

31.061 Membership and vacancies

31.062 Organization, rules, meetings and records

31.063 General powers and duties

31.064 Comprehensive plan

31.065 Zoning Ordinance

31.066 Subdivision regulations

31.067 Public facilities

31.068 Annexation proposals

31.069 Annual report

31.070 Special committees

Fire Department

31.085 Organization

31.086 Duties of the Chief

31.087 Fire suppression regulations

31.088 Fire alarm system

31.089 Firefighters' benefits

31.090 Mutual aid

31.091 Services revenue

31.092 Water for rural departments

Department of Parks and Recreation

31.115 Definitions

31.116 Creation of Department

31.117 Duties and powers

31.118 Administration

31.119 Director’s responsibilities

31.120 Reports

Recreation Committee

31.135 Committee created

31.136 Terms

31.137 Removal

31.138 Meetings

31.139 Officers

31.140 Officer’s duties

31.141 Quorum

31.142 Powers and duties

31.143 Grants, gifts, bequests and contributions

31.144 Appropriations and revenues

31.145 Expenditures; fiscal year

31.146 Contracts and other obligations

31.147 Master plan

31.148 Planning Liaison

31.149 Report to Board of Commissioners

Tree and Community Appearance Commission

31.165 Creation

31.166 Appointment and membership

31.167 Compensation

31.168 Operation

31.169 Duties and responsibilities for trees

31.170 Duties and responsibilities for community appearance

31.171 Resources

31.172 Annual report

Cross-reference:

Civil Defense Agency, see § 32.01

Library Board of Trustees, see § 96.03

May Museum and Park Advisory Board, see § 96.57

POLICE DEPARTMENT

§ 31.001 ORGANIZATION.

The Police Department of the town shall consist of a Chief and as many police officers as the Board of Commissioners shall authorize and as many special police officers as the Board may deem necessary to appoint for special purposes.

(2006 Code, Ch. 18, § 1)

§ 31.002 GENERAL SUPERVISION.

The Town Manager shall have general supervision over the Police Department.

(2006 Code, Ch. 18, § 2)

§ 31.003 UNIFORMS.

All police officers shall wear the uniforms and equipment as shall be provided by the town and shall keep the uniforms in a neat and clean condition; officers shall surrender all uniforms and equipment upon leaving the Police Department.

(2006 Code, Ch. 18, § 3)

§ 31.004 DUTIES OF POLICE OFFICERS.

The Police Department shall enforce all laws and ordinances of the town and the state and shall, at all times, preserve the peace, protect the property and the safety of persons.

(2006 Code, Ch. 18, § 4)

§ 31.005 CHIEF OF POLICE.

(A) The Chief of Police shall be appointed by the Town Manager (§ 30.21) and confirmed by the Board of Commissioners, and he or she shall direct the operation of the Police Department.

(B) The Chief shall submit regular reports of the Department's activities and make other reports as the Manager or Board may from time to time require.

(2006 Code, Ch. 18, § 5)

§ 31.006 QUALIFICATIONS.

All police officers of the town shall be certified as meeting the requirements required by state statutes for police service in the state.

(2006 Code, Ch. 18, § 6)

§ 31.007 DEPARTMENTAL REGULATIONS.

The Board of Commissioners may from time to time approve rules and regulations for the administration of the Police Department, copies of which shall be maintained in the Police Department and in the office of the Town Manager.

(2006 Code, Ch. 18, § 7)

§ 31.008 JURISDICTION OF POLICE OFFICERS.

(A) The jurisdiction of the police officers of the town is, by the Town Charter, throughout Farmville Township.

(B) The Chief of Police is authorized to enter into formal mutual aid agreements and/or provide assistance to other state law enforcement agencies as provided for and in accordance with G.S. § 160A-288.

(2006 Code, Ch. 18, § 8) (Added 12-6-1994)

AUXILIARY POLICE UNIT

§ 31.020 UNIT ESTABLISHED.

There is hereby established within the Town Police Department as a division thereof, an Auxiliary Police Unit. It shall be composed of as many volunteers as may be authorized by the Town Board, nominated by the Chief of Police and approved by the Board of Commissioners and the Mayor, and duly sworn under the regular police officer's oath.

(2006 Code, Ch. 18, § 9.1)

§ 31.021 ORGANIZATIONS DIRECTED BY CHIEF.

The unit shall be organized as the Chief of Police shall deem proper; the Chief of Police shall be responsible at all times for the training, organization, fixing of duties and maintenance of discipline for the Auxiliary Police Unit.

(2006 Code, Ch. 18, § 9.2)

§ 31.022 CALLING TO DUTY.

The Auxiliary Police Unit shall, at all times, be under the direction, supervision and control of the Chief of Police; the Chief of Police is empowered to call the members of the Auxiliary Police Unit to duty under the following circumstances only:

(A) For training, by filing a list of those members to be called with the Town Clerk prior to the beginning of the training period;

(B) Whenever a state of emergency has been declared to exist in the town; and

(C) Whenever authorized in writing by the Mayor or a majority of the Board of Commissioners.

(2006 Code, Ch. 18, § 9.3)

§ 31.023 POWERS WHEN ON DUTY.

When properly called to duty, the Auxiliary Police Unit shall have all the powers, privileges and immunities afforded by law under G.S. §§ 160A-281 et seq.

(2006 Code, Ch. 18, § 9.4)

§ 31.024 FIREARMS.

No member of the Auxiliary Police Unit on duty, shall carry or use any firearm, except upon orders from the Chief of Police.

(2006 Code, Ch. 18, § 9.5)

§ 31.025 RELIEVING OF MEMBERS.

The members of the Auxiliary Police Unit may be relieved from duty in the unit by acceptance of their resignation by the Chief of Police, or by notice from the Chief of Police or Mayor or a majority of the Board of Commissioners.

(2006 Code, Ch. 18, § 9.6)

§ 31.026 IDENTIFICATION.

Any identification cards or other insignia or evidence of identity issued to members of the Auxiliary Police Unit must be upon the person or members of the Auxiliary Police Unit at all times while on duty, and all identification must be surrendered upon the termination of participation. (2006 Code, Ch. 18, § 9.7)

DOGWOOD FESTIVAL ADVISORY BOARD

§ 31.040 CREATION.

There shall be a Dogwood Festival Advisory Board to assist the Board of Commissioners and the Town Manager in the design and execution of the most appropriate Dogwood Festival for the town. This Advisory Board may include up to 14 members. Two members shall be from the Town Board of Commissioners and one member shall be the Town Manger and the Town Clerk. The Mayor shall serve as an ex-officio member of the Advisory Board.

(2006 Code, Ch. 16, § 1) (Amended 11-7-2006)

§ 31.041 APPOINTMENT, TERM AND REMOVAL.

Each member shall be appointed in accordance with the procedures set forth in § 11.02(B) of this code of ordinances. The members shall be appointed for staggered three-year terms. Each member shall hold office until his or her successor has been appointed and qualified. Any vacancy in the membership shall be filled for the unexpired term. Vacancies for the unexpired

terms shall be promptly filled. The Board of Commissioners may remove any member for incapacity, unfitness, misconduct or neglect of duty. A member shall forfeit membership on the Advisory Board if he or she is absent without excuse for more than three consecutive meetings or more than half of the Board's meetings in any 12-month period. Members shall serve without compensation, except for reimbursement for official travel expenses to conferences and workshops.

(2006 Code, Ch. 16, § 2) (Amended 10-5-2010)

§ 31.042 POWERS.

The Dogwood Festival Advisory Board shall have the following powers and duties:

(A) To formulate and adopt programs, policies and regulations for the operation of the annual Town Dogwood Festival;

(B) To make recommendations to the Board of Commissioners concerning the Dogwood Festival;

(C) To approve all matters regarding the Dogwood Festival, within budgetary restraints;

(D) To participate in preparing the annual Dogwood Festival budget;

(E) To develop and carry out special fundraising efforts to support the Dogwood Festival;

(F) To submit annually to the Board of Commissioners a report on the needs and programs of the Dogwood Festival;

(G) To generally advise the Board of Commissioners and the Town Manager concerning the operations of the Dogwood Festival and to perform any other reasonable duties requested by the Board of Commissioners; and

(H) To create committees as may be necessary to carry out the responsibilities of the Advisory Board.

(2006 Code, Ch. 16, § 3)

§ 31.043 MEETINGS.

Advisory Board meetings shall be held on a monthly basis unless when determined otherwise by the Advisory Board. The Chairperson of the Advisory Board or, in his or her absence, the Vice-Chairperson may call a special meeting of the Advisory Board at any time by giving each

member 24-hour notice. A quorum of the Commission shall be in attendance before action of an official nature can take place.

(2006 Code, Ch. 16, § 4)

§ 31.044 OFFICERS.

There shall be a Chairperson, Vice-Chairperson, Secretary and Treasurer of the Advisory Board. The Town Manager shall serve as Treasurer and shall approve all contracts and proposed expenditures for the Dogwood Festival. An annual election of the Chairperson and Vice-Chairperson shall be held by the Advisory Board members and shall occur at the regular meeting in January. Officers shall serve for one year from election, with eligibility for re-election. Officers shall take office at the subsequent next regular meeting. In the event an officer is unable to complete his or her term, a replacement to fill the unexpired term shall be elected by the members at the next regular meeting.

(2006 Code, Ch. 16, § 5)

§ 31.045 OFFICER'S DUTIES.

The Chairperson shall preside at all meetings and sign all documents related to action taken by the Advisory Board. The Chairperson may appoint sub-committees, including a nominating committee composed of three Advisory Board members. A nominating committee shall be appointed at least 30 days prior to the January meeting and shall prepare a single slate of nominees, from the membership of the Advisory Board for the officers of the Advisory Board. The Town Clerk shall serve as Secretary. The Chairperson is a voting member in all instances.

(2006 Code, Ch. 16, § 6)

§ 31.046 QUORUM.

A quorum for conducting official business of the Advisory Board shall be seven members.

(2006 Code, Ch. 16, § 7)

PLANNING BOARD

§ 31.060 CREATION.

The Planning Board of the town and its environs, hereinafter referred to as the "Planning Board", is hereby established pursuant to the G.S. Ch. 160A, Art. 19, and shall be governed by the following provisions.

(2006 Code, Ch. 17, § 1) (Amended 2-4-1997)

§ 31.061 MEMBERSHIP AND VACANCIES.

(A) Membership. The Planning Board shall consist of seven members. If, at the time this subchapter becomes effective, membership is greater than seven, attrition will be allowed to correct the situation; however, at no time should extraterritorial representatives fall below the minimum of one.

(B) Town representative. Not less than four, or more than six, members shall reside within the corporate limits of the town. Each member shall be appointed in accordance with the procedures set forth in § 11.02(B) of this code of ordinances. The members shall be appointed for staggered three-year terms. Each member shall hold office until his or her successor has been appointed and qualified. Any vacancy in the membership shall be filled for the unexpired term. Vacancies for the unexpired terms shall be promptly filled. The Board of Commissioners may remove any member for incapacity, unfitness, misconduct or neglect of duty. A member shall forfeit membership on the Planning Board if he or she is absent without excuse for more than three consecutive meetings or more than half of the Board's meetings in any 12-month period. Members shall serve without compensation, except for reimbursement for official travel expenses to conferences and workshops.

(Amended 10-5-2010)

(C) Extraterritorial representatives. Not less than one nor more than three members may reside outside the corporate limits of the town, but within the extraterritorial jurisdiction of the town. Members shall be nominated by the Mayor and approved by the Board of Commissioners by resolution, and the resolution forwarded to the County Board of Commissioners, who shall choose from these resolutions and appoint members who shall serve for one-, two- or three-year terms. If the County Board of Commissioners takes no action within 30 days after receiving the resolution from the Town Board, then the Mayor may nominate persons and the Town Board of Commissioners may confirm the appointments. The same procedure shall be used for filling vacancies.

(D) Compensation. All members will serve without compensation.

(E) Removal. Any members may, after a public hearing, be removed by the Town Board of Commissioners for inefficiency, neglect of duty or malfeasance in office. The Town Board of Commissioners shall file a written public report stating the reasons for the removal. Any member who does not attend at least half the meetings in a calendar year shall automatically forfeit membership.

(F) Voting. All members shall have equal voting rights on all matters whether within or without the corporate limits of the town.

(2006 Code, Ch. 17, § 2) (Amended 2-4-1997)

§ 31.062 ORGANIZATION, RULES, MEETINGS AND RECORDS.

(A) Meetings. The Planning and Zoning Board shall meet at a time and place as is designated by the Chairperson.

(Amended 3-2-1999 - 12-5-2006)

(B) Officers. The Planning Board shall elect a Chairperson and other officers as it chooses in January of each year. Officers' terms shall be for one year or until their successors have been elected and taken office. All officers may be re-elected.

(C) Procedures, records. The Planning Board shall adopt its own rules of procedure and keep a record of attendance, its resolutions, discussions, findings and recommendations.

(D) Open meetings. All meetings and records of the Planning Board shall be open to the public.

(E) Special meetings. Special meetings may be called by the Chairperson or by a majority of the membership of the Board by mailing written notices of the time and place of the meeting to the last known address of each member at least 72 hours before meeting time. Notice of meetings may be waived by signing the minutes of the meeting.

(2006 Code, Ch. 17, § 3) (Amended 2-4-1997

§ 31.063 GENERAL POWERS AND DUTIES.

(A) It shall be the duty of the Planning Board, in general:

(1) Planning information. To acquire and maintain, in current form, basic information and materials as are necessary to any understanding of past trends, present conditions and forces at work to cause changes in these conditions;

(2) Comprehensive plan. To prepare and, from time to time, amend and revise a comprehensive and coordinated plan for the physical development of the area;

(3) Development guides. To establish principles and policies for guiding action in the development of the area;

(4) Ordinances. To prepare and recommend to the Town Board ordinances promoting orderly development along the lines indicated in the comprehensive plan;

(5) Development review. To determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area;

(6) Planning communication. To keep the Town Board and the general public informed and advised of these matters; and

(7) Other duties. To perform any other duties which may lawfully be assigned to it by the Town Board of Commissioners.

(2006 Code, Ch. 17, § 4)

(B) (1) The Planning Board may conduct public hearings as may be required to gather information necessary for the drafting, establishment and maintenance of the comprehensive plan. Before adopting the plan, it shall hold at least one public hearing thereon.

(2) The Planning Board shall have power to promote public interest in and an understanding of its recommendations and, to that end, it may publish and distribute copies of its recommendations and may employ other means of publicity and education as it may determine.

(3) Members or employees of the Planning Board, when duly authorized by the Planning Board, may attend planning conferences or meetings of the planning institutes or hearings upon pending planning legislation, and the Planning Board may, by formal and affirmative vote, pay, within the Planning Board’s budget, the reasonable traveling expenses incident to the attendance.

(2006 Code, Ch. 17, § 11)

(Amended 2-4-1997)

§ 31.064 COMPREHENSIVE PLAN.

(A) (1) As background for its comprehensive plan and any other ordinances it may prepare, the Planning Board may gather maps and aerial photographs of human-made and natural physical features of the area, statistics on past trends and present conditions with respect to population, property values, the economic bases of the community, land use and other information as is important or likely to be important in determining the amount, direction and kind of development to be expected in the area and its various parts.

(2) The Planning Board may make, cause to be made or obtain special studies on the location, condition and adequacy of specific facilities, which may include, but not limited to, studies of housing, commercial and industrial facilities, parks, playgrounds and recreational facilities, public and private utilities and traffic, transportation and parking facilities.

(3) All town officials shall, upon request, furnish to the Planning Board available records or information as it may require in its work. The Board or its agents may, in the performance of its duties, enter upon land and make examinations or surveys and maintain necessary monuments thereon.

(2006 Code, Ch. 17, § 5)

(B) (1) The comprehensive plan, with the accompanying maps, plats, charts and descriptive matter, shall be and show the Planning Board's recommendations to the Town Board for the development of the territory, including, among other things, the general location, character and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks, aviation fields and other public ways, grounds and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes, and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities or terminals.

(2) The plan and any ordinances or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the town and its environs which will, in accordance with present and future needs, best promote health, safety, morals and the general welfare, as well as efficiency and economy in the process of development, including among other things, adequate provisions for traffic, promotion of safety from fire and other dangers, adequate provisions for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities, services and other public requirements.

(2006 Code, Ch. 17, § 6)

(Amended 2-4-1997)

§ 31.065 ZONING ORDINANCE.

(A) The Planning Board is hereby designated as the Zoning Commission for the town and its environs. The Planning Board may initiate, from time to time, proposals for amendments of the Zoning Ordinance, based on its studies and comprehensive plan. In addition, it shall review and make recommendations to the Board of Commissioners concerning all proposed amendments to the Zoning Ordinance.

(B) In the event it is deemed necessary, the Planning Board may, at the request of the Board of Commissioners, or upon its own initiative, prepare and submit to the Town Board for its consideration and possible adoption, a Zoning Ordinance for the control of the height, area, bulk, location and use of buildings and premises in the area, in accordance with the provisions of G.S. Ch. 160A, Art. 19, or other applicable sections of the general statutes.

(2006 Code, Ch. 17, § 7) (Amended 2-4-1997)

§ 31.066 SUBDIVISION REGULATIONS.

(A) The Planning Board may, at the request of the Town Board or upon its own initiative, prepare and submit to the Town Board for its consideration and possible adoption, subdivision regulations in accordance with the provisions of G.S. § 160A.371 through 160A-377 or other applicable sections of the general statutes.

(B) If adopted, the Planning Board shall review from time to time the regulations for the control of land subdivision in the area and submit to the Town Board its recommendations, if any, for the revision of the regulations. Also, if subdivision regulations are adopted, the Planning Board shall review and make recommendations to the Town Board concerning all proposed plats of land subdivision in accordance with the regulations.

(2006 Code, Ch. 17, § 8) (Amended 2-4-1997)

§ 31.067 PUBLIC FACILITIES.

The Planning Board may, if requested, review with town officials and report as recommendations to the Board of Commissioners upon the extent, location and design of all public structures and facilities, on the acquisition and disposal of public properties, on the establishment of building lines, mapped street lines and proposals to change existing street lines. However, in the absence of a recommendation from the Planning Board, the Town Board may, if it deems it wise, after the expiration of 30 days from the date on which the question has been submitted in writing to the Planning Board for review and recommendations, take final action.

(2006 Code, Ch. 17, § 9) (Amended 2-4-1997)

§ 31.068 ANNEXATION PROPOSALS.

(A) The Town Board shall refer all petitions or proposals for annexation of areas to the municipal corporate limits to the Planning Board for study. Within 60 days after the referral or within another period as the Town Board may set, the Planning Board shall report to the Town Board on the following aspects of the proposed annexation:

(1) The legal eligibility of the area for annexation;

(2) The municipal need for the proposed annexation, including the application of municipal ordinances, extension of the revenue base and effect upon citizen participation;

(3) The need, feasibility and costs of the extension of municipal services to the area; and

(4) Any other factors requested examined by the Town Board.

(B) The report shall include a recommendation regarding the overall advisability of the proposed annexation. If the Planning Board does not report within the required period, the Town Board may proceed to further consideration of the annexation.

(2006 Code, Ch. 17, § 10) (Amended 2-4-1997)

§ 31.069 ANNUAL REPORT.

(A) The Planning Board shall, in May of each year, submit to the Board of Commissioners a written report of its activities, analysis of the expenditures to date for the current fiscal year and, for review and approval, its requested budget of funds needed for operation during the ensuing fiscal year.

(B) The Chairperson of the Planning Board, with the consent of the Board, may appoint a committee and employees as it may deem necessary for its work. The Planning Board may also contract with town planners, engineers, architects and other consultants for the services as it may require, with the concurrence of the Town Board. The Planning Board is authorized to make expenditures as it may see fit, subject to the limitations of the funds provided for the Planning Board by the Town Board in the town’s annual budget.

(2006 Code, Ch. 17, § 12) (Amended 2-4-1997)

§ 31.070 SPECIAL COMMITTEES.

The Chairperson of the Planning Board, with the consent of the Board, may appoint special committees to assist it in the study of specific questions and problems.

(2006 Code, Ch. 17, § 13) (Amended 2-4-1997)

FIRE DEPARTMENT

§ 31.085 ORGANIZATION.

The Fire Department shall consist of the Chief of the Fire Department and a sufficient number of firefighters (voluntary, part time or full time) to maintain and operate the Department. The Board of Commissioners shall appoint the Chief and may approve the appointment to the Department of all officers. 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. However, any rules and regulations shall include provisions for at least one training period each month and shall provide that any member who is absent for two consecutive meetings without a bona fide reason will be dropped from the Department.

(2006 Code, Ch. 10, § 1.1)

§ 31.086 DUTIES OF THE CHIEF.

The duties of the Chief, subject to supervision by the Board, shall be as follows.

(A) General. He or she shall have general control of the Department, personnel, apparatus and fire alarm systems.

(B) Firefighting command. He or she shall command the Department and supervise the firefighting and extinguishing of all fires and to have authority to keep away from the vicinity of all fires any and all idle, disorderly or suspicious persons.

(C) Equipment inspection. He or she shall inspect or cause to be inspected all trucks and other equipment of the Fire Department each and every week to ascertain that the equipment is being kept in proper condition.

(D) Reports. He or she shall report annually to the Board of Commissioners the condition of all equipment, fire hydrants and fire alarms.

(E) Fire inspections.

(1) The Chief shall assume the functions of Fire Inspector and shall enforce regulations pertaining to fire hazards and fire districts. As such, he or she (or his or her designated agent) shall have authority to enter any and all premises, at reasonable times, for purposes of inspection.

(2) He or she shall make annual inspections of all structures located within the fire districts.

(3) He or she shall, upon receipt of a complaint, forthwith investigate.

(4) He or she shall investigate the causes of fires and keep records of his or her findings as to origin, location, owner, extent of damage or injury and amount of insurance carried. The findings must be reported to the State Insurance Commissioner at regular intervals.

(5) He or she shall cause the removal of fire hazards by serving a proper order to the owner or agent of the premises in question, the order to state a reasonable time limit. Failure to comply with the orders shall be considered a misdemeanor.

(2006 Code, Ch. 10, § 1.2)

§ 31.087 FIRE SUPPRESSION REGULATIONS.

(A) Summoning aid. The fire officer in command at the scene of a fire shall have authority to summon aid and no citizen so summoned may unreasonably refuse to help in extinguishing the fire or in protecting exposed property.

(B) Congregating near fires. 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) Fire trucks have right-of-way. In the event of an alarm of 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. The drivers of vehicles, upon the approach of fire apparatus, shall immediately bring their vehicle to a stop on the right-hand side of the street in the direction they are facing and shall not move their vehicles until the apparatus has passed.

(D) Following fire equipment. It shall be unlawful to follow any fire apparatus which is responding to a call, by automobile or any other vehicle (unless it is used for transporting firefighters to the scene of fire) at a distance closer than one town block, or to pass the apparatus, or to park within the same block in which fire is in progress.

(E) Interfering with firefighters or fire apparatus. No person shall interfere with a firefighter in the discharge of his or her duty, or hinder him or her in the performance of the duty; nor shall any person other than members of the Fire Department loiter about any fire station, or change, handle or meddle in any manner with any fire engine or other fire apparatus.

(F) Only firefighters and police officers on trucks. No person other than a bona fide member of the Fire Department shall mount any fire engine, wagon or apparatus before it leaves the station or 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, wagon or other apparatus.

(2006 Code, Ch. 10, § 1.3) Penalty, see § 10.99

§ 31.088 FIRE ALARM SYSTEM.

(A) Interfering with fire alarm apparatus. No person shall interfere carelessly or willfully with the fire alarm system or injure the poles, wires, boxes or other apparatus connected therewith.

(B) Giving false fire alarm. No person shall give or cause to be given any false alarm of fire by means of the fire alarm system, telephone or otherwise. A $50 reward will be paid to anyone furnishing information leading to the conviction of anyone intentionally giving a false fire alarm. Firefighters and police officers are excluded from receiving the reward.

(2006 Code, Ch. 10, § 1.4) Penalty, see § 10.99

§ 31.089 FIREFIGHTERS' BENEFITS.

(A) Fraternal insurance. The town will pay into the Firemen's Fraternal Insurance Fund an amount sufficient to cover each member of the Department in good standing and recognized by the Chief of the Fire Department to the extent the member is entitled to be covered. If any member in good standing is called into military service, state or federal, the town shall remain responsible for the purchases of these insurance payments, until the time as the Chief finds the person no longer a member in good standing with the Fire Department. The town will also pay these insurance payments for members who retire in good standing with 20 years or more of service.

(B) Accident insurance. The town will pay for adequate accident insurance to cover all members of the Town Fire Department in good standing, as recognized by the Chief of the Fire Department.

(C) Hospital insurance. The town will pay for hospitalization insurance to cover each member of the Department in good standing and recognized by the Chief of the Fire Department to the extent the member is entitled to be covered.

(D) State Fireman Fund. The town shall pay $5 for each new member of the Town Fire Department to the State Fireman Fund.

(E) Retirement. The Town Board is to be consulted on each individual case as to the disposition of retirement funds contributed by the town in the event a firefighter leaves the Department before being eligible for retirement.

(2006 Code, Ch. 10, § 1.5)

§ 31.090 MUTUAL AID.

The Town Fire Department shall be a party to the County Mutual Emergency Fire Aid Pact.

(2006 Code, Ch. 10, § 1.6) (Amended 4-7-1970)

§ 31.091 SERVICES REVENUE.

Any funds derived for services rendered by the Fire Department shall be placed into the General Fund of the town.

(2006 Code, Ch. 10, § 1.7)

§ 31.092 WATER FOR RURAL DEPARTMENTS.

All county rural fire departments may refill their water tanks free from the town hydrants for use in any firefighting effort in progress.

(2006 Code, Ch. 10, § 1.8)

DEPARTMENT OF PARKS AND RECREATION

§ 31.115 DEFINITIONS.

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

ADMINISTRATOR. The Town Manager or other person to whom is delegated the administrative duties and responsibilities of the unit.

COMMITTEE. The advisory recreation body to the Department, Manager and governing body.

GOVERNING BODY. The Town Board.

RECREATION. Those activities which fall within the general classification areas of: the arts; drama; crafts; athletics; sports and games; dance; hobbies; music; nature and outing; reading; writing; linguistics; social recreation; special community events and special activities; volunteer services; and recreation travel.

STRUCTURES AND AREAS. The outdoor and indoor areas and structures on or in which people derive opportunity for the pursuit of happiness through recreation, whether or not these areas and structures are owned, leased, borrowed, controlled or operated within or outside of the corporate limits or boundary of local governmental unit(s).

UNIT. The Town of Farmville.

(2006 Code, Ch. 19, § 1.1)

§ 31.116 CREATION OF DEPARTMENT.

There is hereby created a department to be known as the Department of Parks and Recreation which shall function directly under the Town Manager.

(2006 Code, Ch. 19, § 1.2)

§ 31.117 DUTIES AND POWERS.

The Department of Parks and Recreation shall have complete supervision of the structures, areas and all activities conducted on or connected with the parks, playgrounds, water areas, athletic fields, recreation centers and other recreation facilities which are provided, shall have the power to conduct any wholesome form of recreation or cultural activity on or about these premises, shall have the power to develop and enforce regulations as to use and as to fees and charges for areas, structures or activities of the Department.

(2006 Code, Ch. 19, § 1.3)

§ 31.118 ADMINISTRATION.

The position of Director of Parks and Recreation is hereby created. The executive for the Department shall be the Director of Parks and Recreation for the unit who shall work with the Administrator as one of his or her department heads (§ 30.21).

(2006 Code, Ch. 19, § 1.4)

§ 31.119 DIRECTOR'S RESPONSIBILITIES.

The Director of Parks and Recreation shall be responsible for the following:

(A) Administration and supervision of Department personnel;

(B) Administration and supervision of Department use of funds and equipment;

(C) Administration and supervision of the Department recreation program;

(D) Organization and conduct of recreation activities;

(E) Maintenance and upkeep of all areas, facilities and equipment;

(F) Public information and public relations;

(G) Representation of the Department at local, state and national functions and professional meetings;

(H) Assistance in the securing of financial support for the Department;

(I) Adherence to Department, Parks and Recreation Committee and unit policies and regulations;

(Amended 12-4-1984)

(I) Arranging for the preparation of and for keeping current a long-range plan of recreation program, of area and structure acquisition and development, in the following of the plan; and

(J) Other functions of public regulation and control as may be within the policy of the unit, and approved by ordinance.

(Amended 12-4-1984)

(2006 Code, Ch. 19, § 1.5)

§ 31.120 REPORTS.

The Director of Parks and Recreation shall make the following reports:

(A) A monthly summary of the unit's recreation activities, to the Parks and Recreation Advisory Committee and to the Town Manager;

(B) A brief monthly and comprehensive annual community recreation activities report including all phases of Department activity, all Department-associated and other private and commercial community recreation activities, to be made to the Parks and Recreation Advisory Committee and through the Town Manager to the governing body of the unit;

(C) Brief, monthly and comprehensive annual financial reports to the Parks and Recreation Advisory Committee and, in line with policies of the unit, to the Town Manager and the governing body of the unit; and

(D) (1) Other reports to be submitted to the Parks and Recreation Advisory Committee and to the Town Manager (as requested or deemed necessary) may be on safety hazards, defective equipment and dangerous conditions, damaged and destroyed property and accidents occurring on or within recreation areas and facilities.

(2) A report of his or her analysis of Department financial needs, receipts and disbursements submitted to the Parks and Recreation Advisory Committee, for its consideration and assistance, as the Department's annual budgetary request is made to the Town Manager and to the governing body of the unit.

(2006 Code, Ch. 19, § 1.6) (Amended 12-4-1984)

§ 31.136 TERMS.

(A) The Parks and Recreation Advisory Committee shall consist of nine members, including one member from the Board of Commissioners. Each member shall be appointed for staggered three-year terms.

(B) (1) Each member shall hold office until his or her successor has been appointed and qualified, but shall serve no more than two full consecutive terms.

(2) Any vacancy in the membership shall be filled for the unexpired term which shall not count as a full term.

(3) Vacancies for the unexpired terms shall be promptly filled.

(2006 Code, Ch. 19, § 2.3) (Amended 6-1-1999; Ord. 770, passed 8-7-2012)

§ 31.137 REMOVAL.

An appointed member forfeits membership on the Committee if he or she is absent without excuse for more than three consecutive regular meetings, or more than half of the Committee's meetings in any 12-month period. The Town Board of Commissioners may remove any Committee member for incapacity, unfitness, misconduct or neglect of duty. All members serve without compensation, except for reimbursement for official travel expenses to conferences and workshops.

(2006 Code, Ch. 19, § 2.4) (Amended 6-1-1999; Ord. 770, passed 8-7-2012)

§ 31.138 MEETINGS.

Committee meetings shall be held no less than quarterly unless when determined otherwise by the Committee. The Chairperson, or in his or her absence, the Vice-Chairperson of each Committee may call a special meeting of their Committee at any time by giving each member 24-hour notice. A quorum of the Committee shall be in attendance before action of an official nature can take place.

(2006 Code, Ch. 19, § 2.5) (Amended 6-1-1999; Ord. 770, passed 8-7-2012)

§ 31.139 OFFICERS.

There shall be a Chairperson, Vice-Chairperson and Secretary of the Committee. An annual election for these positions shall be held by the Committee members and shall occur at a regular monthly meeting. Officers shall take office at the subsequent next regular meeting. In the event an officer is unable to complete his or her term, a replacement to fill the unexpired term shall be elected by the members at the next regular meeting.

(2006 Code, Ch. 19, § 2.6) (Amended 6-1-1999; Ord. 770, passed 8-7-2012)

§ 31.140 OFFICER'S DUTIES.

The Chairperson of each Committee shall preside at all meetings and sign all documents relating to action taken by the Committee. The Chairperson is a voting member in all instances.

(2006 Code, Ch. 19, § 2.7) (Amended 6-1-1999; Ord. 770, passed 8-7-2012)

§ 31.141 QUORUM.

A quorum for conducting official business of the Committee shall be a majority of the membership for that Committee.

(2006 Code, Ch. 19, § 2.8) (Amended 6-1-1999; Amended 1-15-2001; Ord. 770, passed 8-7-2012)

§ 31.142 POWERS AND DUTIES.

The Parks and Recreation Advisory Committee shall have the following powers and duties:

(A) To formulate and adopt programs, policies and regulations for the operation of all Parks and Recreational programs for the town. The programs, policies and regulations are subject to review by the Town Board of Commissioners;

(B) To make recommendations to the Board of Commissioners concerning improvements to parks, playgrounds, recreation centers or other recreational areas or structures, and for the equipping and staffing of the buildings and structures as may be necessary to the recreation programs within the funds available;

(C) To make recommendations concerning fees, charges and annual budgets of the Parks and Recreation Department;

(D) To develop and carry out special fund-raising efforts to support improvements or alterations to parks, playgrounds, recreation centers or the recreational areas or structures;

(E) To generally inform the Board of Commissioners and the Town Manager concerning the operations of the Parks and Recreation Department and provide functional direction to the Parks and Recreation Director to fulfill the obligations to the Town Board of Commissioners, as outlined in § 31.135; and

(F) To adopt rules and procedures for its own operations as may be necessary and which conforms to this subchapter and state law.

(2006 Code, Ch. 19, § 2.9) (Amended 6-1-1999; Amended 2-3-2009; Ord. 770, passed 8-7-2012)

§ 31.143 GRANTS, GIFTS, BEQUESTS AND CONTRIBUTIONS.

The Parks and Recreation Advisory Committee may recommend acceptance to the governing body of the unit of any proper grant, gift, bequest or donation of any personal or other property offered or made for recreation purposes and, with the governing body's approval, may accept any grant, gift or devise of real estate. Any gift, bequest of money or of other personal or real property, or any grant or devise shall be held, by the Department, used and finally disposed of in accordance with the terms or donations under which the grant, gift or devise is made and accepted.

(2006 Code, Ch. 19, § 3.1) (Amended 12-4-1984)

§ 31.144 APPROPRIATIONS AND REVENUES.

(A) The Manager and the governing body of the town shall receive the annual budget recommendations of the Board and the request of the Parks and Recreation Department and shall appropriate an annual budget to be used in defraying the costs and expenses of the operation of the Parks and Recreation Department. These funds will be expended in a manner to further promote the health, happiness, safety, moral and economic interest of the citizens of the community through planned recreation services, recreation areas, community recreation coordination, recreation structures and programs.

(B) Appropriated moneys for the Parks and Recreation Department may be from General Fund revenues derived as profit of a local sale of power; from water, sewerage or other charges and fees; from all tax sources permitted under the State Recreation Enabling Act; from moneys from any local General Fund sources other than taxation; from profits derived through any operation conducted by the unit; from all profits of Department revenue-producing activities; and from any gift, bequest, grant or devise made to the unit, the Parks and Recreation Advisory Committee and/or Department.

(2006 Code, Ch. 19, § 3.2) (Amended 12-4-1984)

§ 31.145 EXPENDITURES; FISCAL YEAR.

(A) The funds appropriated by the governing body and budgeted to the Parks and Recreation Department shall be disbursed by the Finance Officer of the unit in the same manner as are funds for other departments of the unit, within the budgeted funds of the Department. Funds received from revenue producing activities of the Department shall be deposited with the unit's Finance Officer to the credit of the Department and shall be disbursed by the Town's Finance Officer, in the same manner as those moneys appropriated to the Parks and Recreation Department by the unit.

(B) All funds from other than unit-appropriated sources shall be deposited by the unit to the credit of and for the use of the Department and shall be disbursed as are other unit-appropriated moneys, except that funds received from:

(1) Gifts, bequests or from other than the unit's General Fund;

(2) Revenues produced by the Department; or

(3) From recreation tax sources of the unit, shall be disbursed in accordance with the terms of the voted tax and/or of the gift or bequest.

(2006 Code, Ch. 19, § 3.3)

§ 31.146 CONTRACTS AND OTHER OBLIGATIONS.

The Board 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 current fiscal year and all within the budget appropriations made by the Board of Commissioners.

(2006 Code, Ch. 19, § 3.4) (Amended 12-4-1984)

§ 31.147 MASTER PLAN.

(A) The Parks and Recreation Department shall take the necessary steps (by employing a professional recreation planner or in some other acceptable manner) to create a scientifically developed long-range plan for the proper and adequate acquisition of recreation areas and the development of recreation facilities, structures and program for the present and future needs of the citizens of the unit. In such a process, the recreation wishes and needs of all citizens will be taken into account. All existing, publicly owned areas and facilities will be studied from the standpoint of their best potential uses for recreation purposes and will be made to realize their full value as recreation resources, but the economic values and functional efficiency of recreation developed, owned and operated areas and facilities shall not be overlooked.

(B) The master, long-range local recreation plan will be so developed that it will include much more than a survey of existing areas and facilities, and of future needs in these categories. It will also recognize the values of a broad, basic recreation program of competent leadership, of a constant process of analysis of needs and opportunities for recreation services, and of a continuous refinement and revision of details of the long-range plan for which experience and the changing local needs will reveal the need. Professional planning assistance may be secured, from time to time, to assist in bringing the long-range plan up to date where it is found to be in the interest of local, community recreation.

(C) The Parks and Recreation Advisory Committee shall be responsible for giving active advisory and public relations assistance in the development of a priority schedule of recreation land and water area acquisition, of recreation structure and program development, and for proper and effective meshing of the recreation plan and action with that of other aspects of community development, and of the unit’s governmental growth and expansion.

(2006 Code, Ch. 19, § 4.1) (Amended 12-4-1984)

§ 31.148 PLANNING LIAISON.

(A) The Parks and Recreation Advisory Committee shall select one of its members to meet with the unit’s planning and zoning bodies at all times when the planning body meets so that

recreation needs will be weighed when matters are considered which will have impact upon the present or future recreation potentials of the unit. These matters will include recreation planning, in unit action and in subdivision recommendations, in all proposals for annexation and in all suggestions and action for acquisition, release or other temporary or permanent disposition of unit-owned lands and structures. Any of these resources may be turned over to the Recreation Department, for its use.

(B) The Parks and Recreation Advisory Committee members shall have full recognition on the unit's planning, development and zoning bodies, shall be given adequate notification of all meetings and shall be given opportunity to present the suggestions and needs of recreation for the proper and adequate consideration by these planning, development and zoning bodies, and to actively assist in the presentation to and the support of their findings with the governing body of the unit.

(2006 Code, Ch. 19, § 4.2) (Amended 12-4-1984)

§ 31.149 REPORT TO BOARD OF COMMISSIONERS.

The Director, through the Advisory Committee, shall make full and complete reports to the Board of Commissioners at a time as may be requested and at other times as the Director and Board may deem proper.

(2006 Code, Ch. 19, § 4.3) (Amended 12-4-1984)

CHAPTER 32: CIVIL DEFENSE AND EMERGENCIES

Section

General Provisions

32.01 Civil Defense Agency

32.02 Emergency relocation of governing body

32.03 Continuity of government in event of enemy attack

Curfew; State of Emergency

32.15 Definition

32.16 Declaration of emergency; imposition of curfew

32.17 Curfew limitations and exemptions

32.18 Termination of curfew

32.19 Curfew regulations

Civil Preparedness Plan for War

32.30 Short title

32.31 Intent and purpose

32.32 Definitions

32.33 Civil Preparedness Organization; appointments

32.34 Coordinator powers and duties

32.35 Civil preparedness plans

32.36 County, municipal or private liability

32.37 Violation of regulations

GENERAL PROVISIONS

§ 32.01 CIVIL DEFENSE AGENCY.

The town does establish a Civil Defense Agency with authority of, and in accordance with, G.S.§§ 166A-1 et seq.

(2006 Code, Ch. 7, § 1.0)

§ 32.02 EMERGENCY RELOCATION OF GOVERNING BODY.

(A) Declaration of emergency. Whenever the Governor and the Board, acting together, declare an emergency to exist by actual or impending hostile attack upon the state, and due to the emergency so declared, it becomes imprudent or impossible to conduct the affairs of the town at the regular or usual place, the governing body of the town is hereby authorized to meet from time to time upon the call of the presiding officer at the designated emergency location of government during the period of the emergency and until the emergency is declared terminated by the Governor and Council of State.

(B) Governing body location. The town designates the Town Police Department office as the emergency location of the governing body of the town. The governing body is authorized to meet at other locations as may be designated by the presiding officer of the governing body of the town.

(2006 Code, Ch. 7, § 2.0)

§ 32.03 CONTINUITY OF GOVERNMENT IN EVENT OF ENEMY ATTACK.

(A) *Short title*. This section shall be known and may be cited as the "Continuity of Government Ordinance of the Town of Farmville".

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

ATTACK. Any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner, by sabotage or by the use of bombs, missiles, shellfire or atomic, radiological, chemical, bacteriological or biological means or other weapons or processes.

DULY AUTHORIZED DEPUTY. A person who is presently authorized to perform all of the functions, exercise all the powers and discharge all the duties of an office in the event the office

is vacant or at the times as it lacks administration due to the death, absence or disability of the incumbent officer.

EMERGENCY INTERIM SUCCESSOR. A person designated pursuant to this section for possible temporary succession to the powers and duties, but not the office, of a town officer in the event that the officer or duly authorized deputy is unavailable to exercise the powers and discharge the duties of the office.

UNAVAILABLE. Either that a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office (including any deputy exercising the powers and discharging the duties of an office because of a vacancy) and his or her duly authorized deputy are absent or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of the office.

(C) *Emergency interim successors.*

(1) *Designation.* Within 30 days following the effective date of this section and, thereafter within 30 days after first entering upon the duties of office, the Board of Commissioners shall, in addition to any duly authorized deputy, designate a number of emergency interim successors to office and specify their rank in order of succession after any duly authorized deputy so that there will be not less than three duly authorized deputies or emergency interim successors or combination thereof for each key elective and appointive office in town government.

(2) *Offices affected*. Offices shall include the Mayor, each member of the Board of Commissioners, Town Manager, Town Clerk, Finance Officer, Town Attorney, Utilities Director, Public Works Director, Chief of Police and Fire Chief.

(3) *Review of designations*. The Board of Commissioners shall review and, as necessary, promptly revise the designations of emergency interim successors or duly authorized deputies or any combination thereof for each officer specified.

(4) *Qualifications*.

(a) No person shall be designated or serve as an emergency interim successor unless he or she may under the constitution and statutes of the state and the Charter or ordinance of the town, hold the office of the person to whose powers and duties he or she is designated to succeed.

(b) No provision of any ordinance prohibiting an officer or employee of the town from holding another office shall be applicable to an emergency interim successor.

(5) *Status of emergency interim successor*. A person designated as an emergency interim successor holds that designation at the pleasure of the designators; provided that, they must be

replaced if removed. He or she retains this designation as emergency interim successor until replaced by another appointed by the authorized designator.

(6) *Assumption of powers and duties by emergency interim successor.* If, in the event of any attack, any officer named above and any duly authorized deputy is unavailable, his or her emergency interim successor highest in rank in order of succession who is not available shall exercise the powers and discharge the duties of the officer. An emergency interim successor shall exercise these powers and discharge these duties only until the time as the lawful incumbent officer or any duly authorized deputy or an emergency interim successor higher in rank in order to succession exercises, or resumes the exercise of, the powers and discharge of the duties of the office, or until, where an actual vacancy exists, a successor is appointed to fill the vacancy or is elected and qualified as provided by law.

(7) *Recording and publication.* The name, address and rank in order of succession of each duly authorized deputy shall be filed with the Town Manager and each designation, replacement or change in order of succession of any emergency interim successor shall become effective when the designator files with the Town Manager, the successor's name, address and rank in order of succession. The Town Manager shall keep on file all data regarding duly authorized deputies and emergency interim successors and it shall be open to public inspection.

(8) *Formalities of taking office.* At the time of their designation, emergency interim successors shall take an oath and do other things, if any, as may be required to qualify them to exercise the powers and discharge the duties of the office to which they may succeed.

(9) *Quorum and vote requirements.* In the event of an attack, quorum requirements for the Board of Commissioners shall be suspended, and where the affirmative vote of a specified proportion of members for approval of an ordinance, resolution or other action would otherwise be required, the same proportion of those voting thereon shall be sufficient.

(2006 Code, Ch. 7, § 3.0)

CURFEW; STATE OF EMERGENCY

§ 32.15 DEFINITION.

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

STATE OF EMERGENCY. Deemed to exist whenever, during time of great public crisis, disaster, rioting, catastrophe or similar public emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property.

(2006 Code, Ch. 7, § 4.1)

§ 32.16 DECLARATION OF EMERGENCY; IMPOSITION OF CURFEW.

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 of the town is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of a state of emergency, and, in order more effectively to protect the lives, safety and property of people within the town, to define and impose a curfew applicable to all persons within the jurisdiction of the town.

(2006 Code, Ch. 7, § 4.2)

§ 32.17 CURFEW LIMITATIONS AND EXEMPTIONS.

The Mayor is hereby authorized and empowered to limit the application of a curfew to any area specifically designated and described with the corporate limits of the town and to specific hours of the day or night; and to exempt from the curfew police officers, firefighters, doctors, nurses and 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.

(2006 Code, Ch. 7, § 4.3)

§ 32.18 TERMINATION OF CURFEW.

The Mayor shall proclaim the end of the state of emergency and curfew as soon as circumstances warrant or when directed to do so by the Board of Commissioners.

(2006 Code, Ch. 7, § 4.4)

§ 32.19 CURFEW REGULATIONS.

During the existence of a proclaimed state of emergency when a curfew has been imposed, it shall be unlawful for anyone subject to the curfew:

(A) *Movement.* To be or travel upon any public street, alley or roadway or upon public property unless in search of medical assistance, food or other commodity or service necessary to sustain the well-being of himself or herself or his or her family or some member thereof;

(B) *Weapons.* To possess off one's own premises, buy, sell, give away or otherwise transfer or dispose of any explosives, firearms, ammunition or dangerous weapon of any kind;

(C) *Alcoholic beverages.* To sell beer, wines or intoxicating beverages of any kind; or to possess or consume the same off one's own premises; and/or

(D) *Flammable substances.* To sell gasoline or any other similar petroleum products or any other inflammable substances, except as expressly authorized by the provisions of the curfew imposed.

(2006 Code, Ch. 7, § 4.5) Penalty, see § 10.99

CIVIL PREPAREDNESS PLAN FOR WAR

§ 32.30 SHORT TITLE.

This subchapter shall be known and may be cited and referred to as "Civil Preparedness Ordinance for the County of Pitt".

(2006 Code, Ch. 7, § 5.1)

§ 32.31 INTENT AND PURPOSE.

(A) *County coordination.* It is the intent and purpose of this subchapter to establish an office that will ensure the complete and efficient utilization of all of the county's and the incorporated municipalities' resources to combat disaster resulting from enemy actions or other disasters, as defined herein.

(B) *Designation of coordinating agency.* The County Office of Civil Preparedness will be the coordinating agency for all activities in connection with civil preparedness. It will be the primary instrument through which the County Board of Commissioners and the town boards may exercise the authority and discharge the responsibilities vested in them during disaster emergencies.

(C) *Local responsibilities.* This subchapter will not relieve any town or county department of the moral responsibilities or authority given to it in the Town or County Charter or by local ordinances, nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.

(2006 Code, Ch. 7, § 5.2)

§ 32.32 DEFINITIONS.

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

ATTACK. Direct or indirect assault against the county, its government, its environs or of the nation, by the forces of hostile nation or the agents thereof, including assault by bombing, conventional or nuclear, chemical or biological warfare, sabotage or other weapons and processes.

CIVIL PREPAREDNESS. Those plans, actions and procedures necessary to provide protection to the people against loss of life, injury and loss or damage to property caused by natural phenomena or human-made causes such as war, insurrection, riot or accidents, and those measures necessary to mitigate the effects of the destructive forces of humans and nature, to provide for response to disaster conditions and for the relief of suffering and hardship resulting from the conditions and to initiate rehabilitation of person and restoration of essential services and acceptable standards of living.

CIVIL PREPAREDNESS FORCES. The employees, equipment and facilities of all town and county departments, boards, councils, institutions and commissioners; and, in addition, it shall include all volunteer personnel, equipment and facilities contributed by, or obtained from, volunteer persons or agencies.

CIVIL PREPAREDNESS VOLUNTEER. Any person duly registered, identified and appointed by the Coordinator of the County Civil Preparedness Agency and assigned to participate in the civil preparedness activity.

COORDINATOR. The Coordinator of the County Office of Civil Preparedness, appointed as prescribed in this subchapter.

COUNTY. All incorporated and unincorporated areas within the boundaries of Pitt County.

DISASTER. Includes, but is not limited to, actual or threatened enemy attack, sabotage, extraordinary fire, flood, storm epidemic or other impending or actual calamity endangering or threatening to endanger health, life, property or constituted government.

REGULATIONS. Include plans, programs and other emergency procedures deemed essential to civil preparedness.

VOLUNTEER. Contributing a service, equipment or facilities to the Civil Preparedness Agency without remuneration.

(2006 Code, Ch. 7, § 5.3)

§ 32.33 CIVIL PREPAREDNESS ORGANIZATION; APPOINTMENTS.

(A) *Elements.* The Civil Preparedness Organization shall consist of the following:

(1) An Office of Civil Preparedness within the executive department of the county government under the direction of the County Board of Commissioners. The agency head of the County Office of Civil Preparedness shall be known as the Coordinator, and assistants and other employees as are deemed necessary for the proper functioning of the agency will be appointed;

(2) The employees and resources of all town and county departments, boards, institutions and councils will participate in the civil preparedness activities. Duties assigned to county or town departments shall be the same or similar to the normal duties of the department, where possible; and

(3) Volunteer personnel and agencies offering service to, and accepted by the towns and county.

(B) *Coordinator*. The County Board of Commissioners shall appoint a coordinator of the County Office of Civil Preparedness, who shall be a person well versed and trained in planning operations involving the activities of any different agencies which will operate to protect the public health, safety and welfare in the event of danger from enemy action or disaster, as defined in this subchapter. The Coordinator shall designate and appoint Deputy Coordinators to assume the emergency duties of the Coordinator in the event of his or her absence or inability to act.

(2006 Code, Ch. 7, § 5.4)

§ 32.34 COORDINATOR POWERS AND DUTIES.

(A) *Emergency regulations.* During any period when disaster threatens or when the county has been struck by a disaster, within the definition of this subchapter, the Civil Preparedness Coordinator may promulgate the regulations as he or she deems necessary to protect life and property and preserve critical resources. This promulgation of regulations solely by the Coordinator will be only when immediacy of necessary action precludes contact and discussion with the County Board of Commissioners and the governing board of any affected municipality. The regulations may include, but shall not be limited to, the following:

(1) Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of civil preparedness forces, or to facilitate the mass movement of persons from critical areas within the county;

(2) Regulations pertaining to the movement of persons from areas deemed to be hazardous or vulnerable to disaster;

(3) Other regulations necessary to preserve public peace, health and safety; and

(4) Regulations promulgated in accordance with the authority above will be given widespread circulation through all avenues of the news media.

(B) *Regular duties and responsibilities.* The Coordinator shall be responsible to the County Board of Commissioners in regard to all phases of the civil preparedness activity. The Coordinator shall be responsible for the planning, coordination and operation of the civil preparedness activities in the county and its municipalities. The Coordinator shall maintain liaison with the state and federal authorities and the authorities of nearby political subdivisions so as to ensure the most effective operation of the civil preparedness plans. The Coordinator's duties shall include, but not be limited to, the following:

(1) Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the county for civil preparedness purposes;

(2) Developing and coordinating of plans for the immediate use of all facilities, equipment, manpower and other resources of the county for the purpose of minimizing or preventing damage to person and property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety and welfare;

(3) Negotiating and concluding agreements with owners or persons in control of buildings or other property for the use of the buildings or other property for the civil preparedness purposes and designation of suitable buildings as public shelters;

(4) Through public information programs, educating the populace as to actions necessary and required for the protection of their persons and property in case of enemy attack or disaster as defined herein, either impending or present;

(5) Conducting public practice alerts and exercises to ensure the efficient operation of the civil preparedness forces and to familiarize residents with civil preparedness regulations, procedures and operations; and

(6) Coordinating the activity of all other public and private agencies in civil preparedness activities.

(2006 Code, Ch. 7, § 5.5)

§ 32.35 CIVIL PREPAREDNESS PLANS.

(A) *Comprehensive plan adoption.* Comprehensive civil preparedness plans shall be adopted and maintained by resolution of the County Board of Commissioners. These plans when approved by the Town Board of Commissioners shall be applicable to the town. It is intended

that the services, equipment, facilities and personnel of all existing departments and agencies shall be utilized to the fullest extent. When the plans are approved by the appropriate governing boards, it shall be the duty of all county and municipal departments and agencies to perform the functions assigned by these plans and to maintain their portions of the plans in a current state of readiness at all times. The plans shall have the effect of law whenever a disaster, as defined in this subchapter, has been proclaimed.

(B) *Organizational structure; succession.* The Coordinator shall prescribe in the plans those positions within the disaster organization, in addition to his or her own, for which lines of succession are necessary. In each instance, the responsible person will designate and keep on file with the Coordinator a current list of three persons as successors to his or her position. The list will be in order of succession and will designate persons most capable of carrying out all assigned duties and functions.

(C) *Execution responsibilities.* Each service chief and department head assigned responsibility in the comprehensive civil preparedness plan shall be responsible for carrying out all duties and functions assigned therein. Duties will include the organization and training of assigned employees and where needed, volunteers. Each chief shall formulate the operation plan for his or her service which, when approved, shall be a part of the plan.

(D) *Plan amendments.* Amendments to the plan shall be submitted to the Coordinator. If approved, the Coordinator will then submit the amendments to the County Board of Commissioners and applicable town boards with the recommendation for their approval.

(E) *Volunteer assistance.*

(1) When a required competency or skill for a disaster function is not available within local government, the Coordinator is authorized to seek assistance from persons outside the government. The assignment of duties, when of a supervisory nature, shall also grant authority for the persons so assigned to carry out the duties prior, during and after the occurrence of a disaster. The services from persons outside the government may be accepted by local government on a volunteer basis.

(2) The citizens shall be enrolled as civil preparedness volunteers in cooperation with the heads of local government departments affected.

(2006 Code, Ch. 7, § 5.6)

§ 32.36 COUNTY, MUNICIPAL OR PRIVATE LIABILITY.

(A) *Governmental liability*. This subchapter is an exercise of governmental functions for the protection of the public peace, health and safety, and neither the county, nor its town or agents and representatives, or any individual, receiver, firm, partnership, corporation, association or

trustee, or any of the agents thereof in good faith carrying out, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this subchapter, shall be liable for any damage sustained to persons or property as the result of the activity.

(B) *Private liability.* Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the county or the town the right to inspect, designate and use the whole or any part or parts of the real estate or premises for the purpose of sheltering persons during an actual, impending or practice disaster situation shall both be civilly liable for the death of, or injury to, any persons on or about the real estate or premises under the license, privilege or other permission; or for loss of, or damage to, the property of the person.

(2006 Code, Ch. 7, § 5.7)

§ 32.37 VIOLATION OF REGULATIONS.

It shall be unlawful for any person to violate any of the provisions of this subchapter or of the regulations or plans issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay any member of the civil preparedness organization, as herein defined, in the enforcement of the provisions of this subchapter or any regulations or plans issued thereunder.

(2006 Code, Ch. 7, § 5.8) Penalty, see § 10.99

CHAPTER 33: CRIMINAL HISTORY CHECKS

Section

33.01 Purpose

33.02 Authority

33.03 Evaluation

33.04 Confidentiality

33.05 Employment

§ 33.01 PURPOSE.

In order to protect the citizens of the town and their properties, the town deems it a necessary use of its police powers to obtain criminal history checks in evaluating certain applications, including, but not limited to, applications for regular full- and part-time employment with the town; applications for coaches, assistant coaches or other volunteers working directly with children participating in town activities and events; and applications for permits or licenses for adult establishment, dance hall, game room, massage business, pawn broker, peddler, charitable solicitor, magazine solicitor, itinerant merchant or taxi driver.

(Ord. passed 2-3-2009)

§ 33.02 AUTHORITY.

(A) The Town Manager, or a designee, is authorized to conduct an investigation of an individual's criminal history when required by the town ordinance.

(B) The individual shall upon request provide all necessary personal identification, including a birth certificate, Social Security number and driver's license, if available, so the Town Manager or designee, may cause a thorough search to be made of local and state criminal records to determine if the individual has a history of criminal convictions by use of the Division of Criminal Information Network (DCIN).

(C) The town's Police Department shall provide the findings from the use of the DCIN to the Town Manager; provided that, all necessary agreements with the State Bureau of Investigation Criminal Information and Identification Section (CIIS) have been executed.

(Ord. passed 2-3-2009)

§ 33.03 EVALUATION.

If the Criminal History Record Inquiry (CHRI) received from the Town Police Department indicates the existence of a possible record, the Town Manager or designee shall verify existence of a record by obtaining a certified public record or by submitting a fingerprint card of the individual to the CIIS for verification that the criminal record belongs to the individual. If any criminal history check verifies a prior record for the individual, the applicable clerk of court shall be contacted to obtain the record. The individual shall pay the cost for a criminal history check through the clerk of court and any cost for fingerprint identification.

(Ord. passed 2-3-2009)

§ 33.04 CONFIDENTIALITY.

The information provided by the individual and the information obtained by the criminal history check is sensitive information, and parties handling the information shall comply with all laws and regulations concerning non-public confidential information. Any information obtained during the criminal history check or driving record will be maintained in that individual's personnel file and not disseminated to anyone other than the Town Manager.

(Ord. passed 2-3-2009)

§ 33.05 EMPLOYMENT.

All persons expressing interest in employment with the town shall be given the opportunity to file an application for employment for positions which are vacant. As part of the application process, each person shall provide a criminal history check under this chapter.

(Ord. passed 2-3-2009)

TITLE V: PUBLIC WORKS

Chapter

50. UTILITIES GENERALLY

51. WATER

52. FAT, OIL AND GREASE REGULATIONS

53. SEWERS

CHAPTER 50: UTILITIES GENERALLY

Section

50.01 Department established

50.02 Duties of Director

50.03 Rates for services

50.04 Meters

50.05 Policies

§ 50.01 DEPARTMENT ESTABLISHED.

There is hereby established a Department of Utilities directly under the Director of Utilities, who shall be appointed by the Town Manager and confirmed by the Town Board (§ 30.21). UTILITIES are defined as the systems owned or operated by the town for the distribution, collection and treatment of electricity, water and sewage.

(2006 Code, Ch. 26, § 1)

§ 50.02 DUTIES OF DIRECTOR.

The Director of Utilities will be responsible for the following:

(A) Administration and supervision of Department personnel;

(B) The administration and supervision of property used by the Utilities Department, real and personal;

(C) The upkeep and maintenance of the property supervised by the Utilities Department;

(D) Preparation of long-range planning and the budget for the needs of the Utilities Department in order to provide the services required;

(E) Recommendations to the Manager and the Board of policies and rates for the services provided by the Department; and

(F) Monthly and annual reports of the Department activities, including volume of distribution of electrical services and water, and the collection and treatment of sewage, and the condition and needs, of the Department properties.

(2006 Code, Ch. 26, § 2)

§ 50.03 RATES FOR SERVICES.

The Board will set the rates from time to time for electricity, water and sewage distribution, collection and treatment, as the case may be and for other services as the Department may provide. The current rates shall be those last enacted by the Board.

(2006 Code, Ch. 26, § 3)

§ 50.04 METERS.

(A) *Meters required.* Except as may be otherwise authorized by the Board, meters shall be required on all utility connections to meter the consumption of the service used by the consumer.

(B) *Separate meters.* Each family unit or separate business shall have an individual meter, except as may be otherwise authorized by the Board.

(C) *Meter readings*. The Utilities Department will provide for the reading of meters periodically and make reports in writing upon the readings so that billings may be done.

(D) *Access to meters.* Meter readers shall have reasonable access to the meters of the consumer of services of the Department and refusal by the consumers to allow the reading of the meters will be grounds for termination of service.

(2006 Code, Ch. 26, § 4)

§ 50.05 POLICIES.

Policies governing the operation of the Utilities Department and utilities services shall be those adopted from time to time by the Town Board. These policies shall be in writing and shall be kept on file in the offices of the Utilities Director, the Town Manager and the Town Clerk.

(2006 Code, Ch. 26, § 5)

CHAPTER 51: WATER

Section

Water Emergency Management Plan

51.01 Declaration of water emergency

51.02 Staged water use restrictions

51.03 Compliance plan during Stage 2 and Stage 3 emergencies

51.04 Authority to discontinue service

51.05 Appeal by customers of penalties and termination of service

51.06 Adoption and enforcement by public or private water systems

51.07 Termination of restrictions

51.99 Penalty

WATER EMERGENCY MANAGEMENT PLAN

§ 51.01 DECLARATION OF WATER EMERGENCY.

The Town Manager or his or her authorized representative is authorized to declare that a water emergency exists. Depending on the severity of the emergency, voluntary (Stage 1) and mandatory (Stage 2 and Stage 3) staged water use restrictions, as described in this subchapter, shall be imposed upon water customers.

(2006 Code, Ch. 26, § 6.1) (Adopted 12-7-2004)

§ 51.02 STAGED WATER USE RESTRICTIONS.

(A) *Stage 1* - Water Conservation Alert. A Stage 1 water emergency may be declared in the event of an immediate water shortage or when there are three consecutive days when the water demand exceeds 80% of the water production capacity. WATER PRODUCTION CAPACITY shall be defined as the maximum volume of water that meets state and federal standards that the water treatment process, along with allotted purchased water, can produce during a 24-hour period. Water production capacity can vary depending on system component reliability and raw

water conditions. During a declared Stage 1 water emergency, the following voluntary water conservation practices shall be encouraged:

(1) Inspect and repair all faulty and defective parts of faucets and toilets;

(2) Use shower for bathing rather than bathtub and limit shower to no more than five minutes;

(3) Do not leave faucets running while shaving, brushing teeth, rinsing or preparing food;

(4) Limit the use of clothes washers and dishwashers and when used, operate fully loaded. Operate dishwashers after the peak demand hours of 6:00 a.m. to 10:00 p.m.;

(5) Limit lawn watering to that necessary for plant survival. Water lawns before the peak demand hours of 6:00 a.m. to 10:00 a.m.;

(6) Water shrubbery the minimum required. Water shrubbery before the peak demand hours of 6:00 a.m. to 10:00 a.m.;

(7) Limit vehicle washing;

(8) Do not wash down outside areas such as sidewalks, driveways, patios and the like;

(9) Install water saving showerheads and other devices;

(10) Use disposable and biodegradable dishes where possible;

(11) Install water saving devices in toilets such as early closing flappers;

(12) Limit hours of water-cooled air conditioners; and

(13) Do not fill swimming or wading pools.

(B) *Stage 2 - Water Shortage Warning.* A Stage 2 water emergency may be declared in the event of an immediate water shortage or when there are two consecutive days when water demand exceeds 90% of the water production capacity. ***WATER PRODUCTION CAPACITY*** shall be defined as the maximum volume of water that meets state and federal standards that the water treatment process, along with allotted purchased water, can produce during a 24-hour period. Water production capacity can vary depending on system component reliability and raw water conditions. During a declared Stage 2 water emergency, the following activities shall be prohibited:

(1) Watering lawns, grass, shrubbery, trees, flowers and vegetable gardens, except by hand-held hose, container or drip irrigation system. A person who regularly sells plants will be permitted to use water on his or her commercial stock. A golf course may water its greens. State, county and town licensed landscape contractors may water, by hand-held hose or drip irrigation, any plants under a written warranty;

(2) Filling swimming or wading pools, either new constructed or previously drained. Make up water for pools in operation will be allowed;

(3) Using water-cooled air conditioners or other equipment, in which cooling water is not recycled, unless there are health and safety concerns;

(4) Washing any type of mobile equipment including cars, trucks, trailers, boats or airplanes. Any persons involved in a business of washing motor vehicles may continue to operate;

(5) Washing outside surfaces such as streets, driveways, service stations aprons, parking lots or patios;

(6) Washing the exterior of office buildings, homes or apartments;

(7) Using water for any ornamental fountain, pool, pond and the like;

(8) Serving drinking water in food establishments, such as restaurants or cafeterias, unless requested to do so by the customer;

(9) Using water from a public or private fire hydrant for any reason other than to suppress a fire or other public emergency or as authorized by the Town Manager or his or her authorized representative;

(10) Using water to control or compact dust;

(11) Intentionally wasting water; and

(12) Commercial and industrial water customers shall achieve mandatory reductions in water usage through whatever means are available. A minimum reduction of 20% shall be the target; however a greater target reduction percentage may be required depending on the severity of the water emergency. Compliance with the reduction target shall be determined by the Town Manager or his or her authorized representative. Variances to the target reduction may be granted by the Town Manager or his or her authorized representative to designated public health facilities.

(C) *Stage 3 - Water Shortage Danger.* A Stage 3 water emergency may be declared in the event of an immediate water shortage or when there is one day when water demand exceeds 100% of the water production capacity. ***WATER PRODUCTION CAPACITY*** shall be defined as the maximum volume of water that meets state and federal standards that the water treatment process, along with allotted purchased water, can produce during a 24-hour period. Water production capacity can vary depending on system component reliability and raw water conditions. During a declared Stage 3 water emergency, the following activities shall be prohibited, in addition to activities prohibited under Stage 2:

(1) Watering lawns, grass, shrubbery, trees and flowers;

(2) Washing motor vehicles at commercial car wash establishments;

(3) Watering any vegetable garden, except by hand-held hose, container or drip irrigation;

(4) Commercial and industrial water customers shall achieve mandatory reductions in water usage through whatever means are available. A minimum reduction of 50% shall be the target; however a greater target reduction percentage may be required depending on the severity of the water emergency. Compliance with the reduction target shall be determined by the Town Manager or his or her authorized representative. Variances to the target reduction may be granted by the Town Manager or his or her authorized representative to designated public health facilities; and

(5) In the event that the prohibition of the activities listed above is not sufficient to maintain an adequate supply of water for fire protection, all use of water for purposes other than maintenance of public health and safety shall be prohibited. Residential water use shall be limited to the amount necessary to sustain life through drinking, food preparation and personal hygiene.

(2006 Code, Ch. 26, § 6.2) (Adopted 12-7-2004)

§ 51.03 COMPLIANCE PLAN DURING STAGE 2 AND STAGE 3 EMERGENCIES.

The Town Manager or his or her authorized representative may require that commercial and industrial water customers prepare plans detailing measures to be taken by them to achieve mandatory reductions in daily water usage during Stage 2 and Stage 3 emergencies. The plans shall be completed within 60 calendar days after receipt of notice to prepare them.

(2006 Code, Ch. 26, § 6.3) (Adopted 12-7-2004) Penalty, see § 51.99

§ 51.04 AUTHORITY TO DISCONTINUE SERVICE.

Pursuant to the provisions of the town's utility service policies, water service may be temporarily discontinued for failure to comply with the mandatory restrictions in these regulations. All applicable penalty fees may be applied in the event of the service suspensions. In the event of continued non-compliance with this subchapter, removal of meter and service will be deemed proper and service will be discontinued and tap fees and deposits will be forfeited.

(2006 Code, Ch. 26, § 6.5) (Adopted 12-7-2004)

§ 51.05 APPEAL BY CUSTOMERS OF PENALTIES AND TERMINATION OF SERVICE.

Any user who receives a penalty and/or has service terminated as a result of violations of the mandatory restrictions in these regulations may appeal upon notification to the Town Manager to the Town Board of Commissioners. The Town Board shall be the final decision maker for appeals and shall transmit a written copy of the final decision by registered or certified mail within three days after notification by the Town Manager.

(2006 Code, Ch. 26, § 6.6) (Adopted 12-7-2004)

§ 51.06 ADOPTION AND ENFORCEMENT BY PUBLIC OR PRIVATE WATER SYSTEMS.

Public or private water systems purchasing water from the town shall adopt and enforce this entire subchapter as a condition of water service. Upon declaration of a water emergency, the public or private water service shall enforce the appropriate water use restrictions for the level of declared emergency.

(2006 Code, Ch. 26, § 6.7) (Adopted 12-7-2004)

§ 51.07 TERMINATION OF RESTRICTIONS.

A water emergency declaration will expire when the Town Manager or his or her authorized representative determines that the condition which causes the emergency has been abated. The expiration or cancellation of a water emergency declaration shall be promptly and extensively publicized.

(2006 Code, Ch. 26, § 6.8) (Adopted 12-7-2004)

§ 51.99 PENALTY.

Any user who is found to have failed to comply with any of the mandatory restrictions set forth in these regulations may be fined up to $500 per day per violation.

(2006 Code, Ch. 26, § 6.4) (Adopted 12-7-2004)

CHAPTER 52: FAT, OIL AND GREASE REGULATIONS

Section

52.01 Introduction

52.02 Definitions

52.03 FOG reduction best management practices

52.04 General requirements

52.05 Authority

52.06 Design guidelines

52.07 Maintenance practices and records

52.08 Determination of compliance with maintenance requirements

52.09 Inspection and sampling

52.10 Variances

52.11 Forms

52.12 Effective date

52.99 Penalty

§ 52.01 INTRODUCTION.

(A) Fats, oil and grease (FOG) is a leading cause of sanitary sewer overflows (SSO) in the state. Grease is a common term for animal fats and vegetable oils. Residential and commercial users, who are often unaware that they are causing potential harm, introduce FOG from their cooking processes, into their plumbing system and the town's sanitary sewer system. Over time, FOG builds up and clogs pipes and plumbing. In the collection system, FOG leads to blockages, which can cause sewer overflows onto streets and property, and into homes and businesses. These overflows disrupt residential, commercial and industrial operations, and carry the potential for health risks which comes from contact with disease-causing organisms. Raw sewage can carry bacteria, viruses, parasitic organisms and the like, which may bring diseases from mild gastroenteritis (diarrhea) to life threatening ailments such as cholera, dysentery and hepatitis.

(B) They also increase sewer system maintenance costs and present potential impacts to the town's environment.

(2006 Code, Ch. 5, § 1.0) (Adopted 2-2-2010)

§ 52.02 DEFINITIONS.

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

DIRECTOR. The town's Public Works Director.

FOG. Material either liquid or solid, composed primarily of fat, oil or grease from animal or vegetable sources. Examples of FOG include kitchen cooking grease, vegetable oil, bacon grease and the like.

FOOD HANDLING FACILITIES. Any commercial or institutional facility discharging kitchen or food preparation wastewaters including restaurants, motels, hotels, cafeterias, hospitals, schools, bars, churches and the like.

GREASE INTERCEPTOR. A device, usually located underground and outside of a food handling facility designed to collect, contain and remove food wastes and grease from the wastewater while allowing the remaining wastewater to be discharged into the town's wastewater collection system by gravity.

GREASE/SOLIDS DEPTH. The grease/solids depth consists of the combined depth of the grease cap at the top of the grease interceptor's liquid level and the solids deposition at the bottom of the interceptor. (Example: The grease cap at the top of the liquid measures six inches and the solids at the bottom measures eight inches for a combined accumulation of 14 inches. The interceptor's liquid level is 48 inches. The grease/solids depth is 14 divided by 48 times 100 or 29% of the liquid depth.)

GREASE TRAP. Indoor, "under the counter" units designed to collect, contain and remove food wastes and grease from the wastewater while allowing the remaining wastewater to be discharged to the town's wastewater collection system by gravity.

OIL/WATER SEPARATOR. A device, designed to remove oil (e.g., petroleum based products) from the waste stream while allowing the remaining wastewater to be discharged to the town's wastewater collection system by gravity.

TOWN. Town of Farmville, North Carolina.

USER. Any person, establishment or facility that contributes, causes or permits the contribution of FOG into the town's wastewater collection system.

VARIANCE. A written document issued by the Town Public Works Director that modifies and/or changes requirements of the FOG program for a specific user.

(2006 Code, Ch. 5, § 2.0) (Adopted 2-2-2010)

§ 52.03 FOG REDUCTION BEST MANAGEMENT PRACTICES.

(A) The best way to reduce FOG in your plumbing and the town's sanitary sewer system is to keep it from going down the drain in the first place. Household sinks (bathroom and kitchen) and toilets all discharge to the sanitary sewer system.

(B) Some best management practices that residents can practice to reduce FOG generation include:

(1) Be careful of what you put down the drains or flush down your toilets;

(2) Scrape, or dry wipe, cooled excess grease from frying pans, pots and dishes into containers (old milk cartons, frozen juice containers and the like) or a plastic garbage bag, and dispose of in the garbage. Cat litter or used coffee grounds can absorb the liquid in the container;

(3) Pour all cooking oils (including salad oils, frying oil/grease, bacon fat, marinades and the like) into a container for ultimate disposal with the trash;

(4) Place leftover foods, meat trimmings and the like in the trash can and not down the garbage disposal;

(5) Never dump motor oil or other lubricants down the drain. Take them to a collection station; and

(6) Never use the toilet for disposal of kitchen wastes. Also, do not flush disposable diapers, paper towels and other bulky paper products down the toilet. These bulky items, combined with the grease build-up will stop the flow of wastewater through private plumbing and the sewer system.

(C) Controlling grease at its source goes a long way toward eliminating blockages and backups that result from grease build-up. Appendix A is a fact sheet for best management practices for commercial establishments prepared by the state pretreatment coordinators and is adopted by reference and incorporated herein as if set out in full. Special procedures may be required for specific applications.

(2006 Code, Ch. 5, § 3.0) (Adopted 2-2-2010)

§ 52.04 GENERAL REQUIREMENTS.

(A) In order to reduce sewer blockages, food handling facilities that discharge into the town's sanitary sewer system must install a grease interceptor or trap. Grease interceptors shall be required at the user's expense, when the user operates food preparation or serving facilities. Grease interceptors may be required in other commercial or industrial applications when deemed necessary by the Director.

(B) The Director reserves the right to make determinations of grease interceptor or grease trap adequacy, need and effectiveness based on a review of all relevant information regarding grease interceptor/trap performance, maintenance and facility site/building review. To assure adequacy and effectiveness, the Director may require repairs, modifications or replacement of the interceptors or traps. The Director may request specific information impacting potential FOG production including menus, hours/days of operation, food preparation procedures, clean up practices and the like.

(C) Automotive related facilities that may contribute petroleum-based oil to the town's sanitary sewer collection system are required to install an EDA or DENR approved oil-water separator.

(D) Wastewater from sanitary facilities shall not be introduced into any grease interceptor, grease trap or oil/water separator.

(E) New food handling facilities will not be allowed to initiate operations until a grease interceptor is inspected and approved by the town.

(F) All existing cooking establishments shall have grease interceptors approved by the Director or his or her designee. Cooking establishments without grease interceptors will be given a compliance deadline not to exceed 12 months from the date of ratification of this chapter.

(G) Any facility with an existing grease interceptor or trap that anticipates expanding food handling or preparation operations must receive approval from the Director.

(2006 Code, Ch. 5, § 4.0) (Adopted 2-2-2010)

§ 52.05 AUTHORITY.

(A) The State Clean Water Act of 1999, being G.S. §§ 143-211 et seq., required jurisdictions to obtain a permit from the State Department of Environment and Natural Resources for the operation of a wastewater collection system.

(B) On 5-1-2007, the town was issued a wastewater collection system permit (Permit No. WQCS00069). A condition of that permit is that the town develop and implement an enforceable

fats, oils and grease program for non-residential users under which the town can take enforcement against users who have not properly installed, operated and maintained grease traps or grease interceptors as directed or otherwise violated the terms of the local ordinance pertaining to fats, oils and grease.

(2006 Code, Ch. 5, § 5.0) (Adopted 2-2-2010)

§ 52.06 DESIGN GUIDELINES.

(A) Detailed plans, showing the grease interceptor facilities and operating procedures, must be approved by the town's Building Inspector, in consultation with the Director prior to construction. The review and approval by the town shall, in no way, relieve the user from the responsibility of meeting effluent discharge limitations or properly maintaining the device.

(B) Outside, in ground, grease interceptors are required for all food handling facilities, unless a variance is granted by the Director. Grease interceptors are typically pre-cast concrete units that are plumbed to receive only kitchen wastes (pot sinks, prep sinks, can wash, floor drains, dishwasher and food grinder waste). The grease interceptor should be located as close to the source as possible, and in a manner that is fully accessible for regular and safe maintenance, cleaning and sampling, without creating a nuisance.

(C) A registered state professional engineer (PE) must affix his or her seal to all designs that encroach public right-of-way (not on private property).

(D) Minimum design criteria for pre-manufactured grease interceptors shall include:

(1) Minimum capacity of 1,000 gallons;

(2) Nine inches of freeboard above the normal liquid level to the top of the interceptor;

(3) Two-inch inlet and outlet differential;

(4) Three-inch minimum wall thickness and reinforced with six-inch by six-inch #10 gauge welded wire;

(5) Minimum concrete compressive strength of 3,500 psi;

(6) Minimum two to one length/width ratio;

(7) At least two compartments with an interior baffle wall located two-thirds to three-quarters of the distance from the inlet end wall, vented at the top and with adequate flow through holes;

(8) Outlet tee constructed of PVC, PE or equivalent, minimum class 160 pipe extending 50% of liquid depth;

(9) Twenty-four inch minimum access openings over both compartments brought up to at least finished grade and protected from surface water runoff. Access covers shall be cast iron or equivalent;

(10) Design shall facilitate sampling of the interceptor's effluent, measurement of the grease layer and clean-out pumping operations;

(11) Water-tight per vacuum or exfiltration test; and

(12) Properly sealed joints to prevent infiltration and exfiltration.

(E) Minimum structural criteria shall include:

(1) Minimum structural design at 150 lbs/ft2 (non-vehicular traffic installations);

(2) H-20 bridge load for vehicular traffic conditions;

(3) ACI Building Code 318 (reinforced concrete design);

(4) ASTM C1227-93 Standards for Pre-Cast Concrete Tanks; and

(5) ASTM C890 Structural Design Load for Pre-cast Water and Wastewater Structures.

(F) Indoor, point source grease traps incorporated into the kitchen plumbing may be allowed if the installation of a suitable outdoor grease interceptor is infeasible or unnecessary, a "hardship" is acknowledged, and the Director approves a variance (see § 52.10). Certain conditions may be imposed by the Director with the issuance of a variance, such as an increased clean-out frequency, further study and the like.

(G) A licensed state plumbing contractor shall install all grease interceptors and grease traps in compliance with the latest edition of the State Plumbing Code and obtain a building permit from the town prior to installation.

(H) The user shall verify that the minimum tankage required based on the anticipated flow rates and organic loads, using generally accepted methods of design such as Environmental Protection Agency, State Division of Environmental Health or Uniform Plumbing Code methods. The user shall be solely responsible for the performance of the device and its ability to consistently reduce effluent FOG concentrations below 100 mg/l as measured by EPA Method 1664A.

(2006 Code, Ch. 5, § 6.0) (Adopted 2-2-2010)

§ 52.07 MAINTENANCE PRACTICES AND RECORDS.

(A) Grease interceptors and traps should be cleaned as frequently as necessary to maintain FOG concentrations below 100 mg/l in the effluent, but in no case shall cleaning intervals exceed 30 days. Grease traps may require more frequent cleaning. Grease interceptors with a combined grease/solids depth (see § 52.02) of greater than 255 of the liquid depth are also considered in violation.

(B) Haulers are required to use town-approved equipment that contains incremental depth markings on a plastic cylinder to measure the grease cap and solids deposition depths.

(C) All waste removed from the grease interceptor or trap must be disposed of at a facility permitted by the State Division of Solid Waste to receive the waste. The user shall be responsible for the proper removal and lawful disposal of the grease interceptor/trap waste.

(D) The use of enzymes, chemical or biological additives is not considered an acceptable grease interceptor/trap maintenance practice.

(E) All food handling facilities that discharge into the town's sanitary sewer system shall maintain written records, on-site, of maintenance activities for grease removal devices. A copy of the grease removal device maintenance form, "maintenance form", adopted in § 52.11, shall be completed and delivered or mailed to the Director on a monthly basis, or according to the frequency schedule stipulated in the town-issued variance. The town is not responsible for documents that are not received at the address below. Completed maintenance forms are required for facilities that remove FOG using grease interceptors or grease traps and shall be submitted to:

Director of Public Works

P.O. Box 86

Farmville, NC 27828

(F) A grease removal device maintenance log, "maintenance log" that summarizes maintenance activities as adopted in § 52.11. This form shall be clearly posted in the kitchen at all times, and in plain view of kitchen workers, to illustrate maintenance activities and compliance with these regulations. The maintenance log shall summarize information contained on the maintenance form for interceptor installations.

(G) The maintenance log shall be updated every time a grease trap is cleaned out. Grease trap maintenance typically involves removing the contents of the grease trap for interim disposal in an outdoor, on-site, grease storage barrel. The waste hauler then removes the contents of the grease storage barrel for ultimate disposal and completes the maintenance form, with appropriate signatures for the waste hauler and the user. The maintenance form is then submitted to the town at the required frequency interval.

(H) Maintenance records shall be kept by the user for at least three years and shall be provided upon request from representatives of the town or the County Health Department. Failure to provide maintenance records upon request shall be considered a violation.

(2006 Code, Ch. 5, § 7.0) (Adopted 2-2-2010)

§ 52.08 DETERMINATION OF COMPLIANCE WITH MAINTENANCE REQUIREMENTS.

(A) A grease interceptor shall be considered out of compliance if any of the following conditions exist:

(1) FOG concentrations are found to exceed 100 mg/l as measured by EPA Method 1664A;

(2) Maintenance cleaning has not been accomplished every 30 days, unless a variance is granted;

(3) The grease/solids depth exceeds 25% of the liquid depth;

(4) Failure to submit records;

(5) Inspection hindrance;

(6) Failure to maintain on-site records;

(7) Failure to maintain interceptors or traps in proper working order;

(8) Source of sewer blockage;

(9) Source of sanitary sewer overflow; and

(10) Falsification of records.

(B) Typically, food handling facilities will be evaluated based on maintenance cleaning compliance and reported grease/solids depths. The town may perform random inspections to determine if grease/solids depth exceed 25% of the interceptor’s liquid depth and/or collect samples for determination of effluent FOG concentrations.

(2006 Code, Ch. 5, § 8.0) (Adopted 2-2-2010)

§ 52.09 INSPECTION AND SAMPLING.

(A) The town may conduct inspections of food handling facilities connected to the sanitary sewer system, as the town deems necessary to ascertain whether the purpose and requirements of these FOG regulations are being met. Persons or occupants of premises where wastewater is

created, discharged or suspected to be discharged, shall allow town personnel ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling and records examination. The town shall have the right to set up on the user's property the devices as are necessary to conduct sampling, inspection and compliance monitoring operations. Denial of the town's access to the user's property shall be deemed a violation. Unreasonable delays may be considered denial of access.

(B) A grease interceptor inspection form used by the town is adopted in § 52.11.

(2006 Code, Ch. 5, § 9.0) (Adopted 2-2-2010)

§ 52.10 VARIANCES.

(A) A variance to the design and maintenance requirements contained herein may be requested when compliance creates an undue hardship or if a grease trap is sufficient. Hardships caused by space availability, minimal anticipated FOG production, cost and the like may be grounds for a variance. The user must submit sufficient documentation, as required by the Director, which explains the need to vary from design or maintenance requirements. A minimum of four months of data should be submitted for maintenance cleaning frequency modifications or similar requests.

(B) After review of the documentation, the town will notify the food handling facility in writing of acceptance or denial of the variance request. The town may also request further study pursuant to or, as a condition of the variance. Certain conditions may be imposed by the Director for installations that have received a variance.

(C) If a variance is granted and the user subsequently increases anticipated food service production or, the town later determines that the discharge adversely impacts the sanitary sewer collection system or treatment works, the variance may be revoked.

(D) A variance application fee of $250 will be paid to the town upon submission of the variance request and prior to town review. Variance application fees may be waived at the discretion of the Director for follow up modifications of the same variant issue contained in the original application. (For example, if a variance had been granted to allow maintenance cleaning every two months and, subsequently, it can be shown that a three-month maintenance frequency is acceptable, then the fee may be waived.)

(2006 Code, Ch. 5, § 10.0) (Adopted 2-2-2010)

§ 52.11 FORMS.

All forms and appendices concerning FOG issues and processes are hereby adopted by reference and incorporated herein as if set out in full.

§ 52.12 EFFECTIVE DATE.

This chapter shall become effective on 3-1-2010.

(2006 Code, Ch. 5)

§ 52.99 PENALTY.

(A) If any residence or food handling facility is determined to be the source, in whole or in part, of a sanitary sewer blockage and/or overflow, the residence or facility will be assessed a fine of not less than $500 and not more than $10,000, plus remediation costs for cleanup, in addition to any fines dispensed from the state. The fines contained herein are not exclusive and the Director may use other methods to remedy the situation, such as the termination of water and wastewater service, legal action and the like.

(B) The following chart identifies fines for various annual infractions:

(1) Minor violations:

	1st Offense	***2nd Offense***	***3rd Offense***	***4th Offense and Up***
Failure to maintain on-site records	Warning	$100	$150	Major violation
Failure to submit records	Warning	$100	$150	Major violation
Inspection hindrance	Warning	$100	$150	Major violation

(2) Moderate violations:

	1st Offense	*2nd Offense*	*3rd Offense*	*4th Offense and Up*
Failure to clean-out interceptor every 30 days	$150	$300	$500	$1,000
Failure to maintain interceptors in proper working order	$150	$300	$500	$1,000

(3) Major violations:

Falsification of records	$1,000
Source of sanitary sewer overflow (minimum)	$1,000
Source of sewer blockage (minimum)	$500

(2006 Code, Ch. 5, § 11.0) (Adopted 2-2-2010)

CHAPTER 53: SEWERS

Section

General Provisions

53.001 Purpose and policy

53.002 Definitions and abbreviations

53.003 Confidential information

53.004 Annual publication of significant non-compliance

53.005 Effective date

Discharges

53.020 Prohibited discharge standards

53.021 Natural categorical pretreatment standards

53.022 Local limits

53.023 State requirements

53.024 Right of revision

53.025 Dilution

53.026 Pretreatment of wastewater

53.027 Accidental discharge/sludge control plans

53.028 Hauled wastewater

Wastewater Discharge Permit Application and Issuance

53.040 Wastewater discharges

53.041 Wastewater permits

Fees

53.055 Purpose

53.056 User charges

53.057 Surcharges

53.058 Pretreatment program administration charges

Reporting Requirements

53.070 Baseline monitoring reports

53.071 Compliance schedule progress reports

53.072 Reports on compliance with categorical pretreatment standard deadline

53.073 Periodic compliance reports

53.074 Reports of changed conditions

53.075 Reports of potential problems

53.076 Reports from non-permit users

53.077 Notice of violation/repeat sampling and reporting

53.078 Notification of discharge of hazardous waste

53.079 Analytical requirements

53.080 Grab and composite sample collection

53.081 Timing

53.082 Recordkeeping

Compliance Monitoring

53.095 Monitoring facilities

53.096 Inspection and sampling

53.097 Search warrants

Affirmative Defenses to Discharge Violations

53.110 Upset

53.111 Prohibited discharge standards defense

53.112 Bypass

53.999 Penalty

GENERAL PROVISIONS

§ 53.001 PURPOSE AND POLICY.

(A) This chapter 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 U.S.C. §§ 1251 et seq.) and the general pretreatment regulations (40 C.F.R. part 403).

(B) The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants 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;

(3) To promote reuse and recycling of industrial wastewater and sludge from the municipal system;

(4) 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;

(5) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and

(6) 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.

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

(D) This chapter shall apply to all users of the municipal wastewater system, except as otherwise provided herein, the POTW Director shall administer, implement and enforce the provisions of this chapter. 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 municipal wastewater system, industrial users located outside the town limits agree to comply

with the terms and conditions established in this chapter, as well as any permits, enforcement actions or orders issued hereunder.

(2006 Code, Ch. 30, § 1.1) (Adopted 12-7-1993)

§ 53.002 DEFINITIONS AND ABBREVIATIONS.

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

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

APPROVAL AUTHORITY. The Director of the Division of Water Quality of the State Department of Environment, Health and Natural Resources or his or her designee.

(Amended 11-1-2005)

AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER.

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

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

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

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

(c) 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 or her designee.

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

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

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

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

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

CATEGORICAL STANDARDS. National categorical pretreatment standards or pretreatment standard.

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

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

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

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

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

INTERFERENCE. The inhibition, or disruption of the POTW treatment processes, operations or its sludge process, use or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or non-discharge permit or prevents sewage sludge use or

disposal in compliance with specified applicable state and federal statutes, regulations or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with § 405 of the Act, (33 U.S.C. § 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 U.S.C. §§ 6901 et seq.), the Clean Air Act, being 33 U.S.C. §§ 1251 et seq., the Toxic Substances Control Act, being 15 U.S.C. §§ 2601 et seq., and the Marine Protection Research and Sanctuary Act (MPRSA), being 16 U.S.C. §§ 1431 et seq. and 33 U.S.C. §§ 1401 et seq., 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. 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 CATEGORICAL PRETREATMENT STANDARD *or* ***CATEGORICAL STANDARD***. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the Act (33 U.S.C. § 1317) which applies to a specific category of industrial users, and which appears in 40 C.F.R. Ch. 1, Subch. N, parts 405 through 471.

NATIONAL PROHIBITIVE DISCHARGE STANDARD *or* ***PROHIBITIVE DISCHARGE STANDARD***. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 53.020 and are developed under the authority of § 307(b) of the Act and 40 C.F.R. § 403.5.

NEW SOURCE.

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

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

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

3. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining 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.

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

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

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

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

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

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

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

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

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

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

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

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

POLLUTANT. Any "waste" as defined in G.S. § 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor).

POTW DIRECTOR. The Town Director of Utilities.

POTW TREATMENT PLANT. The portion of the POTW designed to provide treatment to wastewater.

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

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

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

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

PUBLICLY OWNED TREATMENT WORKS (POTW) or ***MUNICIPAL WASTEWATER SYSTEM***. A treatment works as defined by § 212 of the Act, (33 U.S.C. § 1292) which is owned in this instance by the town. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to the ***POTW*** treatment plant. For the purposes of this chapter, ***POTW*** shall also include any sewers that convey wastewaters 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 town's ***POTW***.

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

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

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

(Amended 12-3-2002)

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

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

(d) Is found by the town, the Division of Water Quality or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality or compliance with any pretreatment standards or requirements.

(Amended 11-1-2005)

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

(a) Violations of wastewater discharge limits:

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

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

(Amended 12-3-2002)

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

b. For all other pollutants, TRC = 1.2.

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

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

(Amended 12-3-2002)

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

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

(d) Failure to accurately report non-compliance; and

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

SLUG LOAD OR DISCHARGE. Any discharge at a flow rate or concentration which has a reasonable potential to cause interference or pass-through, or in any other way violates the POTW's regulations, local limits or industrial user permit conditions. This can include, but is not limited to, spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in § 53.020.

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

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

SUPERINTENDENT. 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 chapter, or his or her duly authorized representative.

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

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

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

WASTEWATER PERMIT. As set forth in § 53.041.

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

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

(C) The following abbreviations when used in this chapter shall have the designated meanings.

BOD. Biochemical oxygen demand.

C.F.R. Code of Federal Regulations.

COD. Chemical oxygen demand.

EPA. Environmental Protection Agency.

gpd. Gallons per day.

G.S. North Carolina General Statutes.

l. Liter.

mg. Milligrams.

mg/l. Milligrams per liter.

NPDES. National Pollution Discharge Elimination System.

O&M. Operation and maintenance.

POTW. Publicly owned treatment works.

RCRA. Resource Conservation and Recovery Act.

SIC. Standard industrial classification.

SWDA. Solid Waste Disposal Act.

***TSS*.** Total suspended solids.

***TKN*.** Total kjeldahl nitrogen.

U.S.C. United States Code.

(2006 Code, Ch. 30, § 1.2) (Adopted 12-7-1993; Amended 7-3-2007)

§ 53.003 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 the information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any 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 which 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 chapter, the National Pollutant Discharge Elimination System (NPDES) permit, non-discharge permit and/or the pretreatment programs; provided, however, that, the portions of a report shall be available for use by the state or 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.

(2006 Code, Ch. 30, § 8) (Adopted 12-7-1993)

§ 53.004 ANNUAL PUBLICATION OF SIGNIFICANT NON-COMPLIANCE.

At least annually, the POTW Director shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant non-compliance, also referred to as reportable non-compliance, in 15A NCAC 2H .0903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.

(2006 Code, Ch. 30, § 8) (Adopted 12-7-1993; 7-3-2007)

§ 53.005 EFFECTIVE DATE.

This chapter shall be in full force and effect upon its adoption on 12-7-1993.

(2006 Code, Ch. 30, § 13) (Adopted 12-7-1993)

DISCHARGES

§ 53.020 PROHIBITED DISCHARGE STANDARDS.

(A) *General prohibitions.* No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass-through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state or local pretreatment standards or requirements.

(B) *Specific prohibitions.* No user shall contribute, or cause to be contributed, into the POTW the following pollutants, substances or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 C.F.R. § 261.21;

(2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference such as, but not limited to: grease, garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshing, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal glass, straw, shavings, grass clippings, rags, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes;

(Amended 8-6-2002)

(3) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin, in amounts that will cause interference or pass-through;

(4) Any wastewater having a pH less than 5.0 or more than 9.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment;

(5) Any wastewater containing pollutants, including oxygen demanding pollutants, (BOD and the like) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW;

(6) Any wastewater having a temperature greater than 150°F (65°C) or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case

wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

(7) Any pollutants which 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;

(8) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with § 53.028;

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

(10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludge or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal regulations or permits issued under § 405 of the Act, being 33 U.S.C. § 1345; 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;

(11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses;

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

(13) Storm water, surface water, ground water, aterisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director;

(14) Fats, oils or greases of animal or vegetable origin in concentrations greater than 100 mg/l;

(15) Any sludges, screening or other residues from the pretreatment of industrial wastes;

(16) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit;

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

(18) Any material that would be identified as hazardous waste according to 40 C.F.R. part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director;

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

(20) Wastewater causing, alone or in conjunction with other sources, the treatment plant effluent to fail a toxicity test;

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

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

(23) At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than 5%, nor any single reading over 10% of the lower explosive limit (LEL) of the meter; and

(24) Grease, oil and sand interceptors shall be provided when, in the opinion of the Town Manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that, the interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the Town Manager, and shall be located to be readily and easily accessible for cleaning and inspection. Where installed, all grease, oil and sand interceptors shall be inspected, cleaned and repaired regularly as needed, by the owner at his or her expense. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Town Manager. Any removal and hauling of the collected materials not performed by the owner(s) personnel must be performed by currently licensed waste disposal firms.

(C) *Obstructions*.

(1) If an obstruction of a town sewer main(s) occurs that causes a sewer 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 from a sewer user, the town will take appropriate enforcement actions, as stipulated in § 53.999.

(Added 8-6-2002)

(2) Pollutants, substances, wastewater or other wastes prohibited by this section shall not be processed or stored in a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user’s pretreatment facility before connecting with the system.

(D) Advisement. When the POTW Director determines that a user(s) is contributing to the POTW, any of the above enumerated substances in amounts which may cause or contribute to interference of POTW operation or pass-through, the POTW Director shall:

(1) Advise the user(s) of the potential impact of the contribution on the POTW in accordance with § 53.999(A); and

(2) Take appropriate actions in accordance with §§ 53.040 and 53.041 for the user to protect the POTW from interference or pass-through.

(2006 Code, Ch. 30, § 2.1) (Adopted 12-7-1993) Penalty, see § 53.999

§ 53.021 NATURAL CATEGORICAL PRETREATMENT STANDARDS.

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 C.F.R. Ch. 1, Subch. N, parts 405 through 471 and incorporated herein.

(A) 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 C.F.R. § 403.6(c).

(B) 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 wastestream formula in 40 C.F.R. § 403.6(e).

(C) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 C.F.R. § 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(D) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 C.F.R. § 403.15

(2006 Code, Ch. 30, § 2.2) (Adopted 12-7-1993)

§ 53.022 LOCAL LIMITS.

(A) An industrial waste survey is required prior to a user discharging wastewater containing in excess of the following average discharge limits:

BOD	250 mg/l
TSS	250 mg/l
MP	25 mg/l
Arsenic	0.003 mg/l
Cadmium	0.003 mg/l
Chromium	0.05 mg/l
Copper	0.061 mg/l
Cyanide	0.015 mg/l
Lead	0.049 mg/l
Mercury	0.003 mg/l
Nickel	0.021 mg/l
Silver	0.005 mg/l
Zinc	0.175 mg/l

(B) (1) Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading are not exceeded for particular pollutants of concern.

(2) User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits.

(3) The POTW Director may impose mass based limits in addition to, or in place of, concentration based limits.

(2006 Code, Ch. 30, § 2.3) (Adopted 12-7-1993; Amended 11-1-2005)

§ 53.023 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 chapter.

(2006 Code, Ch. 30, § 2.4) (Adopted 12-7-1993)

§ 53.024 RIGHT OF REVISION.

The town reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in § 53.001 or the general and specific prohibitions in § 53.020, as is allowed by 40 C.F.R. § 403.4.

(2006 Code, Ch. 30, § 2.5) (Adopted 12-7-1993)

§ 53.025 DILUTION.

No 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 national categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant specific limitation developed by the town or state.

(2006 Code, Ch. 30, § 2.6) (Adopted 12-7-1993) Penalty, see § 53.999

§ 53.026 PRETREATMENT OF WASTEWATER.

(A) Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and wastewater permits issued under § 53.041 and shall achieve compliance with all national categorical pretreatment standards, local limits and the prohibitions set out in § 53.020 within the time limitations as specified by EPA, the state or the POTW Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the town for review, and shall be approved by the POTW Director before construction of the facility. The review of the 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 chapter. 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.

(B) Additional pretreatment measures.

(1) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewer's, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams and other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(2) The POTW Director may require any person discharging into the POTW to install and maintain, on his or her property and at his or her expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(3) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(2006 Code, Ch. 30, § 2.7) (Adopted 12-7-1993)

§ 53.027 ACCIDENTAL DISCHARGE/SLUDGE CONTROL PLANS.

(A) (1) The POTW Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges, as defined in § 53.002.

(2) All SIUs must be evaluated within one year of being designated an SIU. The POTW Director may require any user to develop, submit for approval and implement a plan or other specific action.

(3) Alternatively, the POTW Director may develop a plan for any user.

(B) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non- customary batch discharge or a slug load. Also see §§ 53.074 and 53.075.

(C) An accidental discharge/slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemical;

(3) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by § 53.075; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. The 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.

(2006 Code, Ch. 30, § 2.8) (Adopted 12-7-1993; Amended 7-3-2007)

§ 53.028 HAULED WASTEWATER.

(A) Septic tank waste may be introduced into the POTW only at locations designated by the POTW Director and at times as are established by the POTW Director. The waste shall not violate this subchapter or any other requirements established by the town. The POTW Director may require septic tank waste haulers to obtain wastewater discharge permits.

(B) 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 chapter.

(C) 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.

(D) 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.

(2006 Code, Ch. 30, § 2.9) (Adopted 12-7-1993)

WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE

§ 53.040 WASTEWATER DISCHARGES.

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 60 days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

(2006 Code, Ch. 30, § 4.1) (Adopted 12-7-1993) Penalty, see § 53.999

§ 53.041 WASTEWATER PERMITS.

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 non-significant industrial users.

(A) *Significant industrial user determination.* All people proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic 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 or she will require that a significant industrial user permit application be filed.

(B) *Significant industrial user permit 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, and 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 in division (A) above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(1) Name, address and location, (if different from the address);

(2) Standard industrial classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;

(3) Analytical data on wastewater constituents and characteristics including, but not limited to those mentioned in §§ 53.020 through 53.028, any of the priority pollutants (§ 307(a) of the Act, being 33 U.S.C. § 1317(a)) which 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 § 304(g), being 33 U.S.C. § 1314(g) of the Act and contained in 40 C.F.R. part 136, as amended and as required in §§ 53.079 and 53.080;

(4) Time and duration of the indirect discharge;

(5) Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;

(6) 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;

(7) Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;

(8) Where known, the nature and concentration of any pollutants in the discharge, which are 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 (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

(9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide 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.

(a) 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.

(b) 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 the progress reports to the POTW Director.

(10) Each product produced by type, amount, process or processes and rate of production;

(11) Type and amount of raw materials processed (average and maximum per day);

(12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(13) If subject to a categorical standard, a baseline monitoring report in accordance with 40 C.F.R. § 403.12(b) and 15A NCAC 2H.0908(a), as outlined in § 53.070; and

(14) Any other information as may be deemed by the POTW Director to be necessary to evaluate the permit application.

(C) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user on file with the

control authority and/or municipality as defined in § 53.002 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."

(D) *Application review and evaluation.* The POTW Director will evaluate the data furnished by the user and may require additional information.

(1) The POTW Director is authorized to accept applications for the town and shall refer all applications to the POTW staff for review and evaluation.

(2) 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.

(E) *Tentative determination and draft permit.*

(1) 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

(2) If the staff's tentative determination in division (E)(1) above is to issue the permit, the following additional determinations shall be made in writing:

(a) Proposed discharge limitations for those pollutants proposed to be limited;

(b) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed; and

(c) A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.

(3) The staff shall organize the determinations made pursuant to divisions (E)(1) and (2) above and the town's general permit conditions into a significant industrial user permit.

(F) *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 the fact sheets shall include at least the following information:

(1) 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; and

(2) A quantitative description of the discharge described in the application which includes at least the following:

(a) The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;

(b) 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

(c) The basis for the pretreatment limitations including the documentation of any calculations in applying categorical pretreatment standards.

(G) *Final action on significant industrial user permit applications.*

(1) The POTW Director shall take final action on all applications not later than 90 days following receipt of a complete application.

(2) The POTW Director is authorized to:

(a) Issue a significant industrial user permit containing conditions as are necessary to effectuate the purposes of this chapter and G.S. § 143-215.1;

(b) Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;

(c) Modify any permit upon not less than 60 days notice and pursuant to division (I) below;

(d) Revoke any permit pursuant to § 53.999(A);

(e) Suspend a permit pursuant to § 53.999(A); and/or

(f) Deny a permit application when, in the opinion of the POTW Director, the discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. § 143-215.1.

(H) *Hearings.*

(1) Initial adjudicatory hearing. An applicant whose permit is denied, or is granted subject to conditions he or she deems unacceptable, a permittee/user assessed a civil penalty under § 53.999(B), or one issued an administrative order under § 53.999(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 the written demand is made within the time specified herein, 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.

(a) New permits. Upon appeal, including judicial review in the 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.

(b) Renewed permits. Upon appeal, including judicial review in the 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.

(2) Final appeal hearing. Any decision of a Hearing Officer made as a result of an adjudicatory hearing held under division (H)(1) above may be appealed to the Town Board 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 local hearing procedures. Failure to make written demand within the time specified herein shall bar further appeal. The Town Board 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.

(Amended 11-1-2005)

(3) Official record. When a final decision is issued under division (H)(2) above, the Town Board 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; and

(d) A copy of the final decision of Town Board.

(4) Judicial review. Any person against whom a final order or decision of the Town Board is entered, pursuant to the hearing conducted under division (H)(2) above, 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 Town Board shall transmit to the reviewing court the original or a certified copy of the official record.

(I) *Permit modification.*

(1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits, except as any changes or new conditions in the permit shall include a reasonable time schedule for compliance:

(Amended 11-1-2005)

(a) Changes in the ownership of the discharge when no other change in the permit is indicated;

(b) A single modification of any compliance schedule not in excess of four months; and

(c) 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.

(2) Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to those standards shall be revised to require compliance with the standard within the time frame prescribed by the standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by § 53.041(B), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.

(3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. § 143-2l5.1(b) for modifications.

(J) *Permit conditions.*

(1) The POTW Director shall have the authority to grant a permit with such conditions attached as he or she believes necessary to achieve the purpose of this chapter and G.S. § 143-215.1. Wastewater permits shall contain, but are not limited to, the following:

(a) A statement of duration (in no case more than five years);

(b) A statement of non-transferability;

(c) Applicable effluent limits based on categorical standards or local limits or both;

(d) 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;

(e) Requirements for notifying the POTW in the event of an accidental discharge or slug load, as defined in § 53.002;

(f) Requirements to implement a plan or other controls for prevention of accidental discharges and/or slug loads, as defined in § 53.002, if determined by the POTW Director to be necessary for the user;

(g) Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load, as defined in § 53.002; also see §§ 53.074 and 53.075; and

(h) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

(2) In addition, permits may contain, but are not limited to, the following:

(a) Limits on the average and/or maximum rate of discharge and/or requirements for flow regulation and equalization;

(b) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass or other measure of identified wastewater pollutants or properties;

(c) Requirements for the installation of pretreatment technology or construction of appropriate containment devices and the like designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works;

(d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system;

(e) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system;

(f) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(g) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests, and reporting schedules;

(h) Requirements for immediate reporting of any instance of non-compliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation(s);

(i) Compliance schedules for meeting pretreatment standards and requirements;

(j) Requirements for submission of periodic self-monitoring or special notification reports;

(k) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in § 53.082 and affording the POTW Director, or his or her representatives, access thereto;

(l) 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;

(m) 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;

(n) 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 which become effective during the terms of the permit; and

(o) Other conditions as deemed appropriate by the POTW Director to ensure compliance with this chapter, and state and federal laws, rules and regulations.

(K) *Permits duration.* 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.

(L) *Permit transfer.* 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.

(M) *Permit re-issuance.* A significant industrial user shall apply for permit re-issuance by submitting a complete permit application in accordance with this section a minimum of 180 days prior to the expiration of the existing permit.

(2006 Code, Ch. 30, § 4.2) (Adopted 12-7-1993)

FEES

§ 53.055 PURPOSE.

It is the purpose of this subchapter to provide for the recovery of costs from users of the town's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the town's schedule of charges and fees.

(2006 Code, Ch. 30, § 3.1) (Adopted 12-7-1993)

§ 53.056 USER CHARGES.

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

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

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

(C) The Town Manager shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the Town Board for adjustments in the schedule of charges and fees as necessary.

(D) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

(2006 Code, Ch. 30, § 3.2) (Adopted 12-7-1993)

§ 53.057 SURCHARGES.

All industrial users of the POTW are subject to industrial waste surcharges on discharges which exceed the levels set forth by the town's schedule of charges and fees.

(Amended 11-1-2005)

(A) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:

(1) Metered water consumption as shown in the records of meter readings maintained by the town;

(2) If required by the town or at the individual discharger's option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. The devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the town. The metering system shall be installed and maintained at the user's expense according to arrangements that may be made with the town; and

(3) Where any user procures all or part of his or her water supply from sources other than the town, the user shall install and maintain, at his or her own expense, a flow measuring device of a type approved by the town.

(B) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the town. Samples shall be

collected in a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 C.F.R. part 136.

(C) The determination of the character and concentration of the constituents of the wastewater discharge by the POTW Director or his or her duly appointed representatives shall be binding as a basis for charges.

(2006 Code, Ch. 30, § 3.3) (Adopted 12-7-1993)

§ 53.058 PRETREATMENT PROGRAM ADMINISTRATION CHARGES.

The schedule of charges and fees adopted by the town may include charges and fees for:

(A) Reimbursement of costs of setting up and operating the pretreatment program;

(B) Monitoring, inspections and surveillance procedures;

(C) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;

(D) Permitting; and

(E) Other fees as the town may deem necessary to carry out the requirements of the pretreatment program.

(2006 Code, Ch. 30, § 3.4) (Adopted 12-7-1993)

REPORTING REQUIREMENTS

§ 53.070 BASELINE MONITORING REPORTS.

(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 C.F.R. § 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 which contains the information listed in division (B) below. 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 which contains the information listed in division (B) below. 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.

(B) Users described above shall submit the information set forth below:

(1) *Identifying information.* The name and address of the facility, including the name of the operator and owner;

(2) *Environmental permits.* A list of any environmental control permits held by or for the facility;

(3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by the user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;

(4) *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 wastestream formula set out in 40 C.F.R. § 403.6(e);

(5) *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 § 53.079; and

(c) Sampling must be performed in accordance with procedures set out in § 53.080 and 40 C.F.R. § 403.12(b) and (g), including 40 C.F.R. § 403.12(g)(4).

(6) *Certification.* A statement, reviewed by the user's current authorized representative as defined in § 53.002; 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 (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements;

(7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide additional pretreatment and/or O&M. 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 section must meet the requirements set out in § 53.071; and

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with § 53.041(C).

(2006 Code, Ch. 30, § 5.1) (Adopted 12-7-1993; Amended 7-3-2007)

§ 53.071 COMPLIANCE SCHEDULE PROGRESS REPORTS.

The following conditions shall apply to the compliance schedule required by § 53.070(B)(7).

(A) 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);

(B) No increment referred to above shall exceed nine months; and

(C) (1) 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.

(2) In no event shall more than nine months elapse between such progress reports to the POTW Director.

(2006 Code, Ch. 30, § 5.2) (Adopted 12-7-1993)

§ 53.072 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.

(A) 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 the pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in § 53.070. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 C.F.R. § 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate.

(B) 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.

(C) All compliance reports must be signed and certified in accordance with § 53.041(C).

(2006 Code, Ch. 30, § 5.3) (Adopted 12-7-1993)

§ 53.073 PERIODIC COMPLIANCE REPORTS.

(A) All significant industrial users shall, at a frequency determined by the POTW Director, but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in §§ 53.079 and 53.080. All periodic compliance reports must be signed and certified in accordance with § 53.041(C).

(B) If a user, subject to the reporting requirement in this section, monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in § 53.079, the results of this monitoring shall be included in the report.

(2006 Code, Ch. 30, § 5.4) (Adopted 12-7-1993; Amended 7-3-2007)

§ 53.074 REPORTS OF CHANGED CONDITIONS.

Each user must notify the POTW Director of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least 60 days before the change. See § 53.075(D) for other reporting requirements.

(A) The POTW Director may require the user to submit information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 53.041.

(B) The POTW Director may issue a wastewater discharge permit under § 53.041 or modify an existing wastewater discharge permit under § 53.041 in response to changed conditions or anticipated changed conditions.

(C) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 25% or greater, and the discharge of any previously unreported pollutants.

(2006 Code, Ch. 30, § 5.5) (Adopted 12-7-1993; Amended 7-3-2007)

§ 53.075 REPORTS OF POTENTIAL PROBLEMS.

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in § 53.002, 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.

(B) Within five days following the discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. The notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or any other damage to person or property; nor shall the notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this chapter.

(C) 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 division (A) above. Employers shall ensure that all employees, who may cause a discharge to occur, are advised of the emergency notification procedure.

(D) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge or a slug load, as defined in § 53.002.

(2006 Code, Ch. 30, § 5.6) (Adopted 12-7-1993; Amended 7-3-2007)

§ 53.076 REPORTS FROM NON-PERMIT 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.

(2006 Code, Ch. 30, § 5.7) (Adopted 12-7-1993)

§ 53.077 NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING.

(A) 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. If allowed by the POTW Director, the user is not required to resample:

(1) If the POTW Director monitors at the user's facility at least once a month; or

(2) If the POTW Director samples between the user's initial sampling and when the user receives the results of this sampling.

(B) If the POTW Director does not require the user to perform any self-monitoring and the POTW sampling of the user indicates a violation, the POTW Director shall repeat the sampling and obtain the results of the repeat analysis within 30 days after becoming aware of the violations, unless one of the following occurs:

(1) The POTW Director monitors at the user's facility at least once a month;

(2) The POTW Director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or

(3) The POTW Director requires the user to perform sampling and submit the results to the POTW Director within the 30-day deadline of the POTW becoming aware of the violation.

(2006 Code, Ch. 30, § 5.8) (Adopted 12-7-1993)

§ 53.078 NOTIFICATION OF DISCHARGE OF HAZARDOUS WASTE.

(A) 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 which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. part 261. The notification must include the name of the hazardous waste as set forth in 40 C.F.R. part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the user discharges more than 100 kilograms of the waste per calendar month to the POTW, the notification also shall contain the following information to the extent the information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of the constituents in the wastestream discharge during the calendar month and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this division (A) need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under § 53.074. 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 sections §§ 53.070, 53.072 and 53.074.

(B) (1) Dischargers are exempt from the requirements of division (A) above, 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 C.F.R. §§ 261.30 (d) and 261.33(e).

(2) Discharge of more than 15 kilograms of no acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 C.F.R. §§ 261.30(d) and 261.33(e) requires a one-time notification.

(3) Subsequent months during which the user discharges more than the quantities of any hazardous waste do not require additional notification.

(C) In the case of any new regulation under § 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 the substance within 90 days of the effective date of the regulations.

(D) In the case of any notification made under this section, 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.

(E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(2006 Code, Ch. 30, § 5.9) (Adopted 12-7-1993)

§ 53.079 ANALYTICAL REQUIREMENTS.

(A) 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 C.F.R. part 136, unless otherwise specified in an applicable categorical pretreatment standard.

(B) If 40 C.F.R. 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 EPA.

(2006 Code, Ch. 30, § 5.10) (Adopted 12-7-1993)

§ 53.080 GRAB AND COMPOSITE SAMPLE COLLECTION.

(A) All wastewater samples must be representative of the use'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 unrepresentative of its discharge.

(B) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 C.F.R. 136. The POTW shall

determine the number of grabs necessary to be representative of the user's discharge. See 40 C.F.R. 403.12(g)(5) for additional grab sample number requirements for BMR and 90-day compliance reports. Additionally the POTW Director may allow collection of multiple grabs during a 24-hour period which are composited prior to analysis as allowed under 40 C.F.R. 136.

(C) Composite samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW Director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

(2006 Code, Ch. 30, § 5.11) (Adopted 12-7-1993; Amended 7-23-2007)

§ 53.081 TIMING.

Written reports will be deemed to have been submitted on the date postmarked. For reports which 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.

(2006 Code, Ch. 30, § 5.12) (Adopted 12-7-1993)

§ 53.082 RECORDKEEPING.

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of the requirements. Records shall include the date, exact place, method and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of the 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 the town, or where the user has been specifically notified of a longer retention period by the POTW.

(2006 Code, Ch. 30, § 5.13) (Adopted 12-7-1993)

COMPLIANCE MONITORING

§ 53.095 MONITORING FACILITIES.

(A) (1) The town requires the user 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.

(2) The monitoring facility should normally be situated on the user's premises, but the town may, when 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.

(B) (1) There shall be ample room in or near the sampling manhole or facility to allow accurate sampling and preparation of samples for analysis.

(2) The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(C) (1) 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.

(2) Construction shall be completed within 90 days following written notification by the town.

(2006 Code, Ch. 30, § 6.1) (Adopted 12-7-1993)

§ 53.096 INSPECTION AND SAMPLING.

(A) The town will inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with.

(B) Persons or occupants of premises where wastewater is created or discharged shall allow the town, approval authority and EPA or their representative 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.

(C) The town, approval authority and EPA shall have the right to set up on the user's property devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations.

(D) Where a user has security measures in force which would require proper identification and clearance before entry into his, her or their premises, the user shall make necessary arrangements with their security guards 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.

(E) Denial of the POTW Director's, approval authority's or EPA's access to the user's premises shall be a violation of this chapter. Unreasonable delays may constitute denial of access.

(2006 Code, Ch. 30, § 6.2) (Adopted 12-7-1993)

§ 53.097 SEARCH WARRANTS.

If the POTW Director, approval authority or EPA has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as a part of a routine inspection and sampling program of the town designed to verify compliance with this chapter or any permit or order issued hereunder, 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 County Magistrate's Office.

(2006 Code, Ch. 30, § 6.3) (Adopted 12-7-1993)

AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

§ 53.110 UPSET.

(A) An upset shall constitute an affirmative defense to an action brought for non-compliance with categorical pretreatment standards if the requirements of division (B) below are met.

(B) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

(1) An upset occurred and the user can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

(3) 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:

(a) A description of the indirect discharge and cause of non-compliance;

(b) The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and

(c) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the non-compliance.

(C) In any enforcement proceedings, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(D) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with categorical pretreatment standards.

(E) (1) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided.

(2) This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(2006 Code, Ch. 30, § 10.1) (Adopted 12-7-1993)

§ 53.111 PROHIBITED DISCHARGE STANDARDS DEFENSE.

A user shall have an affirmative defense to an enforcement action brought against it for non-compliance with the general prohibitions in § 53.020(A) or the specific prohibitions in § 53.020(B)(2), (3), (5) through (7) and (9) through (24), if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:

(A) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the paths through or interference; or

(B) 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.

(2006 Code, Ch. 30, § 10.2) (Adopted 12-7-1993; 11-1-2005)

§ 53.112 BYPASS.

(A) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of divisions (B) and (C) below.

(B) (1) 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.

(2) 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 this 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.

(C) (1) Bypass is prohibited, and the POTW Director may take an enforcement action against a user for a bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

(b) 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 back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The user submitted notices as required under division (B) above.

(2) 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 division (C)(1) above.

(2006 Code, Ch. 30, § 10.3) (Adopted 12-7-1993)

§ 53.999 PENALTY.

(A) *Administrative remedies*.

(1) *Notification of violation*. Whenever the POTW Director finds that any industrial user has violated or is violating this chapter, wastewater permit or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the POTW Director may serve upon 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 non-compliance. The orders will include specific action to be taken by the discharger to correct the non-compliance 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 division (A)(4) below.

(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 chapter or is in non-compliance with a wastewater discharge permit to show because why a proposed enforcement action should not be taken. In the event 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 the 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 division (B) below, nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under § 53.041(H).

(4) *Administrative orders.* When the POTW Director finds that an industrial user has violated or continues to violate this chapter, permits or orders issued hereunder, or any other pretreatment requirement the POTW Director may issue an order to cease and desist all violations and direct those persons in non-compliance 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; or

(d) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(5) *Emergency suspensions.*

(a) The POTW Director may suspend the wastewater treatment service and/or wastewater permit when the suspension is necessary in order to stop an actual or threatened discharge which 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 non-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 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. The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the non-compliant 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 above described hearing.

(6) *Termination of permit or permission to discharge.*

(a) The POTW Director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

1. Failure to accurately report the wastewater constituents and characteristics of this discharge;

2. Failure to report significant changes in operations or wastewater constituents and characteristics;

3. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

4. Violation of conditions of the permit or permission to discharge, conditions of this chapter or any applicable state and federal regulations.

(b) Non-compliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under this division (A) why the proposed action should not be taken.

(B) *Civil penalties*. Any user who is found to have failed to comply with any provision of this chapter, or the orders, rules, regulations and permits issued hereunder, may be fined up to $25,000 per day per violation.

(Amended 12-3-2002)

(1) Penalties between $10,000 and $25,000 per day per violation may be assessed against a violator only if:

(a) For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation; or

(b) In the case of failure to file, submit or make available, as the case may be, any documents, data, or reports required by this chapter, or the orders, rules, regulations and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.

(Amended 11-1-2005)

(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 ground or surface water quantity or quality or on air quality;

(d) The cost of rectifying the damage;

(e) The amount of money saved by non-compliance;

(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; and

(h) The costs of enforcement to the town.

(3) Appeals of civil penalties assessed in accordance with this section shall be as provided in § 53.041(H).

(C) *Other available remedies.* Remedies, in addition to those previously mentioned in this chapter, are available to the POTW Director who may use any single one or combination against a non-compliant user. Additional available remedies include, but are not limited to the following.

(1) *Criminal violations.* The District Attorney for the Third Judicial District may, at the request of the town, prosecute non-compliant users who violate the provisions of G.S. § 143-215.6B.

(2) *Injunctive relief.* Whenever a user is in violation of the provisions of this chapter or an order or permit issued hereunder, the POTW Director, through the Town Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

(3) *Water supply severance*. Whenever an industrial user is in violation of the provisions of this chapter or an order or permit issued hereunder, 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 chapter or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of this code of ordinances governing the nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying the nuisance.

(D) *Remedies non-exclusive.* The remedies provided for in this chapter are not exclusive. The POTW Director may take any, all or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the town's enforcement response plan. However, the POTW Director may take action against any user when the circumstances warrant. Further, the POTW Director is empowered to take more than one enforcement action against any non-compliant user.

(2006 Code, Ch. 30, § 8) (Adopted 12-7-1993)

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS
71. TRAFFIC REGULATIONS
72. PARKING RULES
73. RECREATIONAL VEHICLES
74. TRAFFIC SCHEDULES
75. PARKING SCHEDULES
76. GOLF CARTS

Editor's note:

This title has been amended by the Board of Commissioners on 8-1-2006, 1-2-2007, 9-4-2007, 10-2-2007, 11-6-2007, 12-4-2007, 3-4-2008, and 6-1-20

CHAPTER 70: GENERAL PROVISIONS

Section

General Provisions

70.01 Definitions

Obedience to Traffic Regulations and Police Officers

70.15 Ordinance violations

70.16 Obedience to police

70.17 Authority of police in special cases

70.18 Application

70.19 Exemptions of authorized emergency vehicles

70.20 Persons propelling push carts and riding animals

Traffic Control Devices

70.35 General requirements

70.36 Sign maintenance

70.37 No-turn signs and turning markers

70.38 Zone markers

70.39 Traffic control signal legend

70.40 Flashing signals

GENERAL PROVISIONS

§ 70.01 DEFINITIONS.

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

AUTHORIZED EMERGENCY VEHICLE. Vehicles of fire departments, law enforcement agencies and state certified rescue squads.

BLOCK. A portion of any street located between two intersections.

BUSINESS DISTRICT. The territory contiguous to a highway when 50% or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.

CROSSWALK. The portion of a roadway ordinarily included within the extended lateral lines of sidewalks at intersections. Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

DRIVER-OPERATOR. A person in actual physical control of a vehicle when it is in motion or which has the engine running.

INTERSECTION. The area embraced within the extended lateral curb lines or if none, then the lateral boundary lines of two or more highways which join one another at an angle, whether or not one highway crosses the other.

MOTOR VEHICLE. Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle.

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

OFFICIAL TRAFFIC CONTROL DEVICES. All signs, signals, markings and devices not inconsistent with this traffic code placed or erected by authority of the governing body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

OFFICIAL TRAFFIC SIGNALS. Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

PARK. The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

PEDESTRIAN. Any person afoot.

PERSON. Every natural person, firm, co-partnership, association or corporation.

POLICE OFFICER. Every officer of the Town Police Department or any officer authorized to direct or regulate traffic or to make arrests for violation of traffic regulations.

PRIVATE ROAD OR DRIVEWAY. Every road or driveways not open to the use of the public for purposes of vehicular travel.

PUBLIC CONVEYANCE. Any vehicle other than a taxicab or railroad train for transporting for a fare.

PUBLIC VEHICULAR AREA. Any drive, driveway, road, roadway, street or alley upon the grounds and premises of any public or private hospital, college, university, school or orphanage, church or any of the institutions maintained and supported by the state, or any of its subdivisions

or upon the grounds and premises of any service station, drive-in theater, supermarket, store, restaurant or office building, or any other building, or any other business, residential or municipal establishment providing parking space for customers, patrons or the public.

RESIDENTIAL DISTRICT. The territory contiguous to a highway, not comprising a business district when the frontage on the highway for a distance of 300 feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.

RIGHT-OF-WAY. The privilege of the immediate use of the roadway.

SAFETY ZONE.

(1) The area or space officially set apart within the roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a ***SAFETY ZONE***.

(2) The portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

STANDING. Any stopping of a vehicle, whether occupied or not.

STOP. When required, means complete cessation of movement.

STOP or ***STOPPING***. When prohibited, means any stopping of a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic control sign or signal.

STREET or ***HIGHWAY***. The entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purpose of vehicular traffic. The terms ***HIGHWAY*** and ***STREET***, or a combination of the two terms, shall be used synonymously.

TRAFFIC. Pedestrians, ridden or herded animals, vehicles, street cars and other conveyances either singly or together while using any street for purposes of travel.

VEHICLE. 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 traffic code, bicycles shall be deemed ***VEHICLES*** and every rider of a bicycle upon a highway shall be subject to the provisions of this traffic code applicable to the driver of a ***VEHICLE***, except those which, by their nature, have no application.

(2006 Code, Ch. 24, § 1)

OBEDIENCE TO TRAFFIC REGULATIONS AND POLICE OFFICERS

§ 70.15 ORDINANCE VIOLATIONS.

It is a misdemeanor for any person to do any act forbidden, or fail to perform any act required, by this traffic code.

(2006 Code, Ch. 24, § 2.1) Penalty, see § 10.99

§ 70.16 OBEDIENCE TO POLICE.

No person shall willfully fail or refuse or comply with any lawful order or direction of a police officer.

(2006 Code, Ch. 24, § 2.2) Penalty, see § 10.99

§ 70.17 AUTHORITY OF POLICE IN SPECIAL CASES.

In the event of a fire or other emergency or when necessary to expedite traffic or safeguard pedestrians, police officers may direct traffic as conditions may require, notwithstanding the provisions of this traffic code.

(2006 Code, Ch. 24, § 2.3)

§ 70.18 APPLICATION.

(A) The provisions of this traffic code shall apply to any vehicle owned by or used in the service of the United States government, the state, county or town.

(B) It shall be unlawful for any driver to violate any of the provisions of this traffic code, except as otherwise permitted in this traffic code or by state statutes.

(2006 Code, Ch. 24, § 2.4) Penalty, see § 10.99

§ 70.19 EXEMPTIONS OF AUTHORIZED EMERGENCY VEHICLES.

(A) The provisions of this traffic code regulating the operation, parking and standing of vehicles shall apply to authorized emergency vehicles, as defined in this traffic code, except as

follows: a driver, when operating the vehicle in any emergency, except when otherwise directed by a police officer, may:

(1) Park or stand, notwithstanding the provisions of this traffic code;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the prima facie speed limits so long as he or she does not endanger life or property; and/or

(4) Disregard regulations governing direction of movement or turning in specified directions so long as he or she does not endanger life or property.

(B) The foregoing exemptions shall not, however, protect the driver of any vehicle from the consequences of his or her reckless disregard for the safety of others.

(2006 Code, Ch. 24, § 2.5)

§ 70.20 PERSONS PROPELLING PUSH CARTS AND RIDING ANIMALS.

Every person propelling any push cart or riding an animal upon a roadway and every person driving any animal-drawn vehicle shall be subject to the provisions of this traffic code applicable to the driver of any vehicle, except those provisions of this traffic code which, by their very nature, can have no application.

(2006 Code, Ch. 24, § 2.6)

TRAFFIC CONTROL DEVICES

§ 70.35 GENERAL REQUIREMENTS.

The driver of any vehicle shall obey the directions of any official traffic control device applicable thereto and placed in accordance with the traffic ordinances of the town, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle.

(2006 Code, Ch. 24, § 3.1) Penalty, see § 10.99

§ 70.36 SIGN MAINTENANCE.

No provision of this traffic code 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. Whenever a particular section

does not state that signs are required, the section shall be effective without signs being placed to give notice thereof.

(2006 Code, Ch. 24, § 3.2)

§ 70.37 NO-TURN SIGNS AND TURNING MARKERS.

Whenever authorized signs are placed, erected or installed indicating that no right or left or "U" turn is permitted, no driver of a vehicle shall disobey the directions of the sign. When authorized markers, buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles traversing or turning thereat, no driver of a vehicle shall disobey the directions of the indications.

(2006 Code, Ch. 24, § 3.3) Penalty, see § 10.99

§ 70.38 ZONE MARKERS.

Whenever authorized signs or markings are placed, erected or installed indicating no-parking zones or safety zones, zones of quiet, play street zones, school zones or others, no driver of a vehicle shall disobey the regulations in connection therewith.

(2006 Code, Ch. 24, § 3.4) Penalty, see § 10.99

§ 70.39 TRAFFIC CONTROL SIGNAL LEGEND.

Whenever traffic is controlled by traffic control signals, as described in Ch. 74, Sch. IV, exhibiting the words "GO", "CAUTION", "STOP" or exhibiting differently colored lights, successively, one at a time, the following colors only shall be used, and the terms and lights shall indicate as follows.

(A) Green alone or "GO".

(1) Vehicular traffic facing the signal may proceed straight through, or turn right or left, unless a sign at the place prohibits either turn, but vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians, lawfully within the intersection at the time the signal is exhibited.

(2) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(B) Yellow alone or "CAUTION" when shown following the green or "GO" signal.

(1) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but if the stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.

(2) Pedestrians facing the signal are hereby 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.

(C) Red alone or "STOP".

(1) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection, or at other point as may be indicated by a clearly visible line, and shall remain standing until green or "GO" is shown alone; provided, unless prohibited by a sign, a right turn on red may be made if there is no on-coming traffic from the left.

(2) No pedestrian facing the signal shall enter the roadway unless he or she can do so safely and without interfering with any vehicular traffic.

(D) Red with green arrow.

(1) Vehicular traffic facing the signal may cautiously enter the intersection, only to continue the movement in the direction indicated by the arrow, but shall not interfere with other traffic.

(2) No pedestrian facing the signal shall enter the roadway unless he or she can do so safely and without interfering with any vehicular traffic.

(2006 Code, Ch. 24, § 3.5)

§ 70.40 FLASHING SIGNALS.

Whenever flashing red or yellow signals, as described in Ch. 74, Sch. VI, division (B), are used, they shall require obedience by vehicular traffic as follows.

(A) Flashing red (stop signal). When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection, or at a limit line when marked, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(B) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past the signal only with caution.

(2006 Code, Ch. 24, § 3.6)

CHAPTER 71: TRAFFIC REGULATIONS

Section

71.01 Stop before entering certain street intersections

71.02 Yield before entering certain street intersections

71.03 One-way streets

71.04 Stop when traffic obstructed

71.05 Driving through funeral procession

71.06 Left turns at certain intersections as indicated

71.07 No right or left turns to be made

71.08 Limitation on turning around

71.09 Limitation on backing

71.10 Emerging from alley or private driveway

71.11 Vehicles shall not be driven on sidewalks

71.12 Clinging to motor vehicles

71.13 Use of coaster, roller skates and similar devices

71.14 Lights on parked vehicles

71.15 Moving cars from parked positions

71.16 Speed limits

71.17 Driving on roadways laned for traffic

71.18 Driving over fire hose

71.19 Heavy equipment traffic restricted

71.20 Mini-bikes in parks

§ 71.01 STOP BEFORE ENTERING CERTAIN STREET INTERSECTIONS.

When stop signs are placed, erected or installed at any intersection, as described in Ch. 74, Sch. IV, the driver of a vehicle approaching the intersection and facing the stop sign shall stop in obedience to the sign before entering the intersection and shall not proceed into, nor cross through, any street until he or she has first determined that no conflict with traffic will be involved.

(2006 Code, Ch. 24, § 5.1) Penalty, see § 10.99

§ 71.02 YIELD BEFORE ENTERING CERTAIN STREET INTERSECTIONS.

When yield signs are placed, erected or installed at any intersection, as described in Ch. 74, Sch. V, the driver of a vehicle approaching the intersection and facing the yield sign shall slow down in obedience to the sign before entering the intersection and shall not proceed into, nor cross, any through street until he or she has first determined that no conflict with traffic will be involved.

(2006 Code, Ch. 24, § 5.2) Penalty, see § 10.99

§ 71.03 ONE-WAY STREETS.

Upon those streets, or parts of streets, described in Ch. 74, Sch. VII, 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.

(2006 Code, Ch. 24, § 5.3) Penalty, see § 10.99

§ 71.04 STOP WHEN TRAFFIC OBSTRUCTED.

No driver 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 or she is operating without obstructing the passage of other vehicles or pedestrians, not withstanding any traffic control signal indication to proceed.

(2006 Code, Ch. 24, § 5.4) Penalty, see § 10.99

§ 71.05 DRIVING THROUGH FUNERAL PROCESSION.

No vehicle shall be driven through a funeral procession, except Fire Department vehicles, police patrols and ambulances, when the same are responding to calls.

(2006 Code, Ch. 24, § 5.5) Penalty, see § 10.99

§ 71.06 LEFT TURNS AT CERTAIN INTERSECTIONS AS INDICATED.

In making left turns at the street intersections described by the town, all traffic shall travel to the left of the center of the intersections as may be indicated by buttons, markers or other directing signs.

(2006 Code, Ch. 24, § 5.6) Penalty, see § 10.99

§ 71.07 NO RIGHT OR LEFT TURNS TO BE MADE.

No vehicle shall make a left turn at any street intersection described by the town.

(2006 Code, Ch. 24, § 5.7) Penalty, see § 10.99

§ 71.08 LIMITATION ON TURNING AROUND.

No driver shall turn any vehicle so as to proceed in the opposite direction in the business district, except at street intersections, in the streets, or portions of streets, described by the town.

(2006 Code, Ch. 24, § 5.8) Penalty, see § 10.99

§ 71.09 LIMITATION ON BACKING.

The driver of a vehicle shall not back the same into any intersection, or over a crosswalk, and shall not at any place, back a vehicle unless the movement can be made in safety, and he or she shall have given ample warning to those who may be behind, by hand, horn or other signal.

(2006 Code, Ch. 24, § 5.9) Penalty, see § 10.99

§ 71.10 EMERGING FROM ALLEY OR PRIVATE DRIVEWAY.

The driver of a vehicle emerging from an alley, driveway or building shall stop the vehicle immediately prior to driving onto a sidewalk or into a sidewalk area extending across an

alleyway and, upon entering the roadway, he or she shall yield the right-of-way to all vehicles approaching on the roadway.

(2006 Code, Ch. 24, § 5.10) Penalty, see § 10.99

§ 71.11 VEHICLES SHALL NOT BE DRIVEN ON SIDEWALKS.

The driver of a vehicle shall not drive within any sidewalk area, except at a permanent or temporary driveway.

(2006 Code, Ch. 24, § 5.11) Penalty, see § 10.99

§ 71.12 CLINGING TO MOTOR VEHICLES.

No person riding upon a bicycle, motorcycle, coaster, sled, roller skates or any toy vehicle shall attach the same, or himself or herself, to any public conveyance or moving vehicle upon any roadway.

(2006 Code, Ch. 24, § 5.12) Penalty, see § 10.99

§ 71.13 USE OF COASTER, ROLLER SKATES AND SIMILAR DEVICES.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle or similar device shall go upon any roadway, unless it be while crossing a street at a crosswalk or intersection, except upon streets set aside as play streets.

(2006 Code, Ch. 24, § 5.13) Penalty, see § 10.99

§ 71.14 LIGHTS ON PARKED VEHICLES.

The displaying of lights upon a vehicle, when lawfully parked at night upon a street of the town in accordance with this traffic code, shall not be required when there is sufficient light to reveal any person within a distance of 200 feet (61 meters) upon the street.

(2006 Code, Ch. 24, § 5.14)

§ 71.15 MOVING CARS FROM PARKED POSITIONS.

Cars parked shall move out in the direction headed; or, if they are parked at an angle with the curb, they shall back out on that angle until they have cleared the other cars and shall then proceed in the direction they are most nearly headed in.

(2006 Code, Ch. 24, § 5.15) Penalty, see § 10.99

§ 71.16 SPEED LIMITS.

(A) A vehicle may be operated on any street in the town at a rate not to exceed 35 mph (56 kilometers) unless the street or part thereof is designated so that a lower rate prevails; provided that, under no circumstances shall any person operate a vehicle at a speed greater than is reasonable and prudent under existing circumstances.

(B) Specific speed limits for streets and parts of streets are designated in Ch. 74, Sch. III.

(2006 Code, Ch. 24, § 5.16) Penalty, see § 10.99

§ 71.17 DRIVING ON ROADWAYS LANED FOR TRAFFIC.

All vehicles operated on any roadway which has been clearly marked with lanes for traffic shall be driven as nearly as practical entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety.

(2006 Code, Ch. 24, § 5.17) Penalty, see § 10.99

§ 71.18 DRIVING OVER FIRE HOSE.

No vehicle shall be driven over any hose of the Fire Department when laid down on any street or driveway to be used at any fire, without the consent of the Fire Department official in command.

(2006 Code, Ch. 24, § 5.18) Penalty, see § 10.99

§ 71.19 HEAVY EQUIPMENT TRAFFIC RESTRICTED.

The driving of bulldozers and other heavy equipment is prohibited on the streets of the town when the streets would be damaged.

(2006 Code, Ch. 24, § 5.19) Penalty, see § 10.99

§ 71.20 MINI-BIKES IN PARKS.

The riding of mini-bikes is prohibited in any of the town's public areas.

(2006 Code, Ch. 24, § 5.21) Penalty, see § 10.99

CHAPTER 72: PARKING RULES

Section

72.01 Applicability and enforcement; signs required

72.02 Vehicles not to stop in streets; exceptions

72.03 Vehicles not to obstruct passing of other vehicles

72.04 Parking prohibited at all times in designated places

72.05 Parking prohibited during certain hours in designated places

72.06 Parking time limited to two hours in designated places

72.07 Parking time limited to one hour in designated places

72.08 Parking time limited in designated places

72.09 Areas reserved for specific purposes

72.10 Parking parallel to curb

72.11 Vehicles backed up to curb

72.12 Left side to curb not permitted in business district

72.13 Parking within lines where provided

72.14 Angle parking

72.15 Parking at 90-degree angle

72.16 Unlawful parking

72.17 Standing or parking vehicles for purpose of advertising

72.18 Stopping, standing or parking prohibited in specified places

72.19 Moving of vehicles of other operations into restricted area

72.99 Penalty

§ 72.01 APPLICABILITY AND ENFORCEMENT; SIGNS REQUIRED.

(A) The provisions of this chapter prohibiting the standing or parking of a vehicle shall apply at all times or at those times specified in this chapter or as indicated on official signs, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

(B) Whenever any parking limit is imposed or parking is prohibited on designated streets, there shall be appropriate signs giving notice thereof. No regulations shall be effective unless the signs are erected and in place at the time of any alleged offense. Except that, no signage is required due to application to all town paved streets as it relates to § 72.16. This prohibition is also referenced in Ch. 95 of this code of ordinances.

(C) For the purposes of enforcement within this section, parking restrictions and/or prohibitions established by the State Department of Transportation on state maintained roadways shall be deemed a part of this section for the purposes of enforcement and penalties. As required in division (B) above, appropriate signage is required giving notice thereof at the time of the violation. All restrictions and/or prohibitions with appropriate signage shall be deemed a part of the applicable schedule in Ch. 75 of this code of ordinances and no separate action by the town is required.

(2006 Code, Ch. 24, § 4.1)

Statutory reference:

Related provisions, see G.S. §§ 14-4(b), 20-37.6, 20-79.4 and 20-162.1

§ 72.02 VEHICLES NOT TO STOP IN STREETS; EXCEPTIONS.

(A) No vehicle shall stop in any street, except for the purpose of parking as prescribed in the chapter, unless the stop is made necessary by the approach of fire apparatus, by the approach of a funeral or other procession which is given the right-of-way, by the stopping of a public conveyance, by railway signals, by the giving of traffic signals, by the passing of some other vehicle or pedestrian or by some emergency.

(B) In any case covered by these exceptions, the vehicles shall stop so as not to obstruct any footway, pedestrian aisle, safety zone, crossing or street intersection if it can be avoided.

(2006 Code, Ch. 24, § 4.3) Penalty, see § 72.99

§ 72.03 VEHICLES NOT TO OBSTRUCT PASSING OF OTHER VEHICLES.

(A) No vehicle shall so stand on any street as to interrupt or interfere with the passage of public conveyances or other vehicles.

(B) Owner/operators of vehicles left unattended in a manner that obstructs other vehicles or otherwise presents a hazard to other vehicles shall have deemed the Town Police Department as their agent for the removal and storage of the vehicle at the owner's expense.

(2006 Code, Ch. 24, § 4.4) Penalty, see § 72.99

§ 72.04 PARKING PROHIBITED AT ALL TIMES IN DESIGNATED PLACES.

(A) When signs are placed, erected or installed giving notice thereof, or the curbing has been painted yellow in lieu of the signs, no person shall park a vehicle at any time upon any of the streets described in Ch. 75, Sch. I, division (A).

(B) Notwithstanding division (A) above, on those streets that parking is specifically regulated by clear pavement markings, no vehicle shall be parked or left standing on any space other than those specifically marked indicating the vehicle placement within the parking lines provided.

(C) In those cases where parking spaces are clearly and specifically designated, no vehicle shall be left standing otherwise. Additional signage or marking shall not be a requirement for lawful enforcement.

(2006 Code, Ch. 24, § 4.5) Penalty, see § 72.99

§ 72.05 PARKING PROHIBITED DURING CERTAIN HOURS IN DESIGNATED PLACES.

When signs are placed, erected or installed in each block, giving notice thereof, no person shall park a vehicle between the hours of l:00 a.m. and 6:00 a.m., upon any of the streets described in Ch. 75, Sch. I, division (B), unless other hours are designated in the schedule; provided that, this section shall not apply to automobiles or other vehicles parked on the streets between the hours of 1:00 a.m. and 6:00 p.m. when the owners thereof are at work in the building or on the premises in front of or near which the automobiles or other vehicles are parked.

(2006 Code, Ch. 24, § 4.6) Penalty, see § 72.99

§ 72.06 PARKING TIME LIMITED TO TWO HOURS IN DESIGNATED PLACES.

When signs are placed, erected or installed in each block giving notice thereof, no person shall park a vehicle for longer than two hours at any time between the hours of 8:00 a.m. and 6:00 p.m. on any day, except Sunday and public holidays, upon any of the streets described by the town, and the changing of the position of a vehicle from one point directly to another point, within the same block, shall be deemed one continuous parking period.

(2006 Code, Ch. 24, § 4.7) Penalty, see § 72.99

§ 72.07 PARKING TIME LIMITED TO ONE HOUR IN DESIGNATED PLACES.

When signs are placed, erected or installed in each block giving notice thereof, no person shall park a vehicle for longer than one hour at any time between the hours of 6:00 a.m. and 6:30 p.m. on any day except Sunday and public holidays upon any of the streets described by the town, and the changing of the position of a vehicle from one point directly to another point, within the same block, shall be deemed as one continuous parking period.

(2006 Code, Ch. 24, § 4.8) Penalty, see § 72.99

§ 72.08 PARKING TIME LIMITED IN DESIGNATED PLACES.

When signs are placed, erected or installed in each block giving notice thereof, no person shall park a vehicle for longer than described in Ch. 75, Sch. I, division (C), and changing of the position of a vehicle from one point directly to another point within the same block shall be deemed as one continuous parking period.

(2006 Code, Ch. 24, § 4.9) Penalty, see § 72.99

§ 72.09 AREAS RESERVED FOR SPECIFIC PURPOSES.

(A) Those streets, or parts of streets, described in Ch. 75, Sch. II, shall be reserved as stands for the purpose and at the exact location therein named and no automobile or other vehicle shall park therein, except those for which the space or stand has been designated:

(1) Disabled spaces on public roadways and disabled spaces so designated by proper signage located on public vehicular areas; and

(2) Loading zones within the public road right-of-way and so designated by appropriate signage and markings.

(B) No person shall park a vehicle or permit it to stand, whether attended or unattended, upon any public vehicular area, street, highway or roadway in an area designated as a fire lane. This prohibition includes designated fire lanes in shopping center or mall parking lots and all other public vehicular areas. Provided, however, persons actively loading or unloading supplies or merchandise may park temporarily in a fire lane located in a shopping center or mall parking lot as long as the vehicle is not left unattended. Designated fire lanes in a shopping center or mall parking lot shall be so described in Ch. 75, Sch. II.

(C) No person shall park a vehicle or permit it to stand, whether attended or unattended, upon a street or highway within 15 feet in either direction of a fire hydrant.

(2006 Code, Ch. 24, § 4.10) (Amended 10-2-2007) Penalty, see § 72.99

Statutory reference:

Related provisions, see G.S. § 20-162(a) and (b)

§ 72.10 PARKING PARALLEL TO CURB.

Where not otherwise indicated by this section, and where the street is not marked to show how vehicles shall park, all vehicles shall park parallel to the curb and not more than 12 inches therefrom.

(2006 Code, Ch. 24, § 4.11) Penalty, see § 72.99

§ 72.11 VEHICLES BACKED UP TO CURB.

In no case shall a vehicle remain backed up to curb, except when actually loading or unloading.

(2006 Code, Ch. 24, § 4.12) Penalty, see § 72.99

§ 72.12 LEFT SIDE TO CURB NOT PERMITTED IN BUSINESS DISTRICT.

No vehicle shall stop with its left side to the curb in the business district; except that, on one-way streets vehicles shall stop headed in the direction of traffic.

(2006 Code, Ch. 24, § 4.13) Penalty, see § 72.99

§ 72.13 PARKING WITHIN LINES WHERE PROVIDED.

On any street which is marked off with lines indicating the parking spaces for cars, the same shall be parked between the lines.

(2006 Code, Ch. 24, § 4.14) Penalty, see § 72.99

§ 72.14 ANGLE PARKING.

Angle parking, at an angle of approximately 45 degrees, shall be allowed on streets as listed in Ch. 75, Sch. III.

(2006 Code, Ch. 24, § 4.15)

§ 72.15 PARKING AT 90-DEGREE ANGLE.

Automobiles and other vehicles shall be parked at an angle of approximately 90 degrees with the curb on those streets or parts of streets described by the town.

(2006 Code, Ch. 24, § 4.16) Penalty, see § 72.99

§ 72.16 UNLAWFUL PARKING.

(A) Displaying the vehicle for sale;

(B) Washing, greasing or repairing the vehicle, except when necessitated by an emergency;

(C) Storage thereof by garages, dealers or other persons when the storage is not incident to the bona fide use and operation of the automobile or other vehicles; and/or

(D) Parking of any detached trailer or van when the towing unit has been disconnected. The term TRAILER shall include, but not be limited to, utility trailers, box cargo trailers of all sizes, dump trailers, boat trailers either loaded or empty.

(Amended 10-2-2007)

(1) For the purpose of this section, where off-street parking space is unavailable, the temporary lawful parking of trailers on the roadway that are utilized by companies or business in construction, demolition or similar business function, shall be permitted during that construction or demolition during daylight hours only. However, under no circumstances shall any trailer remain unattached from the towing unit after sunset.

(Added 10-2-2007)

(2) Parking of any detached trailer or van when the towing unit has been disconnected for the purpose of transferring merchandise or freight from one vehicle to another.

(3) It shall be unlawful for any person, firm or corporation to park or cause to be parked any truck, trailer, truck tractor and/or trailer on any paved street in the town for overnight parking. The terms TRUCK and/or TRUCK-TRACTOR shall mean vehicles having two or more rear axles. Whether the vehicle or trailer is loaded or not shall not be a determining factor. Additionally, regardless of the number of axles, the truck, truck/tractor or tractor trailer shall not exceed a gross weight of more than 10,000 pounds.

(Amended 10-2-2007)

(2006 Code, Ch. 24, § 4.17) Penalty, see § 72.99

§ 72.17 STANDING OR PARKING VEHICLES FOR PURPOSE OF ADVERTISING.

No person shall stand or park on any street any vehicle for the primary purpose of advertising.

(2006 Code, Ch. 24, § 4.18) Penalty, see § 72.99

§ 72.18 STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer or traffic control device, in any of the following places:

(A) On a sidewalk;

(B) On a crosswalk;

(C) Within 30 feet (9.14 meters) of a flashing beacon, stop sign or traffic control signal located at the side of a street or roadway;

(D) Along side or opposite any street excavation or obstruction, when the stopping, standing or parking would obstruct traffic;

(E) Upon any bridge, other elevated structure or within any underpass structure;

(F) Within 15 feet (4.5 meters) in either direction of the entrance to a hotel, theater, hospital, sanatorium or any public building;

(G) On the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street; and/or

(H) Within 15 feet in either direction of any private road or driveway.

(2006 Code, Ch. 24, § 4.19) Penalty, see § 72.99

§ 72.19 MOVING OF VEHICLES OF OTHER OPERATIONS INTO RESTRICTED AREA.

No person shall move a vehicle not owned by the person, into any prohibited area or sufficiently away from curb to make the distance unlawful.

(2006 Code, Ch. 24, § 4.20) Penalty, see § 72.99

§ 72.99 PENALTY.

(A) It shall be the duty of the police officers of the town to attach to any vehicle violating the provisions of this section a notice of civil penalty to the owner/operator thereof that the vehicle has been parked in violation of a provision of this section. The provision shall instruct the owner/operator to report to the Police Department of the town in regard to the violation. Each owner/operator shall, within seven calendar days of the time when the notice was attached to the vehicle, pay to the town, a fee for and full satisfaction of the violation, a sum as established by the Town Board from time to time.

(B) A violation of any provision of this chapter is punishable as an infraction as provided in G.S. § 14-4, unless a violation is charged as a violation of state law in which state law shall control. A violation shall also subject the offender to a civil penalty as set out in the schedule of civil penalties in division (C) below. If the offender fails to pay the civil penalty within the amount of time as set out in the schedule of civil penalties, the penalty shall be increased as set out in divisions (D) and (E) below.

(C) Schedule of civil penalties:

(1) Parking in violation of any part of this section other than as noted in division (C)(2) below: $25 penalty; and

(2) Parking in a disabled space in violation of § 72.09(A): $50 penalty.

(D) If the offender fails to pay the penalty for those offenses set out in division (C)(1) above within seven calendar days after he or she is cited for the violation, the penalty shall be increased to $50. If the offender fails to pay the penalty within 30 calendar days after he or she is cited for the violation, the Chief of Police shall cause a notice of warning to be mailed, by certified mail, to the registered owner that if the penalty is not paid after 60 calendar days of the date of violation the Chief of Police will cause the issuance of an infraction citation or criminal

summons against the owner/violator for failure to pay a duly authorized parking penalty under G.S. § 160A-301.

(E) If the offender fails to pay the penalty for parking in a disabled space as set out in division (C)(2) above within seven calendar days after he or she is cited for the violation, the penalty shall be increased to $100. If the civil penalty is not paid within 30 calendar days after he or she is cited for the violation, the Chief of Police shall cause a notice of warning to be mailed, by certified mail, to the registered owner that if the penalty is not paid after 60 calendar days of the date of violation the Chief of Police will cause the issuance of an infraction citation or criminal summons against the owner/violator for failure to pay duly authorized parking penalty under G.S. § 20-4(b).

(F) Each day's continuing violation shall be a separate and distinct offense.

(G) Obedience to this chapter is chargeable to the person actually operating or in control of the vehicle at the time that it is parked; 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, in accordance with G.S. § 20-162.1.

(H) The owner/operator may appeal the issuance of a civil parking citation to the Chief of Police within seven calendar days of issuance. The Chief of Police will review for legality and reasonableness. The Chief of Police may suspend the civil penalty for "just cause" only. The findings of "just cause" must be specifically noted on the parking citation and maintained by the Police Department's Records Department.

(2006 Code, Ch. 24, § 4.2)

CHAPTER 73: RECREATIONAL VEHICLES

Section

Bicycles

73.01 Definition

73.02 Removal, mutilation, alteration of registration

73.03 Registration and transfer fees

73.04 Reports required of secondhand dealers

73.05 Prohibited on sidewalks and walkways

73.06 Operator to keep hands on handlebars

73.07 Passengers

73.08 Observance of traffic signals

73.09 Entering arterial highway or street

73.10 Lights and reflector required after dark

73.99 Penalty

BICYCLES

§ 73.01 DEFINITION.

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

BICYCLE. A non-motorized vehicle with two or three wheels tandem, a steering handle, one or two saddle seats, and pedals by which the vehicle is propelled.

(2006 Code, Ch. 24, § 6.1)

§ 73.02 REMOVAL, MUTILATION, ALTERATION OF REGISTRATION.

It shall be unlawful for any person to willfully or maliciously remove, destroy, mutilate or alter the number or registration plate issued for any bicycle or the registration card issued with each registration plate, without first re-registering the bicycle under the provisions of this subchapter.

(2006 Code, Ch. 24, § 6.3) Penalty, see § 73.99

§ 73.03 REGISTRATION AND TRANSFER FEES.

(A) Upon the registration of any bicycle under the provisions of this subchapter, the owner shall pay the Town Manager $0.50.

(B) A fee of $0.50 shall be paid for the transfer of ownership of any bicycle from one registered owner to another person.

(C) The fees shall be deemed license fees and shall cover all charges incidental to the registration and the issuance of registration plates and registration cards.

(2006 Code, Ch. 24, § 6.4)

§ 73.04 REPORTS REQUIRED OF SECONDHAND DEALERS.

(A) All persons who shall deal in secondhand bicycles, or parts for secondhand bicycles, shall report to the Chief of Police of the town within 48 hours after acquiring any secondhand bicycle, or parts thereof.

(B) (1) The reports shall include the registration number of the bicycle, a description of each bicycle acquired, together with the name and address of the person from whom the bicycle was acquired.

(2) In event of the purchase of any parts of bicycles, the report shall describe each part and give the name and address of the person from whom the parts were acquired.

(2006 Code, Ch. 24, § 6.6)

§ 73.05 PROHIBITED ON SIDEWALKS AND WALKWAYS.

It shall be unlawful for any person to operate any bicycle upon any sidewalk or pedestrian walkway in the business district of the town.

(2006 Code, Ch. 24, § 6.7) Penalty, see § 73.99

§ 73.06 OPERATOR TO KEEP HANDS ON HANDLEBARS.

It shall be unlawful for any person to operate any bicycle without having his or her hands upon the handlebars at all times.

(2006 Code, Ch. 24, § 6.8) Penalty, see § 73.99

§ 73.07 PASSENGERS.

It shall be unlawful for any person while riding any bicycle to carry any other person thereon unless the bicycle is designed and equipped to carry more than one person.

(2006 Code, Ch. 24, § 6.9) Penalty, see § 73.99

§ 73.08 OBSERVANCE OF TRAFFIC SIGNALS.

All persons operating bicycles shall observe all traffic signals as required of motor vehicles.

(2006 Code, Ch. 24, § 6.10) Penalty, see § 73.99

§ 73.09 ENTERING ARTERIAL HIGHWAY OR STREET.

All persons operating bicycles shall have the bicycles under complete control before entering any arterial highway or street within the town.

(2006 Code, Ch. 24, § 6.11) Penalty, see § 73.99

§ 73.10 LIGHTS AND REFLECTOR REQUIRED AFTER DARK.

It shall be unlawful for any person to operate any bicycle upon the public streets, alleys and ways of the town after dark unless the same shall carry a light attached to the front of the bicycle and a red reflector attached to the rear of the bicycle so that the same may be clearly visible both from the front and rear thereof.

(2006 Code, Ch. 24, § 6.12) Penalty, see § 73.99

§ 73.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person violating any of the provisions of §§ 73.01 through 73.10 shall be guilty of a misdemeanor and, upon conviction by the court, shall be punished in the discretion of the court and the bicycle involved may be impounded by the court for a period not exceeding 30 days.

(2006 Code, Ch. 24, § 6.13)

CHAPTER 74: TRAFFIC SCHEDULES

Schedule

I. Truck routes

II. No-through truck traffic

III. Speed limits

IV. Stop signs

V. Yield signs

VI. Traffic control signals; flashing signals

VII. One-way streets

SCHEDULE I. TRUCK ROUTES.

(A) It shall be unlawful for any person operating a truck going through the town from U.S. 258, north or south, and on U.S. 264, east or west, to use any route through the town other than one designated as a "truck route" with state highway signs.

(B) This schedule shall not apply to trucks required to deviate from the truck route in order to unload or load, to seek repairs or supplies, or to go to and from the home base of the truck or trucks.

(2006 Code, Ch. 24, § 5.20) (Amended 4-1-1997) Penalty, see § 10.99

SCHEDULE II. NO-THROUGH TRUCK TRAFFIC.

Street	***Location/Specification***
Horne Avenue	From Main Street to Ryon Drive
Ryon Drive	Beginning 325 feet northeast of Horne Avenue
Ryon Drive	All trucks must stay a minimum of 9 feet from property line on the eastern side of Ryon Drive
Wallace Street	From S. Main Street to S. Fields Street

(2006 Code, Ch. 24, Sch. 19) (Amended 4-1-1997) Penalty, see § 10.99

SCHEDULE III. SPEED LIMITS.

Street	***Location***	***Speed Limit***
Anderson Avenue	From Main Street to Pitt Street to include all streets within the Town Housing Authority which are Anderson Avenue, Baker Boulevard, Taylor's Turn, the 1200 Block of Pitt Street, Godwin Drive and Nicks Nook (Amended 9-1-1998)	15 mph
Cameron Street	From Vines Street to Thorne Street	25 mph
Cameron Street	From Horton Street to Thorne Street (school opening/closing)	15 mph
Dale Drive	From N. Main Street to Jones Street (Added 1-6-2004)	25 mph
Daniel Drive	From Dale Drive to Dale Drive (Added 1-6-2004)	25 mph
Charter Oakes Drive		25 mph
E. Church Street	From S. Main Street to Moye Street (Added 1-2-2007)	25 mph
E. Horne Avenue	From N. Main Street to Davis Drive (Added 1-2-2007)	25 mph
E. Wilson Street	From Contentnea Street to Grimmersburg Street	35 mph
Fields Street (S.R. 1225)	From U.S. 264 Alternate northward to the corporate limit of the town, a point 0.21 mile north of U.S. 264 Alternate	45 mph
Grimmersburg Street	From E. Wilson street to N. Greene Street	35 mph
Grimmersburg Street	From E. Wilson Street to N. Main Street (Added 1-2-2007)	25 mph
Grimmersburg Street	From N. Green Street to N. Main Street	25 mph
Main Street	From Belcher Street to Southern Railway on S. Main Street	25 mph

Street	***Location***	***Speed Limit***
Main Street (U.S. 258)	From Railroad Street to S.R. 1139 (Added 3-8-2006 by the Department of Transportation)	25 mph
Marlboro Road (U.S. 264)	From the eastern corporate limits of the town extending westward to S.R. 1143	45 mph
May Boulevard (U.S. 258)	From Park Avenue to the northern corporate limit approximately 0.78 mile south of U.S. 264 (Added 3-8-2006 by the Department of Transportation)	45 mph
N. Waverly Street	From E. Wilson Street to N. Contentnea Street (Added 1-2-2007)	25 mph
Parker Court		25 mph
Phillip Court		25 mph
Pinecrest Drive	From N. Pitt Street to N. Waverly Street (Added 1-2-2007)	25 mph
Ryon Drive	From Horne Avenue to Jones Street (Added 6-6-2000)	25 mph
S. George Street	From Wallace Street to Perry Street, school opening/closing (Added 4-4-1995)	15 mph
S. George Street	From Hines to Perry, school opening/closing	15 mph
Stuart Circle (Pecan Grove)		25 mph
Susanna Court		25 mph
Thorne Drive (Pecan Grove)		25 mph
Turnage St. (U.S. 258)	From Wilson Street (U.S. 258-264A to a point 0.10 mile south of the northern corporate limit (Added 11-2-2004)	35 mph
U.S. 258	From the southern corporate limit of the town a point 0.30 mile south of U.S. 264, northward to U.S. 264	45 mph
Walnut Street	From Belcher Street to Church Street	25 mph

Street	*Location*	*Speed Limit*
W. Church Street	From S. George Street to N.C. 121	35 mph
W. Church Street	From S. George Street to S. Main Street	25 mph
W. Church Street	From S. Main Street to N.C. 121 (Added 1-2-2007)	25 mph
W. Horne Avenue	From Barrett Street to N.C. 258 N.	35 mph
W. Horne Avenue	From N. Main Street to Barrett Street	25 mph
W. Horne Avenue	From N. Main Street to May Boulevard (Added 1-2-2007)	25 mph
W. Wilson Street	From railroad at Park Avenue to W. Church Street	45 mph

(2006 Code, Ch. 24, Sch. 14) (Ord. passed - -)

SCHEDULE IV. STOP SIGNS.

Street	*Location*	*Intersection*	*Revision*
Acton Place	At George Street		
Acton Place	At Wright Drive		
Acton Place	At Main Street		
Alexandra Court	At W. Wilson Street		(Added 8-7-2001)
Alfred Drive	At Marlboro Road (U.S. 264)	(both intersections)	
Allen Street	At Contentnea Street		
Anderson Avenue	At Main Street		
Anderson Avenue	At Godwin Drive		
Arrowhead Drive	At Evans Street		(Added 6-3-2003)
Baker Boulevard	At Anderson Avenue		
Baldree Street	At Marlboro Road (U.S. 264)		
Barrett Street	At Pine Street		
Barrett Street	At Church Street		
Barrett Street	At Wilson Street		

Street	*Location*	*Intersection*	*Revision*
Barrett Street	At Belcher Street		
Barrett Street	At Horne Avenue		
Barrett Street	At George Street		
Belcher Street	At May Boulevard		
Belcher Street	At Main Street		
Belcher Street	At Belcher Street	(4-way stop)	(Added 1-6-1998)
Bennett Street	At Williams Street		
Bennett Street	At Cameron Street		
Bennett Street	At Main Street		
Blalock Street	At Marlboro Road (U.S. 264)		
Brandon Street	At S. Pitt Street		(Added 6-3-2003)
Bynum Drive	At May Boulevard	(both intersections)	
"C" Street	At Wallace Street		
Cameron Street	At Acton Place		
Cameron Street	At Marlboro Road		
Charter Oaks Drive	At W. Wilson Street		(Added 8-7-2001)
Church Street	At Wilson Street		
Circle Drive	At Pinecrest Drive		(Added 5-2-2000)
Clubview Drive	At Bynum Drive	(both intersections)	
Contentnea Street	At Pine Street		
Contentnea Street	At Church Street		
Contentnea Street	At Grimmersburg Street		
Contentnea Street	At Horne Avenue		
Contentnea Street	At Main Street		
Cooperative Way	At U.S. 258 North		(Added 12-6-2005)
Cotton Street	At Fields Street		
Cotton Street	At Barrett Street		
Cotton Street	At George Street		
Cotton Street	At Walnut Street		
Cotton Street	At Main Street		
Cotton Street	At Contentnea Street		
Dale Drive	At Sunset Avenue		
Dale Drive	At Main Street		

Street	*Location*	*Intersection*	*Revision*
Darden Street	At Cameron Street		
Darden Street	At McKinney Alley		
Darden Street	At Williams Street		(Added 8-1-2006)
Davis Circle	At Davis Drive		
Davis Drive	At Church Street		
Davis Drive	At Wilson Street		
Davis Drive	At Grimmersburg Street		
Duke Drive	At Main Street		
Duke Drive	At Dale Drive		
Duke Drive	At Sunset Drive		
Evans Street	At N. Pitt		(Added 5-2-2000)
Fields Street	At Marlboro Road (U.S. 264)		
Fields Street	At Church Street		
Fields Street	At Wilson Street		
Fields Street	At Belcher Street		
Fields Street	At Horne Avenue		
Forest Village Drive	At Green Pine Road	(both intersections)	
Garden Court	At Planters Way Drive		(Added 6-3-2003)
George Street	At Williams Street		
George Street	At Pine Street		
George Street	At Church Street		
George Street	At Wilson Street		
George Street	At Belcher Street		
George Street	At Horne Avenue		
Green Street	At Pine Street		
Green Street	At Church Street		
Green Street	At Wilson Street		
Green Street	At Grimmersburg Street		
Green Street	At Horne Avenue		
Green Street	At Waverly Street		
Green Pine Road (S.R. 1143)	At Marlboro Road (U.S. 264)	(both intersections)	

Street	***Location***	***Intersection***	***Revision***
Gregg Street	At May Boulevard		
Grimmersburg Street	At Main Street		
Grimmersburg Street	At Wilson Street		
Harper Court	At W. Prince Road		(Added 3-4-2008)
Hillcrest Drive	At Church Street		
Hines Street	At George Street		
Hines Street	At Main Street		
Hines Street	At Crestwood Drive		
Hollywood-10	At Pitt Street		
Horne Avenue	At May Boulevard		
Horne Avenue	At Walnut Street		
Horne Avenue	At Main Street		
Horne Avenue	At Davis Drive		
Horton Street	At Williams Street		
Horton Street	At Cameron Street		
Horton Street	At Main Street		
Howard Drive	At Evans Street		(Added 6-3-2003)
Industrial Drive	At Anderson Avenue	(both intersections)	
Jones Street	At Main Street		
Kenna Street	At Ellis Avenue		(Added 6-3-2003)
Kenna Street	At Brandon Street		(Added 6-3-2003)
Lang Street	At Walnut Street		
Lang Street	At Main Street		
Lang Street	At Contentnea Street		
Lang Street	At Green Street		
Lee Drive	At Wilson Street		
Lee Drive	At Grimmersburg Street		
Mandarin Drive	At Church Street		
Martha Loop	At Pitt Street		
Martha Loop	At Prince Road		
May Street	At Pine Street		
May Street	At Church Street		
May Street	At Wilson Street		

Street	*Location*	*Intersection*	*Revision*
May Street	At Belcher Street		
May Street	At Horne Avenue		
McKinney Alley	At Darden Street		
Melissa Drive	At Pitt Street		
Moore Street	At Fields Street		
Moore Street	At Barrett Street		
Moore Street	At George Street		
Moore Street	At Walnut Street		
Moore Street	At Main Street		
Moye Street	At Wilson Street		
Nick's Nook	At Godwin Drive		
N. Railroad Street	At Walnut Street		
N. Railroad Street	At George Street		
N. Walnut Street - south bound	At Horne Avenue		(Added 1-4-2005)
N. Walnut Street - north bound	At Horne Avenue		(Added 1-4-2005)
N. Walnut Street	At Belcher Street	(4-way stop)	(Added 1-6-1998)
Park Avenue	At Church Street		
Park Avenue	At Wilson Street		
Park Avenue	At May Boulevard		
Park Avenue	At Belcher Street		
Parker Court	At Charter Oaks Drive		(Added 8-7-2001)
Perry Street	At George Street		
Perry Street	At Main Street		
Perry Street	At Crestwood Drive		
Phillip Court	At Charter Oaks Drive		(Added 8-7-2001)
Pine Court	At Evans Street		(Added 8-7-2001)
Pine Street	At Mandarin Drive		
Pine Street	At Turnage Street		
Pine Street	At Fields Street		
Pine Street	At Pitt Street		
Pinecrest Drive	At Contentnea Street		
Pinecrest Drive	At Main Street		
Pinecrest Drive	At N. Pitt Street		(Added 5-2-2000)

Street	*Location*	*Intersection*	*Revision*
Pitt Street	At Church Street		
Pitt Street	At Wilson Street		
Pitt Street	At Grimmersburg Street		
Pitt Street	At Horne Avenue		
Pittman Alley	At Barrett Street		
Planters Way Drive (north entrance)	At U.S. 258 North		(Added 6-3-2003)
Planters Way Drive (south entrance)	At U.S. 258 North		(Added 6-3-2003)
Prince Road	At Pitt Street		
Ryon Drive	At Horne Avenue		
S. George Street	At W. Perry Street	(4-way stop)	(Added 7-7-1998)
S. George Street	At Wallace Street	(4-way stop)	(Added 1-6-1998)
S. Railroad Street	At George Street		
S. Railroad Street	At Main Street		
S. Railroad Street	At Walnut Street		
Sunset Avenue - east bound	At Duke Drive		(Added 10-1-2002)
Sunset Avenue - west bound	At Duke Drive		(Added 10-1-2002)
Sunset Avenue	At Walnut Street		
Susanna Court	At Charter Oaks Drive		(Added 8-7-2001)
Thorne Street	At Williams Street		
Thorne Street	At Cameron Street		
Thorne Street	At Main Street		
Tobacco Road Court	At N. Fields Street		(Added 6-3-2003)
Trey Court	At W. Prince Road		(Added 3-4-2008)
Turnage Street	At Pine Street		
Turnage Street	At Church Street		
Wallace Street	At Fields Street		
Wallace Street	At Main Street		
Wallace Street	At S. George Street	(4-way stop)	(Added 1-6-1998)
Walnut Street	At Acton Place		
Walnut Street	At Wallace Street		

Street	*Location*	*Intersection*	*Revision*
Walnut Street	At Pine Street		
Walnut Street	At Perry Street		
Walnut Street	At Church Street		
Walnut Street	At Dale Drive		
Walnut Street	At Hines Street		
Walnut Street	At Jones Street		
Waverly Street	At Pine Street		
Waverly Street	At Church Street		
Waverly Street	At Wilson Street		
Waverly Street	At Grimmersburg Street		
Waverly Street	At Horne Avenue		
Waverly Street	At Contentnea Street		
W. Perry Street - west bound	At Wright Drive		(Added 6-1-2004)
W. Perry Street	At S. George Street	(4-way stop)	(Added 7-7-1998)
Williams Street	At Acton Place		
Williams Street	At S. George Street		(Added 8-1-2006)
Williams Street	At Bennett Street		(Added 8-1-2006)
Woodsway Lane	At Green Pine Road		
Wright Drive	At Perry Street		
Zeno Street	At N. Railroad Street		
Zeno Street	At Moore Street		
Zeno Street	At Cotton Street		

(2006 Code, Ch. 24, Sch. 15) Penalty, see § 10.99

SCHEDULE V. YIELD SIGNS.

Street	*Location*
Hillcrest Drive (southwest corner)	At Hillcrest Drive
May Court	At Hillcrest Drive
Waverly Street	At Pinecrest
Waverly Street traffic island	On the south corner and on the northwest corner of Pitt Street at Circle Drive for southwest bound traffic

(2006 Code, Ch. 24, Sch. 16) Penalty, see § 10.99

SCHEDULE VI. TRAFFIC CONTROL SIGNALS; FLASHING SIGNALS.

(A) Traffic control signals.

Church Street and Main Street
Contentnea Street and Wilson Street
Marlboro Road and Main Street
May Street and Wilson Street
Pine Street and Main Street
Wallace Street and George Street
Walnut Street and Wilson Street
Wilson Street and Main Street

(2006 Code, Ch. 24, Sch. 17)

(B) Flashing signals.

Barrett Street and Belcher Street
Church Street and Fields Street
Contentnea Street and Church Street
Contentnea Street and Horne Avenue
Horne Avenue and Main Street
Pine Street and Fields Street

(2006 Code, Ch. 24, Sch. 18)

SCHEDULE VII. ONE-WAY STREETS.

Street	***Location***	***Revision***
Belcher Street	From N. Main Street to N. Walnut Street	(Added 1-6-1998)
Park Avenue	From May Boulevard to Belcher Street	(Amended 8-5-1986)

(2006 Code, Ch. 24, Sch. 8) Penalty, see § 10.99

CHAPTER 75: PARKING SCHEDULES

Schedule

I. Prohibited parking

II. Areas reserved as stands for specific purposes

III. Angle parking

SCHEDULE I. PROHIBITED PARKING.

(A) *Parking prohibited at all times.*

Street	Side(s)	From	To
Belcher Street	North	Rescue Building	May Boulevard
Belcher Street	South	May Boulevard	170 feet west
Bennett Street	South	Cameron Street	Main Street
Bonnie's Al. (Added 10-2-2007)	North	W. Wilson Street	From 72 ft. North, along the curb line to 140 ft. – 15 min. timed parking daily from 0800 - 1700
Davis Drive	East	Grimmersburg Street	85 feet south
E. Pine Street	North	S. Main Street	S. Contentnea Street (no sign)
E. Wilson Street	North	N. Contentnea Street	N. Davis Drive
Grimmersburg Street	North	Davis Drive	30 feet west
Grimmersburg Street (Added 10-7-2003)	North	East and west from Lee Street	40 feet
Joe Phillips Lane (Added 10-2-2007)	Both	E. Wilson Street	Grimmersburg Street
Jones Street	South	Ryon Drive	420 feet
N. Main Street	East	Grimmersburg Street	64 feet south
N. Walnut Street (Added 8-7-2001)	East	Belcher Street	W. Horne Street
Perry Street	North	Wright Drive	20 feet east
RL Davis Ln	North	W. Church St.	From 147 ft. north, along the curb line to 177 ft. 15 min. times parking daily from 0800-1700.
RL Davis LN	North	W. Church St.	From 177 ft. north, along the curb line to 192 ft. designated handicap parking space
Ryon Drive	East	Jones Street	Horne Avenue

Street	Side(s)	From	To
S. Fields Street	Both	W. Church Street	W. Pine Street (more signs)
S. Fields Street	West	Beginning at Mestek, Inc. entrance extending 128 feet southwest along right-of-way	
S. George Street	Both	Wallace Street	30 feet each direction (sign HTC)
S. Main Street	East	Anderson Drive	Marlboro Road
S. Main Street	West	Bennett Street	Marlboro Road (more signs)
S. Main Street	West	Railway Crossing	Wallace Street
S. Main Street	East	Anderson Drive	20 feet north
S. Walnut Street	East	W. Wilson Street	W. Church Street
Turnage Street	Both	W. Wilson Street	W. Pine Street (no signs)
U.S. 258	Both	W. Wilson Street	North to corporate limit
U.S. 264 Alternate	Both	Corporate limit (east)	Corporate limit (west)
Wallace Street	North	S. Main Street	80 feet west (sign HTC)
Wallace Street	Both	George Street	30 feet both directions (sign HTC)
W. Church Street	North	S. Fields Street	45 feet west
W. Church Street	South	S. Fields Street	45 feet west
W. Church Street	North	S. Walnut Street	R.L. Davis Lane (no signs)
W. Horne Avenue (Added 11-6-2007)	South	N. Walnut Street	N. George Street
W. Lang Street	North	N. Main Street	N. Walnut Street
W. Pine Street	North	S. Main Street	S. Walnut Street (no signs)
W. Wilson Street	North	S. Fields Street	30 feet east
W. Wilson Street	South	S. Fields Street	50 feet west (sign HTC)
W. Wilson Street	North	N. Walnut Street	Turnage/May Boulevard
Wright Drive	East	Perry Street	30 feet south

(2006 Code, Ch. 24, Sch. 1) (Ord. 755, passed 5-1-2012)

(B) Parking prohibited at all times in designated places.

Street/Specification	***Side(s)***	***From***	***To***
Davis Drive During school opening/closing (7:00 a.m. - 9:00 a.m. and 2:00 p.m. - 4:00 p.m. school days)	Both	Grimmersburg Street	E. Horne Avenue - no signs
E. Church Street From 8:00 a.m. - 6:00 p.m. (Added 4-1-1997)	South	Main Street	Contentnea Street
Grimmersburg Street From 8:00 a.m. - 5:00 p.m.	South	N. Main Street	N. Contentnea Street
Grimmersburg Street During school opening/closing (7:00 a.m. - 9:00 a.m. and 2:00 p.m. - 4:00 p.m. school days)	South	Davis Street	Wilson Street
Lee Street During school opening/closing (7:00 a.m. - 9:00 a.m. and 2:00 p.m. - 4:00 p.m. school days)	Both	Grimmersburg Street	Wilson Street
S. Contentnea Street From 9:00 a.m. - 5:00 p.m. (Added 5-7-1996)	West	E. Church Street	104 feet south

(2006 Code, Ch. 24, Sch. 2)

(C) Parking time limited in designated places.

Street	***Side(s)***	***From***	***To***
W. Church Street	South	S. Main Street	Easter corner of First Christian Church lot - no parking, except Sundays

(2006 Code, Ch. 24, Sch. 5)

Penalty, see § 10.99

SCHEDULE II. AREAS RESERVED AS STANDS FOR SPECIFIC PURPOSES.

Streets	***Side(s)***	***From***	***To/Specifications***
Bonnie's Al.	Both	120 feet north from W. Wilson Street	Belcher Street 10 min. Max. loading zone only
Brightleaf Shopping Center	South	West end of building	East end of building (Added 10-2-2007)
E. Wilson Street	South	The second and third space from Green Street, disabled parking/Sunday only	
E. Wilson Street	South	N. Main Street	24 feet extending 19 feet disabled space
Eli Joyner Lane	Both	E. Wilson Street	E. Church Street No parking between 8:00 a.m. and 5:30 p.m., except for 10 min. Max. loading zone only and on Sundays and holidays
Farmville Town (Retail) Center	East	South end of building	North end of Food Lion (Added 10-2-2007)
Grimmersburg Street	North	N. Waverly Street	36 feet west, and extending 94 feet west along the curb line, two disabled spaces
Grimmersburg Street	North	N. Main Street	29 feet east, extending 20 along the curbline, loading zone (Added 7-7-1998)
Grimmersburg Street	North	N. Main Street	49 feet east, extending 22 feet along the curbline (Added 7-7-1998)
Grimmersburg Street	North	N. Main Street	57 feet east, extending 16 feet along the curbline, no parking (Amended - -)

Streets	*Side(s)*	*From*	*To/Specifications*
Grimmersburg Street	North	N. Main Street	95 feet east, extending 22 feet along the curb-line, disabled parking (Amended - -)
N. Main Street	East	Grimmersburg Street	Beginning 291 feet south and continuing to 309 feet, 6 inches; disabled parking (Added 1-20-1993)
N. Main Street	East	Grimmersburg Street	38 feet. north, extending 48 feet along the curbline, 10 min. Max. loading zone only
N. Main Street	East	Grimmersburg Street	87 feet south, extending 27 feet along the curbline, disabled parking (Added 5-1-2001)
Park Avenue	West	Belcher Street	95 feet north, extending 80 feet along the curbline loading zone Monday-Friday, from 8:30 a.m. until 12:30 p.m. (Added 9-1-1998)
Park Avenue	West	Belcher Street	287 feet north, extending 26 feet along the curbline, disabled parking (Added 5-7-2002)
R.L. Davis Lane	Both	W. Church Street	W. Wilson Street 10 min. Max. loading zone only
S. George Street (Added 12-4-2007)	West	W. Hines Street	184 feet south, continuing 71 feet along the curb. Load/unloading only between 7:00 and 9:30 a.m. and 3:30 and 5:30 p.m.

Streets	*Side(s)*	*From*	*To/Specifications*
S. Green Street	East	Beginning at the Child Development Center's southwest driveway	Extending 35 feet to the northeast driveway at the Child Development Center, bus loading/unloading only
S. Walnut Street	West	S. Walnut Street	37 feet south, extending 20 feet along the curbline, disabled parking (Added 11-2-1999)
S. Walnut Street	West 20 feet	S. Walnut Street	61 feet south, extending along the curbline, disabled parking (Added 11-2-1999)
W. Wilson Street	South	S. Walnut Street	130 feet east extending 21 feet, disabled space (Added 10-2-2001)

(2006 Code, Ch. 24, Sch. 7) Penalty, see § 10.99

SCHEDULE III. ANGLE PARKING.

Street	*Side(s)*	*From*	*To*
Belcher Street	North	N. Main Street	N. Walnut Street

(2006 Code, Ch. 24, Sch. 10) Penalty, see § 10.99

CHAPTER 76: REGULATING THE OPERATION OF GOLF CARTS ON PUBLIC STREETS AND ROADS

§ 76.01 AUTHORITY TO REGULATE.

Pursuant to Session Law 2006-27 as enacted by the North Carolina General Assembly, the Town of Farmville is authorized, by ordinance, to regulate the operation of golf carts on any public street or road within the Town of Farmville.

§ 76.02 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:

Golf cart - means "golf cart" as defined by N.C. G.S. Section 20-4.01(12a), or any successor statutory definition. As of the date of this Ordinance's initial adoption, such definition reads as follows: "A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 25 miles per hour."

Operator – Persons that have a valid Driver's License

Operate - means to drive, or be in physical control of a golf cart that is moving or has its key inserted and in the on position.

Public streets and roads – means those streets, roads and highways owned and/or maintained by the Town or the State of North Carolina, including any associated right-of-way.

Town – means the Town of Farmville.

§ 76.03 RULES AND REGULATIONS FOR OPERATION ON PUBLIC STREETS AND ROADS.

It is unlawful to operate a golf cart on a public street or road within the Town unless the following requirements are met:

(A) The golf cart must display a valid registration sticker as provided in Section 99-4.

(B) Golf carts may only be operated on town maintained roads that have a speed limit of 35 MPH or less. However, golf carts may cross over state maintained roads and roads that have a speed limit greater than 35 MPH.

(C) No person may operate a golf cart unless they are 16 years of age and have a valid driver's license.

(D) Only the number of people the golf cart is designed to seat may ride on a golf cart and all passengers must be properly seated. Passengers shall not be carried on the part of a golf cart designed to carry golf bags.

(E) Riders may not be transported in a negligent manner.

(F) No golf cart may be operated at a speed greater than 25 miles per hour.

(G) Golf carts must be operated in accordance with all applicable state and local laws and ordinances, including all laws, regulations and ordinances pertaining to the possession and use of alcoholic beverages.

(H) Golf carts must be operated to the extreme right of the paved portion of the roadway, and must yield to all vehicular, bicycle and pedestrian traffic.

(I) Golf carts are not allowed to be driven on any sidewalks in Town.

(J) Golf Carts will not be operated on private property without permission from the property owner.

(K) The operator must possess proof of liability insurance in an amount not less than required by North Carolina law for motor vehicles operated on a public highway in the State of North Carolina.

(L) No golf cart may be operated on public streets or roads between one half hour after sunset and one half hour before sunrise unless equipped with two operating headlights (one on each side of the front of the golf cart) and two operating tail lights with brake lights (one on each side of the rear of the golf cart) which are visible from a distance of at least five hundred (500) feet.

(M) The Chief of Police, or his designee, may prohibit the operation of golf carts on any street or road if the Chief determines that the prohibition is necessary in the interest of safety.

§ 76.04 SAFETY INSPECTION AND FEES

(A) Golf Cart owners must complete a registration form that will be filed with the Police Department.

(B) All Golf Carts must meet the requirements or minimum standard of safety equipment, to wit:

(1) Headlamps,

(2) Tail lamps,

(3) Stop lamps,

(4) Rear View Mirror,

(5) Lap Belts and/or Child Restraints,

(6) Reflective "Slow Moving Vehicle" Sign Affixed on the Rear of the Golf Cart,

(7) Parking brake,

(8) Windshield,

(9) VIN# or identification number of the golf cart.

(C) No golf cart may be driven on any public street or road, or right-of-way associated therewith, within the Town, other than on a golf course, or at properly designated golf cart crossings, without a permit being acquired from the Farmville Police Department and attached to a conspicuous place on the lower left windshield.

(D) An annual inspection and fee of fifty dollars ($50.00) per golf cart will be charged by the Town for the inspection and permit sticker. An applicant's initial fee shall be prorated based on the calendar year. The registration year will be from January 1 until December 31.

(1) Inspection by Police Department $50.00 Annually

(Includes permit and sticker)

(2) Inspection by Police Department $20.00

(If a Golf cart fails the initial inspection)

(E) Lost or Stolen Permit/Stickers are the responsibility of the owner. A Police report must be filed in the event of a Lost or Stolen Permit/Sticker. The Chief of Police will have the discretion in determining whether a Permit/Sticker may be re-issued (at no cost) in this instance.

If no record can be found of a previous application, or the receipt of a Permit/Sticker, the Chief of Police may direct the applicant to reapply, and also resubmit any and all fees necessary, before a replacement Permit/Sticker is issued.

§ 76.05 ENFORCEMENT OF VIOLATIONS

(A) Violation of the provisions of this ordinance shall be a civil penalty, the maximum penalty for which shall be fifty dollars ($50.00). Notwithstanding the foregoing persons who, while driving golf carts on public streets within the Town, violate the "Rules of the Road" applicable to motor vehicles generally (as set forth in Part 10 of N.C.G.S. Chapter 20), shall be subject to the same penalties applicable to the operators of such other motor vehicles.

(B) More than one violation of any of the provisions of this chapter within the same registration year as defined in Section 99-4: Safety Inspection and Fees (D) may also result in the revocation of the golf cart registration that is assigned to that golf cart owner.

(C) Per town ordinance, Title I, Chapter 10, Section 10.99 General Penalty, a violation of any provision of this code of ordinances of the town shall be punishable by imposition of a civil penalty payable to the town as authorized by G.S. § 160A-175(c). All penalties imposed shall be in the amount of $50 per day, if not paid within 30 days. Each day's continuing violation of the ordinance after notice is received by the offending party shall be deemed a separate offense punishable by imposition of a separate civil penalty of the amount specified herein.

§ 76.06 LIABILITY DISCLAIMER

This ordinance is adopted in the interests of public safety. Golf carts are not designed, or manufactured to be used on public streets, and the town in no way advocates or endorses their operation on public streets or roads. The town, by regulating such operation, is merely trying to address obvious safety issues, and adoption of this ordinance is not to be relied upon as a determination that operation on a public street or public vehicular area is safe or advisable. Persons who operate or ride upon golf carts on public streets or public vehicular areas do so at their own risk.

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. CEMETERIES

92. DEMONSTRATIONS, PARADES AND PICKETING

93. TREES AND COMMUNITY APPEARANCE

94. FIRE PROTECTION AND PREVENTION

95. STREETS AND SIDEWALKS

96. RECREATION AND LEISURE

97. SOLID WASTE

98. PUBLIC HEALTH AND SANITATION; NUISANCES

99. FALSE ALARM REGULATIONS

CHAPTER 90: ANIMALS

Section

General Provisions

90.01 Livestock

90.02 Birds

90.03 Chickens

Domesticated Animals

90.15 Definitions

90.16 Animals running at large

90.17 Nuisance animals

90.18 Vicious animals

90.19 Declaration of dangerous dog

90.20 Regulating number of dogs

90.21 Tags and collars

90.22 Notice of violation

90.23 Maintenance of Pens, Lots, Etc.

90.99 Penalty

GENERAL PROVISIONS

§ 90.01 LIVESTOCK.

It shall be unlawful for any person, firm, corporation or group of persons to keep ponies, horses, mules, cows, swine, or other livestock in the town or to maintain a stable, lot or other area for any pony, horse, mule or other livestock. If, at the time of annexation, a parcel of land is in active use for the purpose of grazing horses or cattle, this use may be continued. If active use of the parcel of land for this purpose is discontinued for a continuous period of two years, the use thereafter shall not be permitted. Subsequent to annexation, if the parcel of land is used for other purposes than grazing of cattle or horses then its use cannot be reverted back to grazing. The use shall also be discontinued if the parcel of land adversely affects enjoyment and use of nearby

properties by creating excessive noise or odor, promoting unhealthful vectors or a haven for pests or otherwise endanger public health or safety. This is not intended to prevent the sale of baby chicks, ducklings, or other fowl provided all other provisions are met.

(2006 Code, Ch. 3, § 1.0) (Amended 10-4-1983; 1-6-1987; 1-2-1990; 2-6-1990) Penalty, see § 90.99

§ 90.02 BIRDS.

The entire area of the town is hereby created and established as a bird sanctuary, as to all birds protected by the State Wildlife Resources Commission or otherwise by state law. It shall be unlawful for any person to hunt, trap, kill or otherwise take any protected bird within the town limits, except pursuant to a permit issued under G.S. § 160A-188.

(2006 Code, Ch. 3, § 3.0) (Amended 10-4-1983; 1-6-1987; 1-2-1990; 2-6-1990) Penalty, see § 90.99

§ 90.02 CHICKENS.

(A) Lot Size, Total Allowable, Setback Requirements:

Lot Size	Maximum Number of Chickens Allowed	Minimum Setback from Adjacent Residential Structure
1 Acre or Greater	10	32’
.5 to 0.99 Acres	10	30’
.25 to .49 Acres	5	28’

(B) No male chickens (Roosters) will be allowed.

(C) Chickens may not be free range, but must be caged.

(D) Animals shall only be kept on owner occupied parcels or on parcels occupied by renters with the permission of the owners. No animals shall be kept on undeveloped parcels zoned for residential or commercial use.

(E) Setbacks established in 90.03 (A) shall not apply to residences constructed after the establishment of such livestock containment area, however, the containment area may not encroach further towards the newly established residence.

(F) A covered enclosure or fenced enclosure must not be located closer to a neighboring principal structure than one's own principal structure.

(G) A covered enclosure or fenced enclosure shall not be located closer than ten (10) feet to any adjacent property line or side street right of way, however, this requirement can be waived as follows:

(1) If the principal use of applicant's property is for a single-family dwelling, to obtain such a waiver the applicant shall present at the time of applying for a permit the written statements of all adjacent landowners that there is no objection to the issuance of the permit.

(2) If the principal use of the applicant's property is for a two-family dwelling, to obtain such a waiver the applicant shall present at the time of applying for a permit the written statements of all adjacent landowners and of the occupants of the other dwelling stating that there is no objection to the issuance of the permit.

(3) For purposes of this section, adjacent property means all parcels of property that the applicant's property comes into contact with at one or more points, except for parcels that are legally adjacent to but are in fact separated from the applicant's property by a public or private street.

(H) Chickens shall not be kept in the front yard, side yard, or corner side-yard of the residence.

(I) Permit Required – Before any person shall keep chickens on their property, they must obtain a permit from the Town. The property owner will complete and submit the required application form to the Town' Planning Department and include a sketch drawing showing the location, size, and materials to be used for fencing and enclosures.

(1) Fencing and Enclosures must be of adequate size and of appropriate materials for the safe and humane keeping of chicken as determined by the Town's Animal Control Officer.

(2) All enclosures for the keeping of chickens shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure.

(3) If the above requirements are not complied with, the Town may revoke any permit granted under this section and/or initiate prosecution for a civil violation. A person who has been issued a permit shall submit it for examination upon demand by any police officer or code enforcement officer.

(J) Appeals – Appeals of staff decisions are made to the Town's Board of Adjustment.

(K) Permit Revocation – Permits can be revoked by staff if

(1) Fencing and enclosures are not kept in a well maintained state or if the animals are not humanely cared for.

(2) Any requirements listed in 90.03 are not met.

Statutory reference:

Related provisions, see G.S. § 160A-188

DOMESTICATED ANIMALS

§ 90.15 DEFINITIONS.

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

ANIMAL CONTROL OFFICER. Any employee designated by the Town Chief of Police to perform the duties as described by this chapter. The Animal Control Officer, in the performance of his or her duties, shall have all the powers, authorities and immunities granted under this subchapter, and by the general laws of the state to enforce the provisions of this chapter which relate to the care, treatment or impounding of animals, but shall not have the power of arrest.

DANGEROUS DOG.

(1) Any dog with a known propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise threaten the safety of human beings or domestic animals;

(2) Any dog which, without provocation, has attacked or bitten a human being or domestic animal;

(3) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting; or

(4) Any dog which, without provocation, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack.

DOMESTICATED ANIMALS. Any canine, feline or other domesticated animal permitted under the laws of the state, both male and female.

NUISANCE ANIMALS. Any animal that:

(1) Damages the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damaging gardens, flowers or vegetables;

(2) Prolonged and habitual barking, howling and whining;

(3) Habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, bicycles or vehicles;

(4) Is a vicious animal; and/or

(5) Causes unsanitary conditions of enclosures or surroundings.

VICIOUS ANIMAL. Any animal which constitutes a physical threat to human beings or other animals by virtue of attacks of a number and severity as to cause property damage or physical injury.

(2006 Code, Ch. 3, § 2.1) (Amended 10-4-1983; 1-6-1987; 1-2-1990; 2-6-1990)

§ 90.16 ANIMALS RUNNING AT LARGE.

(A) It shall be unlawful for any person owning or having possession, charge, care, custody or control of any animal to fail to keep the animal exclusively upon his or her own premises; provided that, the animal may be off the premises if it be under the control of a competent person and restrained by chain or leash or other means of adequate physical or verbal supervision and control.

(B) The Police Department is hereby charged with the duty of impounding all animals running at large in violation of the provisions of this chapter.

(C) A fee of $10 will be charged per day for the impoundment and keeping of any animal impounded by the Police Department. The owner or owners of any animals impounded hereunder may redeem the same by paying all the costs, charges and penalties assessed, if any, that have accrued up to the time of making the redemption and, when the same are paid to the Finance Department, it shall be the duty of the Police Department to release the animal from the pound and deliver him or her to the owner thereof.

(D) Impounded animals shall be kept for not less than five days unless reclaimed sooner by their owners. If an impounded animal has a registration tag or other identification which identifies the owner, it shall be the duty of the impounding officer to notify the owner of the animal within 48 hours of the fact of the animal's impoundment. Any animal not claimed by an owner within ten days may be sold to any member of the public for a fee of $10, or transported to the Pitt County Animal Shelter.

(2006 Code, Ch. 3, § 2.2) (Amended 10-4-1983; 1-6-1987; 1-2-1990; 2-6-1990) Penalty, see § 90.99

§ 90.17 NUISANCE ANIMALS.

(A) Any person keeping within the corporate limits of the town one or more animals which, by prolonged and habitual barking, howling or whining cause serious annoyance to neighboring residents and interfere with the reasonable use and enjoyment of the premises occupied by the residents for other reasons as defined shall be guilty of maintaining a nuisance.

(B) Upon complaint being made by any resident or residents referred to hereof, the Animal Control Officer or police officer shall investigate the complaint, unless it has been made in writing and signed. Upon receiving a written and signed complaint, or verification of an oral complaint, a representative of the Police Department shall notify the person against whom the complaint is directed that a complaint has been received, and thereupon, the person shall abate the nuisance declared hereof, within 24 hours from the time of notification.

(C) (1) It shall be unlawful for any owner, possessor or harborer of any animal to allow the animals(s) under his or her control, whether at large or under restraint, to defecate on the private property of another.

(Amended 6-5-2001)

(2) It shall be unlawful for any owner, possessor or harborer of any animal(s) under his or her control, whether at large or under restraint, to defecate upon any public property or public right-of-way without immediately removing and properly disposing of the defecation of the animal(s) in an appropriate trash receptacle.

(Added 6-5-2001)

(2006 Code, Ch. 3, § 2.3) (Amended 10-4-1983; 1-6-1987; 1-2-1990; 2-6-1990) Penalty, see § 90.99

§ 90.18 VICIOUS ANIMALS.

(A) It shall be unlawful for any person to own, keep, possess or, in any way, maintain a vicious animal within the corporate limits of the town. After a determination by the designated agent or employee of the town that a particular animal is vicious, the owner or keeper of the animal shall have it humanely destroyed, or shall otherwise remove it from within the corporate limits of the town.

(B) Any person who owns or keeps an animal which has been declared wild or vicious shall have the right to appeal this decision to the Town Manager. The Town Manager, or his or her representative, shall conduct an informal hearing to determine whether the animal is wild or vicious.

(C) Each wild or vicious animal and each day's continuing violation shall constitute a separate and distinct violation, subject to further penalties.

(2006 Code, Ch. 3, § 2.4) (Amended 10-4-1983; 1-6-1987; 1-2-1990; 2-6-1990) Penalty, see § 90.99

§ 90.19 DECLARATION OF DANGEROUS DOG.

(A) *General.* If the Animal Control Officer has cause to believe that a dog is dangerous, the Animal Control Officer may find and declare that dog a dangerous dog.

(B) *Notice of dangerous dog declaration.* Within five days of declaring a dog dangerous, the Animal Control Officer shall notify the dog's owner in writing of the declaration. The notice shall identify the requirements and conditions for maintaining a dangerous dog as set forth in this chapter. If the owner cannot be located, the dog may be immediately impounded and notice shall be posted on the owner's property or sent by certified mail to the owner's last known address.

(C) *Hearing on dangerous dog declaration.*

(1) The owner of a dog declared dangerous shall have the right to file, within five days after receiving notice, a written request for a hearing to contest the dangerous dog declaration. The hearing shall be held by the Town Manager within ten days after the Town Clerk receives the owner's written request.

(2) The hearing shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence and cross-examine witnesses.

(3) The Town Manager shall issue a decision within five days after the close of the hearing and shall notify the owner in writing of the decision.

(4) If the Town Manager upholds the dangerous dog declaration, the owner shall comply with all of the requirements and conditions for maintaining a dangerous dog as set forth in this chapter.

(5) The decision of the Town Manager is final.

(D) *Requirements for keeping a dangerous dog.* The owner of a dangerous dog shall be subject to the following requirements.

(1) *Confinement.* All dangerous dogs shall be securely confined indoors or in an enclosed and locked pen or structure upon the premises of the owner. The pen or structure must have minimum dimensions of five feet by ten feet and must have secure sides and a secure top attached to the sides. If no bottom is secured to the sides, the sides must be embedded into the ground no less than two feet. All pens or structures must be adequately lighted and kept clean and sanitary. The enclosure must also protect the dog from the elements.

(2) *Leash and muzzle.* The owner of a dangerous dog shall not allow the dog to go outside the kennel, pen, or structure unless the dog is muzzled, restrained by a chain or leash not more than four feet in length, and under the physical control of a person. The muzzle must not cause injury to the dog or interfere with its vision or respiration, but must prevent the dog from biting any human or animal.

(3) *Signs.* The owner of a dangerous dog shall display in prominent place on the owner's premises a clearly visible warning sign indicating that there is a dangerous dog on the premises. The sign must be readable from the public highway or thoroughfare. The owner shall also display a sign with a symbol warning children of the presence of a dangerous dog. Similar signs shall be posted on the dog's kennel, pen or enclosed structure.

(4) *Insurance.* The owner of a dangerous dog must provide proof to the Town Clerk that the owner has procured public liability insurance of at least $100,000, insuring the owner for any damage or personal injury which may be caused by his or her dangerous dog.

(E) *Impoundment and destruction.* The Town Manager may order the impoundment and destruction of a dog where:

(1) The dog has attacked, bitten or injured a human being or domestic animal;

(2) The dog is a dangerous dog as defined herein and the owner has failed to comply with the requirements and conditions for keeping a dangerous dog as defined herein; and/or

(3) The dog poses a threat of serious harm to the public health or safety.

(F) *Notice of impoundment.* Within 48 hours of an impoundment, the Animal Control Officer shall notify the dog's owner in writing of the impoundment.

(G) *Hearing on impoundment/destruction.*

(1) The owner of the impounded dog shall have the right to file, within five days after receiving notice, a written request for a hearing to contest the impoundment.

(2) The hearing shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence and cross-examine witnesses.

(3) The Town Manager shall issue a decision within five days after the close of the hearing and shall notify the owner in writing of the decision.

(4) After considering all of the relevant evidence, the Town Manager may order the destruction of the impounded dog, or may release the dog to its owner conditional on the owner complying with the requirements for keeping a dangerous dog as set forth herein, or complying with any other requirements necessary to protect the public health or safety.

(5) If the owner of an impounded dog fails to appear at a hearing or fails to request a hearing, the dog shall be destroyed.

(H) *Exemptions.*

(1) This chapter shall not apply to dogs used by a police department or law enforcement agency.

(2) No dog may be declared dangerous for injury or damage sustained by a person who was committing a willful trespass or other tort upon the premises of the dog's owner.

(3) No dog may be declared dangerous for injury or damage sustained by a person who was teasing, tormenting, abusing or assaulting the dog.

(I) *Change of status.* The owner of a dangerous dog shall notify the Town Manager within 24 hours if the dangerous dog is unconfined and on the loose, or has attacked a human being or domestic animal.

(J) *Change of ownership.* If the owner of a dangerous dog sells, gives away or otherwise transfers custody of the dangerous dog, the owner shall, within five days, provide the Animal Control Officer with the name, address and telephone number of the new owner. The previous owner shall notify the new owner of the dog's designation as a dangerous dog and of the requirements and conditions for keeping a dangerous dog.

(K) *Dog fighting.* No person shall possess, harbor or maintain care or custody of any dog for the purpose of dog fighting, nor shall any person train, torment, badger, bait or use any dog for the reason of causing or encouraging the dog to attack human beings or domestic animals.

(2006 Code, Ch. 3, § 2.4a) (Amended 10-4-1983; 1-6-1987; 1-2-1990; 2-6-1990) Penalty, see § 90.99

§ 90.20 REGULATING NUMBER OF DOGS.

(A) It shall be unlawful for any person to keep on any one lot or premises within the corporate limits more than three animals in excess of 15 pounds and not more than four animals total.

Provided, however, this limitation shall not apply to animals which are less than six months of age.

(Amended 8-2-1994)

(B) Any person wishing to keep more than four animals on any lot or premises shall apply to the Town Manager for a license to operate a kennel and, prior to issuing a kennel license, the Town Manager shall determine if the location and construction of the kennel is in compliance with the Zoning Ordinance, rules and regulations of the County Board of Health and all other ordinances of the town applicable thereto.

(C) Upon complaint being made to the Police Department by a person specifying the location where more than four animals are being kept in other than a licensed kennel, the Police Department shall investigate and, if it is determined that this chapter is being violated, the Police Department shall notify the person or persons responsible for keeping the animals and upon the notice from the Police Department, the responsible person or persons shall remove from the premises the number of animals in excess of four which are prohibited by this chapter within 48 hours from the time of notification.

(2006 Code, Ch. 3, § 2.5) (Amended 10-4-1983; 1-6-1987; 1-2-1990; 2-6-1990) Penalty, see § 90.99

§ 90.21 TAGS AND COLLARS.

All dogs in the town shall be inoculated against rabies and shall wear a collar to which is attached a current rabies vaccination tag and a tag identifying owner adequate for notification.

(2006 Code, Ch. 3, § 2.6) (Amended 10-4-1983; 1-6-1987; 1-2-1990; 2-6-1990) Penalty, see § 90.99

§ 90.22 NOTICE OF VIOLATION.

(A) In administering their duties under this chapter, the Animal Control Officers are empowered to issue citations to any person, if there is reasonable cause to believe that he or she has violated any of the provisions of this chapter. Citations issued may be delivered in person to the violator by the Animal Control Officers, or they may be mailed to the person, if he or she cannot be readily found. Any notice or citation delivered or mailed shall direct the violator to appear at the office of the Revenue Collector of the town within five days.

(B) The Animal Control Officers shall cause all citations to be consecutively numbered in triplicate and records shall be kept in a way that all citations may be accounted for.

(C) If a violator of any section of this chapter does not appear in response to the citation issued by the day and hour named in the citation, the Chief of Police or his or her representative shall send a registered letter to the violator informing him or her of the violation and that he or she is responsible for paying the penalty. If the registered letter is disregarded for a period of five days from the date of the mailing, a complaint may be filed and a warrant of arrest issued.

(D) If a violator does not appear in response to the citation and registered letter, the Chief of Police may enter a complaint against the violator and secure a warrant for this arrest.

(2006 Code, Ch. 3, § 2.7) (Amended 10-4-1983; 1-6-1987; 1-2-1990; 2-6-1990)

§ 90.23 MAINTENANCE OF PENS, LOTS, ETC..

(A) Every person who owns or maintains a penned lot, shelter, or other place where animals are kept shall maintain the same in a sanitary and humane manner.

(B) All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.

(C) If the condition of the shelter and/or other items associated with the keeping of chickens shall be found not to be healthy or humane, then this condition shall be reported to the Animal Control Officer and/or Code Enforcement Officer.

(D) Odors and noise created by the keeping of chickens shall not be objectionable to adjacent residences as determined by the town's Animal Control Officer and/or Code Enforcement Officer.

§ 90.99 PENALTY.

(A) Any violation of this chapter shall subject the offender to a civil penalty in the amount stated in this section. Violators shall be issued a written citation which must be paid to the Town Tax Collector within five days.

(1) Animals running at large: $50;

(2) Vicious animals: $50;

(3) Nuisance animals: $50; and

(4) Dangerous dog: $50.

(B) Violation of this chapter shall also constitute a misdemeanor punishable, upon conviction, by a fine not to exceed $50 or imprisonment for not more than 30 days as provided in G.S. § 14-4.

(C) Alternatively, the town may apply to the appropriate court for an injunction and order of abatement requiring a violator to correct any unlawful condition relating to this chapter existing on his or her property, pursuant to G.S. § 160A-175.

(2006 Code, Ch. 3, § 2.8) (Amended 10-4-1983; 1-6-1987; 1-2-1990; 2-6-1990)

CHAPTER 91: CEMETERIES

Section

General Provisions

91.01 Title

91.02 Definitions

91.03 Cemetery Superintendent; appointment and duties

91.04 Records

91.05 Maps; contents

91.06 Unauthorized removal or damage to flowers, ornaments and the like

91.07 Offensive substances

91.08 Animals or vehicles in general

91.09 Speed of vehicles

91.10 Conduct in cemetery

91.11 Excavating or removing earth

91.12 Disturbing funeral services

Sale of Lots

91.25 Intent

91.26 Number of lots

91.27 Sale by town

91.28 Reconveyance by purchaser

91.29 Purchase price of lots

Operation of Cemetery; Conditions

91.40 Maintenance and cleanliness

91.41 Interments

91.42 Disinterments; application and approval required

91.43 Reinterment requirements

91.44 Monuments, grave markers and gravestones

91.45 Mausoleums and tombs

91.46 Columbaria

GENERAL PROVISIONS

§ 91.01 TITLE.

This chapter shall be known as the "Town of Farmville Ordinance for Operating, Maintaining, Regulating and Controlling the Forest Hills Cemetery, Hollywood Cemetery, Sunset Cemetery and any Other Cemeteries Owned and/or Operated by the Town of Farmville".

(2006 Code, Ch. 6, § 6.1) (Amended 1-2-2007)

§ 91.02 DEFINITIONS.

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

CEMETERIES. The town's burial parks or cemeteries.

CEMETERY LOT. A numbered division as shown on the record plat.

CEMETERY PLOT. A space of sufficient size to accommodate one adult interment approximately four feet by ten feet.

CEMETERY PLOT PLAN. The plot plan for each individual cemetery owned and/or operated by the town.

MARKER. A memorial flush with the ground.

MONUMENT. A tombstone or memorial of granite or marble which extends above the surface of the ground.

SUPERINTENDENT OF CEMETERIES. The person or persons designated by the Town Manager to perform the duties assigned to the position by this chapter.

TOWN. The Town of Farmville, North Carolina.

TOWN COMMISSIONERS. The Town Board of the Town of Farmville, North Carolina.

(2006 Code, Ch. 6, § 6.2) (Amended 1-2-2007)

§ 91.03 CEMETERY SUPERINTENDENT; APPOINTMENT AND DUTIES.

(A) There shall be appointed a competent person or persons who shall have charge of the upkeep, protection and preservation of the cemeteries of the town, and he or she shall be called the Cemetery Superintendent.

(2006 Code, Ch. 6, § 6.3)

(B) It shall be the duty of the Cemetery Superintendent to supervise the digging of all graves and to supervise the laying out, posting and cleaning of all cemetery lots or plots. In addition thereto, he or she shall see that all laws and regulations concerning the cemeteries are duly observed and enforced and, in case of any violation thereof, shall report the same to the Chief of Police.

(2006 Code, Ch. 6, § 6.4)

(Amended 1-2-2007)

§ 91.04 RECORDS.

It shall be the duty of the Cemetery Superintendent to report to the Town Clerk or his or her designee a record of all graves dug, all bodies exhumed and all other work done in the cemeteries. It shall be the duty of the Town Clerk to keep the record.

(2006 Code, Ch. 6, § 6.5) (Amended 1-2-2007)

§ 91.05 MAPS; CONTENTS.

It shall be the duty of the Town Planning Department or other persons designated by the Town Manager to keep a map of the cemeteries, distinguishing thereon all burial lots or plots which are offered together with those sold.

(2006 Code, Ch. 6, § 6.6) (Amended 1-2-2007)

§ 91.06 UNAUTHORIZED REMOVAL OR DAMAGE TO FLOWERS, ORNAMENTS AND THE LIKE.

It shall be unlawful for any person, other than the Cemetery Superintendent or his or her duly authorized agent, or a member of the owner's family or his or her or their duly authorized agent, to cut down, pluck or otherwise remove, injure or destroy any flowers, bulbs, vines, shrubbery or

trees planted in the cemetery, except under the supervision or with the approval of the Cemetery Superintendent, or to remove any flowers or other ornaments or any vase, basket or receptacle from any lot, except under the supervision and with the approval of the Cemetery Superintendent.

(2006 Code, Ch. 6, § 6.7) (Amended 1-2-2007) Penalty, see § 10.99

§ 91.07 OFFENSIVE SUBSTANCES.

No person shall deposit, or cause to be deposited, any filth or unclean or offensive substance in the cemetery.

(2006 Code, Ch. 6, § 6.8) (Amended 1-2-2007) Penalty, see § 10.99

§ 91.08 ANIMALS OR VEHICLES IN GENERAL.

No person shall take any dog (except for a seeing-eye dog) into a town owned cemetery or allow any animal to run at large therein, or ride, drive or lead any animal or vehicle on or over any plot or walkway therein.

(2006 Code, Ch. 6, § 6.9) (Amended 1-2-2007) Penalty, see § 10.99

§ 91.09 SPEED OF VEHICLES.

No person shall drive a motor vehicle in any town owned cemetery at a rate of speed in excess of 15 mph.

(2006 Code, Ch. 6, § 6.10) (Amended 1-2-2007) Penalty, see § 10.99

§ 91.10 CONDUCT IN CEMETERY.

No person shall use the cemetery as a playground, loafing or parking space, make loud noises of any kind, discharge any firearms (provided that, firearms may be discharged in case of military funerals and Memorial Day exercises), use profane or indecent language or make any indecent exposure of the person or commit any other indecent act therein.

(2006 Code, Ch. 6, § 6.11) (Amended 1-2-2007) Penalty, see § 10.99

§ 91.11 EXCAVATING OR REMOVING EARTH.

It shall be unlawful for any person to excavate any earth in a town cemetery, or remove the same therefrom, except by consent or under the direction of the Superintendent, or his or her duly authorized agent.

(2006 Code, Ch. 6, § 6.12) (Amended 1-2-2007) Penalty, see § 10.99

§ 91.12 DISTURBING FUNERAL SERVICES.

It shall be unlawful to disturb any funeral services being conducted within any town owned cemetery.

(2006 Code, Ch. 6, § 6.13) (Amended 1-2-2007) Penalty, see § 10.99

SALE OF LOTS

§ 91.25 INTENT.

The town intends to make cemetery lots available to all persons on an equal basis. In order to accomplish this, restrictions must be placed on the sale of lots to discourage the purchasing of lots with the primary intent of reselling them for a profit.

(2006 Code, Ch. 6, § 6.14) (Amended 1-2-2007)

§ 91.26 NUMBER OF LOTS.

No person or other legal entity including, but not limited to, companies, partnerships, corporations and other business associations, shall be allowed to purchase from the town more than eight lots. Any person or legal entity denied the right to purchase a lot or lots pursuant to this section may appeal to the Town Clerk to the Board of Commissioners for a final decision on the matter.

(2006 Code, Ch. 6, § 6.15) (Amended 1-2-2007)

§ 91.27 SALE BY TOWN.

(A) Upon payment by the purchaser of the full purchase price and registration fee, the Town Clerk shall deliver a deed of burial easement to the purchaser and maintain appropriate records of each transaction.

(B) The Town Clerk shall cause the deed to be executed by the town, registered in the office of the Town Clerk and subsequently delivered to the purchaser.

(2006 Code, Ch. 6, § 6.16) (Amended 1-2-2007)

§ 91.28 RECONVEYANCE BY PURCHASER.

In order to properly manage the cemeteries, the town must know, at all times, the identity of the legal owner of each lot. No transfer or assignment shall be made of any of the cemetery lots or any entries therein, without the written consent of the Town Manager. No reconveyances shall be approved within the first five years after the purchase of the lots. All transfers or assignments shall be recorded in the office of the Town Clerk.

(2006 Code, Ch. 6, § 6.17) (Amended 1-2-2007)

§ 91.29 PURCHASE PRICE OF LOTS.

The purchase price of lots in the cemeteries shall be as fixed from time to time by the Board of Commissioners. The Town Clerk shall be responsible for keeping a list of the purchase prices for public viewing. The town reserves the right to charge one price for in-town residents and another price for out-of-town residents.

(2006 Code, Ch. 6, § 6.18) (Amended 1-2-2007)

OPERATION OF CEMETERY; CONDITIONS

§ 91.40 MAINTENANCE AND CLEANLINESS.

(A) The Superintendent shall keep the cemeteries in a neat and clean condition.

(B) The general care and upkeep of the cemeteries, including all grading, landscaping and improvements is assumed by the town; however, the general care assumed by the town shall, in no case, mean the maintenance, repair or replacement of any memorial, tomb or mausoleum placed or erected upon lots; nor the doing of any special or unusual work in the cemetery,

including work caused by the impoverishment of the soil; nor does it mean the reconstruction of any marble or granite work on any section of the plot, or any portion thereof in the cemetery caused by the elements, an act of God, enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots or by order of any military or civil authority, whether the damage is direct or collateral, other than as herein provided.

(C) If any monument, mausoleum, tomb or marker or ornament becomes unsafe, unsightly or in need of repair or resetting, the town after giving notice to the owner of the condition and upon the failure of the owner to correct the condition within 30 days after receiving the notice, reserves the right to correct or remove the same at the expense of the owner.

(D) No person shall place or cause to be placed on any lot in the cemeteries any stone, planting or obstacle, other than approved markers or monuments. Placing of a coping or other enclosure of whatsoever kind around a lot or lots, or around a grave, shall not be permitted. Mowing, sodding and maintenance shall be performed by the town.

(E) The Cemetery Superintendent or his or her duly authorized agent shall have the authority to remove all floral designs, weeds, flowers, trees, shrubs, plants or herbage of any kind from the cemeteries as soon as, in the judgement of the Cemetery Superintendent, they become unsightly, dangerous, detrimental or diseased, or when they do not conform to the standards maintained for the cemeteries. All cut flowers shall be removed when they become wilted, impaired or unsightly. If flowers are not removed by the owners, then they shall be removed by the Cemetery Superintendent. Any containers left at the graveside after the flowers have served their usefulness will be removed.

(F) The town cemeteries shall be closed from sunset to sunrise. No person may enter the cemeteries while they are closed without the permission of the Cemetery Superintendent.

(2006 Code, Ch. 6, § 6.19) (Amended 1-2-2007) Penalty, see § 10.99

§ 91.41 INTERMENTS.

(A) All interments in lots shall be restricted to members of the family or relatives of the owners, or persons as the owner may choose to admit. Prior to interment, the owner or his or her authorized representative shall authorize the burial by executing an authorization-for-burial form. The usage of each lot shall be limited to one of the following:

(1) The interment of one human body;

(2) The interment of one human body and one cremation urn; or

(3) The interment of one or two cremation urns.

(B) No grave, vault or tomb within the cemeteries shall be disturbed, nor shall any body be removed from any grave, vault or tomb, without a permit from the County Health Officer, the consent of the lot owner or members of the family of the deceased and in compliance with G.S. § 65-106.

(C) No person other than the regularly appointed Cemetery Superintendent's representative shall dig any grave or inter or disinter any body in the cemeteries belonging to the town. Complete and accurate records are to be maintained on all interments. The fees for opening and closing a grave in the town cemeteries shall be fixed from time to time by the Board of Commissioners. The Town Clerk shall be responsible for keeping a list of current fees for public viewing. The interment property is for burial of human remains only.

(D) Burial services shall be scheduled generally between 9:00 a.m. and 4:00 p.m. Interment will be made on Saturday or non-excluded holidays as observed by the town only upon assessment of an additional charge. All funeral processions entering the cemetery grounds after 4:00 p.m. on any normal work day will also be required to pay an additional charge. All additional charges are outlined in the schedule of cemetery charges.

(E) The Cemetery Superintendent shall be notified at least 24 hours prior to an interment. In the event of a Monday interment, the notice must be given on the preceding regular town workday. Failure to provide proper notification will result in an additional charge.

(F) All graves shall be at least 55 inches deep. The widths of graves in the cemeteries shall be not less than three inches greater than the box width on each side. A minimum of 18 inches of soil shall be placed over the liner and all graves shall be made approximately level with the lot and sodded.

(G) All burials will be in a commercially procured graveliner or vault that has been approved by the Cemetery Superintendent. The minimum requirements for concrete liners shall be one and one-half inch sidewall thickness, two-inch top thickness, two-inch bottom thickness and 3,000 psi. The minimum requirements for a steel vault shall be a 12-gauge thickness top, sides and bottom. Wooden or other short-term liners are not allowed. Metal and plastic liners are allowed as approved by the Cemetery Superintendent. No liners are required for cremations.

(2006 Code, Ch. 6, § 6.20) (Amended 1-2-2007)

§ 91.42 DISINTERMENTS; APPLICATION AND APPROVAL REQUIRED.

(A) A person who desires to have removed from his or her lot or vault the remains of a person interred therein shall apply in writing addressed to the Cemetery Superintendent, setting forth in the application the name of the deceased, the date and cause of death, relationship of deceased to applicant, number of lot, vault or space in which then interred, the number of lot, vault or space

(or name of cemetery, if elsewhere) in which the remains are to be reinterred and reason for removal. But, no permission for the disinterred shall be granted, nor shall the disinterment be made until the application has been approved by the Health Department.

(B) If not already in compliance, all disinterment that are to be relocated to another area of the towns cemeteries shall be placed in a vault or liner, as described in § 91.41(G). If any old vault or liner exists, it must be physically solid for withstanding the disinterment. It shall be the responsibility of the Cemetery Superintendent to make this determination. If he or she deems the vault or liner to be unacceptable, it shall be replaced at the expense of the property owner, his or her estate or duly authorized representative.

(2006 Code, Ch. 6, § 6.21) (Amended 1-2-2007)

§ 91.43 REINTERMENT REQUIREMENTS.

Any person desiring to have reinterred the remains of a person brought from another cemetery or burial place shall furnish the Cemetery Superintendent with a certificate from the Health Department having jurisdiction, setting forth, if possible, the name, age, sex, marital status, cause and date of death and last residence of deceased, and name and location of former burial place. The Cemetery Superintendent, upon evidence of payment of charges as set forth in the schedule of all cemetery charges, shall have the remains properly reinterred in the place as may be selected by the person having charge of the remains.

(2006 Code, Ch. 6, § 6.22) (Amended 1-2-2007)

§ 91.44 MONUMENTS, GRAVE MARKERS AND GRAVESTONES.

(A) Monuments and grave markers shall be allowed or permitted only in those sections or portions of sections of the cemeteries as approved by the Board of Commissioners and as shown on the cemetery plot plans. All monuments and grave markers shall be erected under the supervision of the Cemetery Superintendent and all persons shall conform to these regulations and shall clean the site of their work of all unused materials or debris on completion.

(B) Before any monument, gravestone or grave marker may be set on any lot in the cemetery, written application must be made to the Cemetery Superintendent and his or her permission shall be obtained for the erection of the stone or marker. An inspection fee for the placement of the stone or marker shall be fixed from time to time by the Board of Commissioners. The Town Clerk shall be responsible for keeping a list of current fees for public viewing. A fee will be charged for each requested inspection.

(C) The face of any monument shall not exceed 15% of the superficial area of the lot, its base length shall not exceed 60% of the average width of the lot and its base width shall not exceed two feet. Where there are four or more graves, the base width may be a maximum of two feet and ten inches.

(D) Monuments of concrete, artificial stone, composition, wood, tin, iron or similar materials shall not be permitted within the cemeteries.

(E) Grave markers shall not exceed one foot in width, two feet in length, and be placed flush with the ground, and shall be placed at the end of the grave farthest from the monument or as specified in the cemetery plot plans.

(F) Cornerstone markings are allowed if they are set even with the lawn, so that maintenance machines may pass over them safely without damage to the marker or the machine.

(G) Only one central family monument shall be allowed on a family lot in the town cemeteries.

(2006 Code, Ch. 6, § 6.23) (Amended 1-2-2007)

§ 91.45 MAUSOLEUMS AND TOMBS.

(A) Mausoleums or tombs may be constructed only on lots designated for that purpose as shown on the cemetery plot plans.

(B) Specifications and the locations of the mausoleums or tombs on the lot shall be approved by the Town Manager or officers as the Board of Commissioners may designate.

(C) Mausoleums or tombs shall be erected so as to leave at least two feet clearance from all lot boundary lines.

(2006 Code, Ch. 6, § 6.24) (Amended 1-2-2007)

§ 91.46 COLUMBARIA.

(A) Columbaria may be allowed in any section of the cemeteries.

(B) A columbarium consisting of two containers or cylinders will be allowed for each grave plot owned by the requesting party. The grave plot or plots would then be so designated and would no longer be available for standard burials as permitted in § 91.41.

(C) Columbaria shall be erected so as to leave at least two feet clearance from all lot boundary lines and shall not exceed five feet in height.

(D) All designs and locations shall be approved by the Town Manager.

(2006 Code, Ch. 6, § 6.25) (Amended 1-2-2007)

CHAPTER 92: DEMONSTRATIONS, PARADES AND PICKETING

Section

92.01 Definitions

92.02 Permits required

92.03 Permit issuance

92.04 Street use limitation

92.05 Revocation of permit

92.06 Activities prohibited

92.07 Interference prohibited

92.08 Additional regulations for picketing

92.09 Exceptions

§ 92.01 DEFINITIONS.

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

BLOCK. The portion of any street lying between its intersections with other streets.

GROUP DEMONSTRATION. Any assembly together or concert of action between or among two or more persons for the purpose of protesting any matter or of making known any position or promotion of the persons, or of or on behalf of any organization or class of persons, or for the purpose of attracting attention to the assembly.

PARADE. Any assemblage of two or more persons participating in or operating any vehicle in any march, ceremony, show, exhibition or procession of any kind in or upon the public streets, sidewalks, alleys, parks, public grounds, public places or public vehicular areas, as a part of a group demonstration.

PERSON. Any person, firm, corporation, partnership, association or other organization, whether formal or informal.

PICKET LINE. Any two or more persons formed together for the purpose of making known any position or promotion of the persons or of or on behalf of any organization or class of persons.

(2006 Code, Ch. 8, § 1.0)

§ 92.02 PERMITS REQUIRED.

It shall be unlawful for any person to organize, conduct or participate in any parade, picket line or group demonstration in or upon any street, sidewalk, alley or other public place within the town unless a permit therefor has been issued by the town in accordance with the provisions of this chapter.

(2006 Code, Ch. 8, § 2.1) Penalty, see § 10.99

§ 92.03 PERMIT ISSUANCE.

The Town Manager or his or her designee shall issue permits as required in § 92.02 and, in the issuance thereof, he or she shall:

(A) Require a written application for a permit to be filed not less than 48 hours in advance of the parade, picket line or group demonstration, which application shall specify the time and place for the commencement of any picket line and the time, place, route and duration of any parade or group demonstration;

(B) Refuse to issue permits for parades, picket lines or group demonstrations to commence before sunrise or terminate after sunset;

(C) Refuse to issue the permits for parades or group demonstrations to be held at the same time and place as those designated in a permit issued pursuant to a written application previously received by the Manager or his or her designee;

(D) Require that the application for a permit specify whether or not minors below the age of 16 years will be permitted to participate; and

(E) Require that the application for a permit shall specify and the permit shall designate the person or persons in charge of the activity. The person shall be required to accompany the parade, picket line or group demonstration, and shall carry the permit with him or her at that time, the permit shall not be valid in the possession of any other person.

(2006 Code, Ch. 8, § 2.2)

§ 92.04 STREET USE LIMITATION.

The Town Manager may limit the use of various streets in order to minimize traffic congestion and the Town Manager may limit total time of any parade in order to minimize traffic and pedestrian congestion.

(2006 Code, Ch. 8, § 2.3)

§ 92.05 REVOCATION OF PERMIT.

The Manager shall revoke any permit granted for a parade, picket line or group demonstration for any of the following causes:

(A) The performance or occurrence of any activity prohibited by this chapter; and

(B) The failure to comply with the terms and conditions of the permit.

(2006 Code, Ch. 8, § 2.4)

§ 92.06 ACTIVITIES PROHIBITED.

The following acts or activities, when performed or undertaken in conjunction with or as a part of, any parade, picket line or group demonstration, are hereby prohibited and declared unlawful:

(A) The carrying on the person, any firearm or any weapon or article, including, but not limited to, blackjacks, nightsticks or flashlights, which by their use might constitute a deadly weapon (except by law enforcement or military personnel); and

(B) The taking or keeping of any vicious animal, whether leashed or unleashed.

(2006 Code, Ch. 8, § 3.0) Penalty, see § 10.99

§ 92.07 INTERFERENCE PROHIBITED.

No person shall hamper, obstruct or interfere with any parade, picket line or group demonstration being conducted under authority of a permit duly issued by the Manager.

(2006 Code, Ch. 8, § 4.0) Penalty, see § 10.99

§ 92.08 ADDITIONAL REGULATIONS FOR PICKETING.

Picket lines and picketing shall be subject to the following additional regulations.

(A) Location. Picketing may be conducted only on the sidewalks reserved for pedestrian movement and may not be conducted on the portion of the street used primarily for vehicular traffic.

(B) Number limited. Not more than ten pickets promoting the same objective shall be permitted to use either of the two sidewalks within a single block at any one time.

(C) Placard. Pickets may carry written or printed placards or signs not exceeding two feet in width and two feet in height promoting the objective, for which the picketing is done; provided, the works used are not derogatory or defamatory in nature.

(D) Marching order. Pickets must march in single file and not abreast and not march closer together than 15 feet, except in passing one another. Pickets shall not be allowed to walk more than five feet from the curbline and shall be in continuous motion.

(E) Multiple permits; time assignments. If pickets promoting different objectives desire to use the same sidewalk for picketing and the use would result in the presence of more than ten pickets thereon, the Manager shall allot time to each group of pickets for the use of the sidewalk on an equitable basis.

(2006 Code, Ch. 8, § 5.0)

§ 92.09 EXCEPTIONS.

The provisions of this chapter shall not apply to Ch. 91 of this code of ordinances.

(2006 Code, Ch. 8, § 6.0)

CHAPTER 93: TREES AND COMMUNITY APPEARANCE

Section

93.01 Purpose

93.02 Enactment

93.03 Definitions

93.04 Application

93.05 Planting

93.06 Pruning

93.07 Toppings

93.08 Removal

93.09 Stumps

93.10 Pruning, corner clearance

93.11 Dead or diseased tree removal on private property

93.12 Governing board review

93.99 Penalty

Cross-reference:

Tree and Community Appearance Commission, see §§ 31.165 through 31.172

§ 93.01 PURPOSE.

The purpose of this chapter is to encourage well planned, coordinated tree planting improvements within the town to improve the welfare and looks of the town; and enhance and improve the visual quality and aesthetic characteristics of the town and areas within the town's zoning jurisdiction.

(2006 Code, Ch. 25, § 1)

§ 93.02 ENACTMENT.

For the purposes cited in § 93.01, and for promoting the general welfare of the town and its citizens, the Board of Commissioners for the town does hereby ordain, adopt and enact this chapter in its entirety, which shall be known as the "Farmville Trees and Community Appearance Ordinance".

(2006 Code, Ch. 25, § 2)

§ 93.03 DEFINITIONS.

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

PARK TREES. Trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the town or to which the public has free access as a park.

PUBLICLY OWNED TREES. Trees within public rights-of-way or on municipal property.

STREET TREES. Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, alleys, avenues or public ways within the town.

TOPPING. Severe cutting or pruning, down to stubs larger than three inches in diameter, within the tree crown, to the extent of removing the normal canopy and disfiguring the tree.

(2006 Code, Ch. 25, § 5)

§ 93.04 APPLICATION.

The regulations of this chapter shall apply to all street and park trees within the town.

(2006 Code, Ch. 25, § 7)

§ 93.05 PLANTING.

Street and park trees may be planted only in accordance with the species list and guidelines of the Tree and Community Appearance Commission, once adopted. Planting at variance with the list or guidelines requires special permission by the Commission.

(2006 Code, Ch. 25, § 7.1)

§ 93.06 PRUNING.

Town departments and public utilities and their agents may undertake pruning of trees to protect public safety, protect utilities facilities and public improvements, and enhance the beauty of street trees and/or public grounds; provided that, pruning personnel have attended an instructional workshop or can present proof of similar acceptable instruction in the proper care and pruning of trees. Town departments, public utilities, their agents and other persons conducting major trimming of street or park trees shall notify the Town Manager of their plans before beginning work.

(2006 Code, Ch. 25, § 7.2)

§ 93.07 TOPPINGS.

It shall be unlawful as a normal practice for any person, firm or corporation to top any street tree, park tree or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility lines or other obstructions where other pruning practices are impractical, may be exempted from this chapter at the determination of the Utility Director.

(2006 Code, Ch. 25, § 7.3) Penalty, see § 93.99

§ 93.08 REMOVAL.

The Commission may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvement, or is affected with any injurious fungus, insect or other pest. The town shall replant a tree for each tree removed from the public right-of-way by the town. The planting may be done in the public right-of-way or on private property adjoining the right-of-way with the property owner's permission if it is impractical to replant in the public right-of-way. This section does not prohibit the planting of street trees by property owners; providing that, the selection and location of the trees are compatible with existing utilities.

(2006 Code, Ch. 25, § 7.4)

§ 93.09 STUMPS.

All stumps of street and park trees shall be removed so that the top of the stump does not project above the surface of the ground.

(2006 Code, Ch. 25, § 7.5) Penalty, see § 93.99

§ 93.10 PRUNING, CORNER CLEARANCE.

(A) Every owner of any tree overhanging any street or right-of-way within the town shall prune the branches so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk.

(B) The owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public.

(C) The town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

(2006 Code, Ch. 25, § 7.6) Penalty, see § 93.99

§ 93.11 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The town shall have the right to cause the removal of any dead or diseased trees on private property within the town when the trees constitute a hazard to life and property, or harbor insects

or disease which constitutes a potential threat to other trees within the town. The Commission will notify in writing the owners of the trees. Removal shall be done by the owners at their own expense within 60 days after the date of service of notice. In the event of failure of the owners to comply with the provisions, the town shall have the authority to remove the trees and charge the cost of removal on the owner's property taxes.

(2006 Code, Ch. 25, § 7.7)

§ 93.12 GOVERNING BOARD REVIEW.

The Board of Commissioners shall have the right to review the conduct, acts and decisions of the Commission. Any person may appeal from any ruling or order of the Commission to the Board of Commissioners who may hear the matter and enter a final decision.

(2006 Code, Ch. 25, § 8)

§ 93.99 PENALTY.

Any person violating any provisions of this chapter shall be, upon conviction or a plea of guilty, subject to a fine not to exceed $100 or 30 days in jail, for each offense.

(2006 Code, Ch. 25, § 9)

CHAPTER 94: FIRE PROTECTION AND PREVENTION

Section

General Provisions

94.01 Fire Prevention Code

94.02 Rural Fire Association

Fire Hazards

94.15 Burning trash within Fire District prohibited

94.16 Burning trash outside First Fire District

94.17 Permit required for bonfire

94.18 Encumbrances before or on fire exit

94.19 Exit signs in theaters and motion picture houses

94.20 Passageways and exit doors in places of public assemblage

94.21 Lots kept free from fire hazard

94.22 Certain fires to be guarded by watchpersons

94.23 Junkyards in Fire District

94.24 Storage of dangerous fuels

Fire Districts

94.35 Fire District One

94.36 Fire District Two

94.37 Application

94.38 Map

GENERAL PROVISIONS

§ 94.01 FIRE PREVENTION CODE.

The town adopts by reference the Fire Prevention Code of the American Insurance Association, 2012 edition, as amended from time to time.

(2006 Code, Ch. 10, § 2.0)

§ 94.02 RURAL FIRE ASSOCIATION.

The town, pursuant to an agreement entered into by and between the Town Rural Fire Association and the town on or about 9-1-1953, shall maintain and operate the firefighting equipment as the Farmville Rural Fire Association shall pay for and deliver to the town and the town shall answer fire calls from the members of the Town Rural Fire Association, and the town shall have the right to use the equipment to answer fire calls within the town limits.

(2006 Code, Ch. 10, § 5.0)

§ 94.05 DEFINITIONS

OUTDOOR FIRE PLACE: A portable, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. A portable outdoor fireplace may be open in design, or may be equipped with a small hearth opening and a short chimney or chimney opening in the top

OUTDOOR FIRE PIT: Includes both fire pits located in bare earth and pre-made portable fire pits which are used by burning wood, gas, or coal.

FIRE HAZARDS

§ 94.15 BURNING TRASH WITHIN FIRE DISTRICT PROHIBITED.

No person shall burn, or cause to be burned, any trash, refuse, shavings, paper, leaves, litter or other material of any kind outside any house, or on any street, sidewalk, alley, lot or yard within the First Fire District of the town.

(2006 Code, Ch. 10, § 3.1) Penalty, see § 10.99

§ 94.16 BURNING TRASH OUTSIDE FIRST FIRE DISTRICT.

Trash or rubbish shall not be burned on any private lot outside the First Fire District, except by permit from the Fire Chief.

(2006 Code, Ch. 10, § 3.2) Penalty, see § 10.99

§ 94.17 PERMIT REQUIRED FOR BONFIRE.

No person shall kindle or maintain any bonfire, or shall knowingly furnish the material for any fire, or authorize any fire to be kindled or maintained on or in any street, avenue, road, lane or public ground, or upon any private lot within the limits of the town unless a written permit so to do shall have first been secured from the Chief of the Fire Department.

(2006 Code, Ch. 10, § 3.3) Penalty, see § 10.99

§ 94.18 ENCUMBRANCES BEFORE OR ON FIRE EXIT.

No person shall, at any time, place any encumbrances of any kind whatsoever before or upon any door, fire escape, balcony or ladder intended as a means of escape from fire. It shall be the duty of every member of the Police and Fire Departments who shall discover any fire escape encumbered in any manner to forthwith report the same through his or her Department channels to the Chief of the Fire Department, who shall immediately notify the owner or owners, their agent or agents, tenant or tenants, to remove the encumbrance and encumbrances shall thereupon immediately be removed.

(2006 Code, Ch. 10, § 3.4) Penalty, see § 10.99

§ 94.19 EXIT SIGNS IN THEATERS AND MOTION PICTURE HOUSES.

Every exit in any theater or motion picture house shall be plainly indicated by a sign bearing the word “EXIT”, which sign shall be kept lighted throughout each performance.

(2006 Code, Ch. 10, § 3.5) Penalty, see § 10.99

§ 94.20 PASSAGEWAYS AND EXIT DOORS IN PLACES OF PUBLIC ASSEMBLAGE.

All doors, aisles and passageways within and leading into or out of theaters, churches and all other places of public assemblage, shall, during the entire time which any show, performance, service, exhibition, lecture, concert, ball or other assemblage may be held therein, kept

adequately lighted and free from easels, signs, standards, campstools, chairs, sofas, benches and any other article or articles that might obstruct or delay the exit of the audience, congregation or assemblage and doors of the buildings while occupied shall not be fastened so that they cannot easily be opened by anyone from within. No person shall sit or stand or remain seated or standing, nor shall the owner or operator of the place allow any person to remain in any place of public assemblage, in any aisle under any circumstances, or in any exit, or passage required for the safe exit of the assemblage. Clear passage from all exits and on outside sidewalks of all theaters and other places of public assemblage shall be maintained at all times. No aisle, passageway or stairway in any store shall be obstructed with tables, show cases or other obstructions during the hours the store is open to the public.

(2006 Code, Ch. 10, § 3.6) Penalty, see § 10.99

§ 94.21 LOTS KEPT FREE FROM FIRE HAZARD.

It shall be unlawful for any person to permit or suffer rubbish, refuse or articles of combustible or inflammable nature to accumulate or remain on any lot or premises.

(2006 Code, Ch. 10, § 3.7) Penalty, see § 10.99

§ 94.22 CERTAIN FIRES TO BE GUARDED BY WATCHPERSONS.

All persons, firms or corporations who shall burn any tar kiln or pit of charcoal, or set fire to or burn any brush, grass or other material, whereby any property may be endangered or destroyed, shall keep and maintain a careful and competent watchperson in charge of the kiln, pit, brush or other material while burning. Fire escaping from the kiln, pit, brush or other material while burning shall be prima facie evidence of neglect of these provisions.

(2006 Code, Ch. 10, § 3.8) Penalty, see § 10.99

§ 94.23 JUNKYARDS IN FIRE DISTRICT.

(A) It shall be unlawful for any person, firm or corporation to establish, operate or otherwise conduct a place of business for the purpose of buying and selling scrap iron, old automobiles or junk of any nature within the fire districts of the town as they are now constituted or may be hereafter constituted.

(B) Violation of this section is punishable in the discretion of the court.

(2006 Code, Ch. 10, § 3.9) Penalty, see § 10.99

§ 94.24 STORAGE OF DANGEROUS FUELS.

It shall be unlawful for any person, firm or corporation to permit fuel, oil or liquefied gas to be stored above ground in storage tanks that have a capacity of 300 gallons or more or to permit gasoline or natural gas to be stored above ground within the areas designated as "central", "general" and "neighborhood business" on the zoning map of the town.

(2006 Code, Ch. 10, § 3.10) Penalty, see § 10.99

§ 94.25 MOVABLE OUTDOOR FIRE PLACES AND FIRE PITS.

(E) Movable outdoor fireplaces and fire pits in approved containers must adhere to manufacturers recommended distancing from structures, including primary structures, accessory structures, and fences.

(F) Wood burning movable outdoor fire pits must include ember catch cover while in use.

(G) A Building Permit is not required for a movable outdoor fireplace or fire pit, but distance regulations listed in 94.25(A) must be followed.

(H) Under no circumstances shall garbage, junk, refuse, or construction debris which is partly or wholly decayed be used in any type of fire place or fire pit within the Town of Farmville. Under no circumstances shall any fire pit emit any noxious, caustic or unpleasant odors during its operation.

§ 94.26 PERMANENT OUTDOOR FIRE PLACES AND FIRE PITS:

(A) Permanent outdoor fireplaces and fire pits require a Building Permit and must comply with all Local and State Zoning and Building Code Regulations, and must adhere to manufacturers recommended distancing from structures, including primary structures, accessory structures, and fences.

(B) For the proposes of Plan Review, Impervious Surfaces include outdoor fireplaces, fire pits, patios, walkways, open stairways, decks, driveways and similar structures.

(C) Wood burning permanent outdoor fire pits must include ember catch cover while in use.

(D) Under no circumstances shall garbage, junk, refuse, or construction debris which is partly or wholly decayed be used in any type of fire place or fire pit within the Town of Farmville. Under no circumstances shall any fire pit emit any noxious, caustic or unpleasant odors during its operation.

FIRE DISTRICTS

§ 94.35 FIRE DISTRICT ONE.

Fire District Number One of the town shall be bounded as follows: beginning at the intersection of Main Street and Grimmersburg Street, running in an easterly direction down the center of Grimmersburg Street for one-half block to an alley; thence in a southerly direction down the center of the alley for 225 feet; thence in an easterly direction to the center of Contentnea Street; thence in a southerly direction for 450 feet to a point 190 feet south of the intersection of Contentnea and Wilson Street; thence in a westerly direction for 200 feet; thence in southerly direction, down the center of Church Street to Walnut Street; thence with Walnut Street in a northerly direction, two blocks down the center of Walnut Street to Belcher Street; thence down the center of Belcher Street in an easterly direction to Main Street, being one block; thence in a northerly direction with Main Street to Grimmersburg Street, the point of beginning, the last distance being but a fraction of a block.

(2006 Code, Ch. 10, § 4.1)

§ 94.36 FIRE DISTRICT TWO.

Fire District Number Two consists of four areas within the corporate limits of the town (excluding dwellings):

(A) Beginning at the intersection of Belcher Street and Walnut Street running in a westerly direction for one block to George Street; thence in southerly direction down the center of George Street to a point being the rear property line of the lots fronting on Wilson Street; thence along these rear property lines to a point being the center of Barrett Street; thence in a northerly direction to Belcher Street; thence in a westerly direction along the center of Belcher Street to Turnage Street; thence south along the center of Turnage Street to a point 200 feet north of Wilson Street; thence in a westerly direction to the East Carolina Railroad right-of-way; thence southerly to a point 200 feet south of Wilson Street; thence in an easterly direction following the rear property lines of the lots fronting on Wilson Street to Walnut Street; thence north on Walnut Street running down the center of the street to Belcher Street the beginning point;

(B) Beginning at a point being the center of the intersection of Church Street and Walnut Street, running in a southerly direction down the center of Walnut Street to the Norfolk Southern Railroad; thence in an easterly direction to Contentnea Street; thence northerly running along the center of Contentnea Street to a point 400 feet north of the intersection of Contentnea and Church Street; thence westerly for 200 feet; thence southerly for 400 feet to a point in the center

of Church Street; thence running westerly for one and one-half blocks to the intersection of Walnut and Church Street the beginning point;

(C) Beginning at the intersection of Main Street and Grimmersburg Street, running northerly along the center of Main Street for 150 feet; thence easterly for 200 feet; thence northerly for 50 feet; thence easterly for 350 feet to a point being center of Contentnea Street; thence southerly to a point 350 feet south of the intersection of Grimmersburg and Contentnea Street; thence west for 250 feet to an alley; thence northerly along the center of the alley to Grimmersburg Street; thence in westerly direction running along the center of Grimmersburg Street to Main Street the beginning point; and

(D) Beginning at the center of the intersection of Main Street and 264 By-Pass, running northerly along the center of Main Street for 300 feet; thence westerly to the town limits; thence southerly to a point 250 feet south of 264 By-Pass; thence easterly for 1,000 feet; thence southerly for 700 feet to the southern most town limits; thence easterly across Main Street and proceeding 200 feet; thence northerly for 350 feet; thence easterly for 650 feet; thence north across 264 By-Pass to a point being the north side of the highway and the town limits; thence westerly for 600 feet; thence northerly for 200 feet; thence westerly for 200 feet; thence northerly for l00 feet; thence westerly for 650 feet to a point being the center of Main Street; thence south running down the center of Main Street to the center of the intersection of Main Street and 264 By-Pass being the beginning point.

(2006 Code, Ch. 10, § 4.2)

§ 94.37 APPLICATION.

Within the Fire Districts, the special statutes, laws and ordinances of the state and the town apply, and building, repair and inspection, among other things, are governed by these aforementioned laws.

(2006 Code, Ch. 10, § 4.3)

§ 94.38 MAP.

Fire Districts described in this subchapter shall be on a map entitled “Fire Districts of the Town of Farmville” kept in the Building Inspector’s office.

(2006 Code, Ch. 10, § 4.4)

CHAPTER 95: STREETS AND SIDEWALKS

Section

General Provisions

95.001 Street and sidewalk improvement

95.002 Naming of streets

Damaging Streets and Sidewalks

95.015 Street construction; excavations

95.016 Parking trucks and trailers on the streets

95.017 Damage to lights, signs

95.018 Parking of petroleum products vehicles

95.019 Destruction and demolition of sidewalks

95.020 Moving of buildings

Obstructing Streets and Sidewalks

95.035 Parking on sidewalks

95.036 Sheds and awnings

95.037 Trash and rubbish

95.038 Sidewalk clearances

95.039 Obstruction of railroad crossings

Use and Cleanliness

95.050 Skating

95.051 Bus stops

95.052 Bicycles

95.053 Sporting and/or sporting apparatus prohibited

Temporary Street Closings

95.065 Approvals

95.066 Applications

95.067 Notice to Board

95.068 Approval

95.069 Implementation

95.070 Exception

GENERAL PROVISIONS

§ 95.001 STREET AND SIDEWALK IMPROVEMENT.

(A) *Sidewalk extensions.* Owners of property who desire that a sidewalk be constructed may petition the town to construct a sidewalk. A petition must state the location of the proposed sidewalk and must be signed by at least 50% of the property owners abutting the proposed improvement, who also represent 51% of the abutting property frontage. Sidewalks shall be constructed of concrete or brick and upon approval and construction; the costs will be apportioned according to the improvements policy of the town.

(B) *Speed bumps.*

(1) Initial request for speed bump. A resident may request the installation of a speed bump(s) upon his or her street of residence through the Chief of Police or his or her designated representative. The request may be either verbal or in writing, citing any and all conditions that the resident believes to be pertinent to the consideration for approval and/or installation of a speed bump(s).

(2) *Eligible locations.*

(a) Eligible locations shall be on minor neighborhood streets, cul-de-sacs, park drives, public alleys and internal drives on municipal properties and parking areas.

(b) Speed bumps may not be installed on U.S. or state highways and routes, on major or minor thoroughfares, on collector streets, on neighborhood connectors or on non-public streets or drives.

(c) The posted speed limit is 35 mph or less.

(3) *Information and petition.*

(a) Upon receiving a request for the installation of a speed bump(s), the Chief of Police or his or her designated representative shall provide the resident a copy of the ordinance pertaining to "speed bump installation".

(b) The resident shall also be provided with a copy of "petition for speed bump". The petition, upon preliminary examination by the Chief of Police or his or her designated representative, shall note by street(s) and block(s) location, those residences that may be affected by the speed bump. The requesting resident shall be responsible for presenting the petition to each head of household residing within the noted locations on the petition for their support and agreement and by obtaining their names, addresses, phone numbers and signatures indicating their support of the petition.

(4) *Required percentage in support of petition.* The petitions shall normally be deemed sufficient to initiate further investigation and survey by the town upon obtaining 70% support of the affected households.

(5) *Town investigation and/or survey.*

(a) Upon receipt of an adequate petition, the Police Department shall make appropriate survey of traffic volumes and traffic speed on the street(s) and the extent of pedestrian and bicycle traffic.

(b) With regard to the traffic speed survey, speed shall be deemed excessive where at least 15% of the vehicles exceed the posted speed limit by greater than six mph (i.e., 42 mph in a 35 mph zone).

(c) The Police Department shall present any and all relevant information in addition to the speed and volume surveys.

(6) *Presentation to Board of Commissioners.*

(a) Upon receipt of an adequate petition, and all other applicable information from the Police Department, the Town Manager shall present the request to the Board of Commissioners at the earliest reasonable Board meeting.

(b) Based upon all available information, the Board of Commissioners may authorize the installation of speed bump(s) upon finding that:

1. Additional measures are needed to prevent speeding and protect public safety;

2. Speed bumps are the best available means of addressing this need; and

3. Speed bumps will not significantly inconvenience the public or constitute a public nuisance.

(7) *Installation guidelines.*

(a) Speed bumps shall be constructed of appropriate grade of asphalt or other comparable manufactured speed bumps. It shall be approximately 48 inches in width and shall be 2.753 inches in height at the crest of the bump. It shall extend the width of the street to within six inches of the edge of a non-curbed street or to the edge of the gutter on a curbed-and-guttered street. The slope of the bump shall be smooth and uniform on each side and it shall be tapered at each end to the street surface.

(b) Standard warning signs shall be appropriately placed in both directions in advance of each bump.

(c) Speed bumps shall be painted and maintained in the standard yellow color as used by N.C.D.O.T.

(d) Speed bumps shall be visible to oncoming traffic from a distance that allows adequate safe response time.

(e) Speed bumps, where possible, shall be placed to coincide with property lines and not interfere with the entrance and exit to private drives or storm drainage.

(8) *Speed bump petition.* The speed bump installation form is hereby adopted by reference and incorporated herein as if set out in full.

(2006 Code, Ch. 22, § 5) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

§ 95.002 NAMING OF STREETS.

(A) *Governing board determination.* Street names shall be determined by the Board of Commissioners of the town as follows.

(1) (a) The names given new streets by developers may be approved by the Town Board by acceptance of the subdivision plat without specific acceptance of the street name.

(b) This is subject to final approval by the county in accordance with Ch. 12 “Addressing Ordinance” of the county code of ordinances and the interlocal agreement regarding municipal E-911 address assignment by the county between the town and the county dated 8-6-2002, and including future amendments.

(2) All other street names shall be determined in accordance with the “Policy For Naming Streets, Public Facilities, Etc.”, as adopted by the Town Board of Commissioners on 8-3-2004, and including future amendments.

(Amended 11-7-2006)

(B) *Non-duplication.* Streets should be named so as to avoid confusion and duplication so that identification by fire and other emergency personnel may be readily made.

(2006 Code, Ch. 22, § 6) (Amended 12-2-1997; 8-1-2006; 1-2-2007; 12-2-2008; 7-7-2009)

DAMAGING STREETS AND SIDEWALKS

§ 95.015 STREET CONSTRUCTION; EXCAVATIONS.

(A) *Permits required.* It shall be unlawful for any person to make any excavation or do any other work which may cause a dangerous condition in or on any street, alley, sidewalk, public way or public place in the town unless a written permit therefor shall have been first obtained from the Town Manager or his or her agent. No permit shall be issued in any case where a bond is required until it shall have been executed and filed with the Town Finance Officer. The Manager or other officer having authority to grant the same may refuse to grant the permit for good and sufficient cause, but the applicant therefore shall have the right to appeal from the refusal to the Board of Commissioners.

(B) *Permit content.* Every permit for excavation in, or work upon the streets, alley, sidewalks or public places of the town shall specify the location, character and extent of the proposed excavation or work; the name of the person to whom the same is granted; and the name of the person by whom the excavation is to be made or the work to be done. The permit shall also specify that the same shall become void if the excavation or work authorized therein is not begun and completed within a time to be specified therein and shall require that written notice be given the Manager when the excavation work is begun and completed. The permit shall further provide that the same is subject at any time to be revoked by the Board of Commissioners or Manager or other officer of the town having authority therefor. It shall be unlawful for any person to neglect or refuse to comply with the provisions of the permit, or to make any excavation, do any work or continue the excavation of work after the expiration or revocation of the permit.

(C) *Town supervision, inspection.* All excavations and work in the streets, sidewalks, alley or public places of the town be under the supervision and control of the Town Manager or his or her agent, whose duty it shall be to inspect the same from time to time during the progress thereof. Upon the completion thereof, he or she shall make a final inspection and shall see that the street, sidewalk or public place is restored to a condition as good in all respects, as before the excavation or work was made or done, and that all debris, material, tools and equipment are removed from. Any person failing or refusing to comply with any provision of this section shall be guilty of a violation thereof; and where the failure or refusal is continued after notice from the

Town Manager or his or her agent, every day's continuance shall constitute a separate and distinct offense.

(D) *Restoration, repairs.* When any part of any street, sidewalk, alley or public place of the town shall be torn, dug up or taken up for any purpose, the person doing the same shall, immediately upon the completion of the purpose and as speedily as practicable during the accomplishment thereof, return the earth and tamp the same to firm and solid bearing, in a manner as will entirely prevent the settling of the earth; and shall replace the surface of the street, sidewalk, alley or public place and restore the same to a condition as good in all respects as before the excavation was made; all of which shall be done according to the directions of the Town Manager or his or her agent and to his or her entire satisfaction. Any person neglecting, refusing or failing to comply with any provisions of this section shall be guilty of a violation thereof; and where the neglect, refusal or failure is continued after notice from the Town Manager, every day's continuance thereof shall constitute a separate and distinct offense.

(E) *Public safety.* It shall be unlawful for any person to make any excavation or do any work which may create or cause a dangerous condition, in, or on, or near any street, alley, sidewalk or public place in the town without placing and maintaining proper guardrails and signal lights, or other warnings, at, in or around the same, sufficient to warn the public of the excavation or work, and to protect all persons, using reasonable care, from injuries on account of the same.

(F) *Adjacent excavations.* Every person is forbidden to make or cause to be made any excavations on any lot contiguous to any street or sidewalk so negligently made or maintained that the same, by caving or otherwise, may in any manner endanger or injure the street or sidewalk or the persons using the same.

(G) *Deposits.* The deposit for making any opening in any street or sidewalk shall be in an amount as the Town Manager deems adequate for the work to be done.

(2006 Code, Ch. 22, § 1.1) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009) Penalty, see § 10.99

§ 95.016 PARKING TRUCKS AND TRAILERS ON THE STREETS.

(A) *Overnight parking.* It shall be unlawful for any person, firm or corporation to park or cause to be parked any truck, trailer, truck tractor and/or trailer on any paved street in the town for overnight parking.

(B) *Fire districts.* It shall be unlawful for any person, firm or corporation to park or cause to be parked, any dual wheel truck within the fire districts of the town or on any streets immediately adjacent to the fire districts of the town, or on any part of Main or Wilson Streets in the town between the hours of 6:00 p.m. and 6:00 a.m.

(2006 Code, Ch. 22, § 1.2) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009) Penalty, see § 10.99

§ 95.017 DAMAGE TO LIGHTS, SIGNS.

No person shall injure, tamper with, remove, paint upon or deface any sign, sign post, street light, traffic signal, bulletin board, plant or shrub, or any other municipal property upon the streets and sidewalks or on public property or rights-of-way of the town, except employees of the town in performance of their duties.

(2006 Code, Ch. 22, § 1.3) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009) Penalty, see § 10.99

§ 95.018 PARKING OF PETROLEUM PRODUCTS VEHICLES.

(A) *Streets and alleys.* It shall be unlawful for any person, firm or corporation to park or cause to be parked, or permit to remain standing, any truck, trailer truck or combination of truck and trailer, or any other vehicle designed, constructed and used for the transportation of gasoline, naphtha, kerosene, distillate, oil or other inflammable or explosive oil derivatives, whether the same be empty or loaded, at any time on the streets or public alleys in the town. Provided that, this section shall not apply to the loading and unloading of gasoline at filling stations and railroad tank cars.

(B) *Residences.* It shall be unlawful for any person, firm or corporation to park or cause to be parked or permit to remain standing, any truck, trailer truck or combination of truck and trailer, or any other vehicle designed, constructed and used for the transportation of gasoline, naphtha, kerosene, distillate, oil or other inflammable or explosive oil derivatives, whether the same be empty or loaded, on the premises of any private residence in the town, at any time; provided that, this section shall not apply while the vehicle is actually engaged in loading or unloading.

(2006 Code, Ch. 22, § 1.4) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009) Penalty, see § 10.99

§ 95.019 DESTRUCTION AND DEMOLITION OF SIDEWALKS.

It shall be unlawful for any person, firm or corporation to destroy, remove or reduce in size, width or quality or materials any sidewalks in the town, except by permission of the Board of Commissioners.

(2006 Code, Ch. 22, § 1.5) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009) Penalty, see § 10.99

§ 95.020 MOVING OF BUILDINGS.

No person, firm or corporation shall move any house or building upon or across the public streets or sidewalks without the written consent of the Town Manager or his or her agent and the deposit of a good and sufficient bond to be set by the Town Manager to cover any damage which may be done to streets, sidewalks or other public facilities.

(2006 Code, Ch. 22, § 1.6) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009) Penalty, see § 10.99

OBSTRUCTING STREETS AND SIDEWALKS

§ 95.035 PARKING ON SIDEWALKS.

(A) *Prohibition; permits.* It shall be unlawful for any person, firm or corporation to place any obstruction on, over, across or under any street or sidewalk in the town such as to interfere with the normal flow of vehicles and persons, without having first obtained a permit from the Town Manager or his or her agent.

(B) *"Obstruction" defined.* **OBSTRUCTION**, as used in this subchapter, shall be construed as including, but not limited to, the displaying of fruits, vegetables and other eatables, goods, wares and merchandise of every nature upon the streets and sidewalks, and including trucks parked upon the streets and/or sidewalks from which goods are sold.

(C) *Exceptions.* This subchapter shall not apply to farmers selling their produce unless they propose to sell them from a stationary position and shall not apply to retail and wholesale deliveries to business houses from trucks parked in loading zones and alleys or to deliveries in residential districts.

(2006 Code, Ch. 22, § 2.1) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009) Penalty, see § 10.99

§ 95.036 SHEDS AND AWNINGS.

(A) *Wooden sheds and awnings.* It shall be unlawful for any person to erect or repair over any sidewalk or street any wooden shed or awning or any wooden shed for the support of any awning, or erect upon any street or sidewalk any post for the support of any awning. If any person shall violate this section, then each day that the above forbidden structure shall remain after notice shall constitute a separate violation.

(B) *Permitted awnings.* This subchapter shall not be construed to prevent the erection over the sidewalk of cloth or metal awnings, supported upon metal frames firmly suspended from the building, so long as they are at least seven feet above the level of the sidewalk.

(2006 Code, Ch. 22, § 2.3) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009) Penalty, see § 10.99

§ 95.037 TRASH AND RUBBISH.

It shall be unlawful for any person, persons, firm or corporation to place or cause to be placed, garbage, vegetable matter, including, but not limited to, corn shucks and cobs, pea pods and bean hulls, leaves or other refuse junk or rubbish upon the sidewalks or streets in the town unless it shall first have been bound, wrapped or placed in a reasonably durable bag, burlap sheet, basket or other proper container. The placement should, where practical, be upon that area between the street and sidewalk, but in any event so as not to obstruct traffic, vehicular or pedestrian.

(2006 Code, Ch. 22, § 2.4) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009) Penalty, see § 10.99

§ 95.038 SIDEWALK CLEARANCES.

(A) Clearance height. The area above all public sidewalks within the town shall be kept clear and unobstructed to their full width and to a height of eight feet (2.4 meters).

(B) Exception. Wooden or wrought iron benches, flower planters and flag poles are acceptable in CBD (central business district) and GBD (general business district) for businesses fronting Main and Wilson Streets. The benches and flower planters should not extend onto the sidewalk more than 30 inches from building edge. No merchandise shall be displayed on the sidewalks unless it is during a town wide “sidewalk sale” which can be conducted up to twice per year with the Town Manager’s permission.

(Amended 12-2-2008)

(2006 Code, Ch. 22, § 2.5) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009) Penalty, see § 10.99

§ 95.039 OBSTRUCTION OF RAILROAD CROSSINGS.

It shall be unlawful for any person, firm or corporation to allow a railroad train, locomotive or any railroad vehicle to stand upon a public crossing, or any part thereof, for more than ten minutes at any time.

(2006 Code, Ch. 22, § 2.6) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009) Penalty, see § 10.99

USE AND CLEANLINESS

§ 95.050 SKATING.

(A) It shall be unlawful for any person to skate on either the streets or the sidewalks in the business districts of the town.

(Amended 12-2-1997)

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

BUSINESS DISTRICT. The territory of the downtown portion of the town, which is within and bounded by North and South Contentnea Street to the east; East and West Horne Avenue to the north; North and South Walnut Street to the west; and the Norfolk-Southern Railroad to the South.

SKATING. The act or form of recreation whereby the participant is able to propel themselves along the ground by means of wheels or rollers and shall be inclusive of, but not limited to, such devices as skates, roller-blades, skateboards, scooters or similar devices or toys.

(2006 Code, Ch. 22, § 3.1) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009) Penalty, see § 10.99

§ 95.051 BUS STOPS.

It shall be unlawful for intertown buses to discharge or take on passengers within the corporate limits of the town other than at the bus station.

(2006 Code, Ch. 22, § 3.2) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009) Penalty, see § 10.99

§ 95.052 BICYCLES.

It shall be unlawful for any person to ride a bicycle upon any sidewalk in any business district in the town.

(2006 Code, Ch. 22, § 3.3) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009) Penalty, see § 10.99

§ 95.053 SPORTING AND/OR SPORTING APPARATUS PROHIBITED.

(A) It shall be unlawful for any person(s) to place in whole or in part, any apparatus used to facilitate any game or sport, whereby the apparatus, in whole or in part or the sporting participants utilizing the apparatus, are on, over, across or under the right-of-way of any town maintained street. The apparatus shall include, but not be limited to, ramps of any type for cyclist and skaters, and basketball goals.

(B) Apparatus left unattended in violation of this section shall be deemed to have been abandoned upon the right-of-way of a town maintained street and subject to immediate removal by the town as debris in the roadway.

(2006 Code, Ch. 22, § 3.4) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009) Penalty, see § 10.99

TEMPORARY STREET CLOSINGS

§ 95.065 APPROVALS.

When the town or any person or organization desires the temporary closing of any public street within the town to vehicular traffic (for purposes such as street dances, special programs and other reasons), the temporary street closings shall be approved or disapproved by the Town Manager in the following manner.

(2006 Code, Ch. 22, § 4) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

§ 95.066 APPLICATIONS.

Application shall be made to the Town Manager, who may require that the request be in writing and that the applicant provide any relevant information.

(2006 Code, Ch. 22, § 4.1) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

§ 95.067 NOTICE TO BOARD.

The Town Manager shall give immediate notice to the Mayor and Board of Commissioners that he or she has received the application for a temporary street closing. If the Mayor or any Commissioner notifies the Manager in a timely fashion that they object to the proposed closing, a majority vote of the Board in a duly called meeting shall be required to approve the temporary closing.

(2006 Code, Ch. 22, § 4.2) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

§ 95.068 APPROVAL.

(A) The Town Manager shall approve temporary street closings if he or she finds:

(1) The closing will not create a public safety hazard;

(2) The closing will not significantly inconvenience the general public or the residents or businesses in the immediate vicinity; and

(3) The street closing is essential to the purpose for which application has been made.

(B) If the Manager is unable to make these findings, the applicant may apply directly to the Board for approval at a regular or special meeting.

(C) In approving temporary closings, both the Manager and the Board may set conditions of approval designed to protect the public safety and welfare.

(2006 Code, Ch. 22, § 4.3) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

§ 95.069 IMPLEMENTATION.

When temporary street closings are approved, the Town Manager shall notify the applicant, the Police Department and Streets Department in writing and shall direct the placement of barriers to block the street to vehicular traffic. If time allows, advance notice of temporary street closings shall be published in the media. Approval of temporary street closings shall have the effect of temporarily deleting the closed area from the rights-of-way open to vehicular traffic.

(2006 Code, Ch. 22, § 4.4) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

§ 95.070 EXCEPTION.

This subchapter shall not apply to temporary barricading of streets for construction purposes; except that, a person, firm or corporation who erects barricades to protect construction activity must place barriers in locations and in sufficient numbers determined by Police Department to be adequate for the protection of public safety. Failure to comply with this provision shall constitute a misdemeanor.

(2006 Code, Ch. 22, § 4.5) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

CHAPTER 96: RECREATION AND LEISURE

Section

Library

96.01 Preamble

96.02 Establishment

96.03 Library Board of Trustees

96.04 Library personnel

96.05 Annual budget

96.06 Trust funds

Conduct in Parks

96.20 Definitions

96.21 Parks property

96.22 Sanitation

96.23 Traffic

96.24 Duty of picnicker

96.25 Behavior

96.26 Merchandising, advertising and signs

96.27 Park operating policy

96.28 Enforcement

Park Dedications

96.40 Walter B. Jones Town Common

May Museum and Park

96.55 Preamble

96.56 Establishment

96.57 May Museum and Park Advisory Commission

96.58 Museum personnel

96.59 Museum and park finances

96.99 Penalty

LIBRARY

§ 96.01 PREAMBLE.

(A) The Town Public Library was established pursuant to the general statutes of the state and dedicated on 5-11-1954. The library was given to the citizens of the town by Miss Virginia Elizabeth Davis to fulfill a need long felt in the community. In 1957, in accordance with the state statutes, a Library Board of Trustees was created and organized to assist and advise in the operation of the library.

(B) On 3-2-1971, the form of government for the town changed to include a town administrator and the library came under the directives of the Town Board of Commissioners as an implied department of the town. In the course of this governmental reorganization, it became necessary to redefine and establish the regulations and conventions governing the library through a town ordinance.

(2006 Code, Ch. 12)

§ 96.02 ESTABLISHMENT.

There shall be a municipal public library known as the “Farmville Public Library”, which shall be operated as a department in accord with the above preamble.

(2006 Code, Ch. 12, § 1)

§ 96.03 LIBRARY BOARD OF TRUSTEES.

(A) *General.* There shall be a Library Board of Trustees to assist the Board of Commissioners, Town Manager and Library Director in the development, promotion and operation of library programs, policies and facilities. The Library Board of Trustees shall consist of seven members of which no more than two shall reside outside the corporate limits. Members appointed from outside the corporate limits shall be residents within the town area school district or shall have special skills so as to uniquely qualify him or her for duty on the Library Board.

(Amended 3-5-1991)

(B) *Appointment, term, removal.* Each member shall be appointed in accordance with the procedures set forth in § 11.02(B) of this code of ordinances. The members shall be appointed for staggered three-year terms. Each member shall hold office until his or her successor has been appointed and qualified. Any vacancy in the membership shall be filled for the unexpired term. Vacancies for the unexpired terms shall be promptly filled. The Board of Commissioners may remove any Trustee for incapacity, unfitness, misconduct or neglect of duty. A Trustee shall forfeit membership on the Board of Trustees if he or she is absent without excuse for more than three consecutive meetings or more than half of the Board's meetings in any 12-month period. Trustees shall serve without compensation, except for reimbursement for official travel expenses to library conferences and workshops.

(Amended 10-5-2010)

(C) *Powers and duties of Trustees.*

(1) The Library Board of Trustees shall have the following powers and duties:

(a) To formulate and adopt programs, policies and regulations for the operation of the library. The programs, policies and regulations are subject to Town Board review;

(b) To make recommendations to the Board of Commissioners concerning the care of the buildings and grounds of the library system;

(c) To approve all matters involving major improvements or alterations to the library buildings, furnishings and grounds;

(d) To assist the Town Manager in the selection of a Library Director when a vacancy occurs. The Library Board may provide this assistance by participating in the screening of applicants and recommending to the Town Manager two or more fully qualified candidates for the position;

(e) To establish with the Library Director, a schedule of fines and charges for late return, of, failure to return, damage to or loss of library materials, and to take other measures to protect and regulate the use of the materials;

(f) To participate with the Library Director in preparing the annual budget of the library;

(g) To make recommendations concerning the extension of the privileges and use of the library system to non-residents of the county or town establishing or supporting the system;

(h) To develop and carry out special fundraising efforts to support improvements or alterations to the library buildings or grounds;

(i) To recommend the creation of special funds for acceptance of gifts, grants and bequests offered to the library and as well to recommend disbursements from these funds, once created, in accordance with the terms of the gifts, grants or bequests;

(Amended 12-5-2000)

(j) To keep abreast of contemporary standards and methods of delivering service and to be aware of library-related legislation and to attend conferences and workshops for these purposes;

(k) To submit periodically to the Board of Commissioners a report of the needs and programs of the library;

(l) To generally advise the Board of Commissioners, Town Manager and Library Director concerning the operations of the library and to perform any other reasonable duties requested by the Board of Commissioners; and

(m) To act as liaison between the Library Director and the Board of Commissioners.

(2) The Library Board of Trustees shall have the following additional powers:

(a) To adopt the rules and procedures for its own operation as may be necessary and which conforms with this subchapter and state law; and

(b) To create the committees as may be necessary to carry out the responsibilities of the Board.

(2006 Code, Ch. 12, § 2)

§ 96.04 LIBRARY PERSONNEL.

(A) *Public Library Director.* There shall be a Public Library Director, who shall act as the chief administrator of the Town Public Library.

(1) *Appointment.* The Library Director shall be selected by the Town Manager with the assistance of the Library Board and the approval of the Board of Commissioners.

(2) *Powers and duties of the Library Director.* The Library Director shall have the following powers and duties:

(a) To be in charge of the internal management of the library;

(b) To propose to the Library Board programs and policies concerning library services and develop adopted programs and policies;

(c) To organize, supervise and carry out the programs and operations of the library;

(d) To execute adopted policies for library operations;

(e) To actively publicize library programs and services;

(f) To be the final selector for all materials and equipment to further library programs and operations recommended by the Board of Trustees;

(g) To prepare, in consultation with the Trustees, an annual budget proposal and to operate within the adopted budget;

(h) To act as coordinator for annual giving to the library;

(i) To institute and report to the Library Board of Trustees the operational procedures he or she feels necessary to the economical and efficient operation of his or her unit;

(j) To report those maintenance needs that become evident in the normal course of his or her duties;

(k) To make recommendations to the Town Manager as to the appointment of other appropriate library personnel as positions are created or vacated;

(l) To supervise and develop other library personnel;

(m) To attend all Library Board meetings and act as professional adviser to the Board;

(n) To prepare regular reports of library operations to the Library Board, Board of Commissioners and Town Manager; and

(o) To act as professional adviser to the town and the Board of Commissioners on all matters concerning the library and in keeping with this status, he or she shall keep abreast of contemporary library standards and practices through conferences and workshops and membership in professional organizations.

(B) *Other personnel.* Other library personnel shall be appointed by the Town Manager upon recommendation by the Library Director.

(C) *Personnel generally.* Library employees shall be employees of the town, subject to personnel policies of the town and compensated in accordance with the town pay plan.

(2006 Code, Ch. 12, § 3)

§ 96.05 ANNUAL BUDGET.

All revenues and appropriations for the operation of the library shall be included in the budget and accounts of the town. Moneys received in the course of library operations such as fines and

charges for late, damaged or lost materials shall be deposited under the supervision of the Finance Officer of the town, secured as required by law and annually audited.

(2006 Code, Ch. 12, § 4.1)

Statutory reference:

Related provisions, see G.S. §§ 159-25, 159-26, 159-28, 159-31, 159-32, 159-34

§ 96.06 TRUST FUNDS.

The Library Board of Trustees may recommend the acceptance of moneys to be held for specific purposes and may recommend the expenditures of the funds in accordance with the wishes of the donors. Accounting of these funds will be made through the Finance Department of the town and this Department shall make quarterly reports to the Board of Trustees on the status of these funds.

(2006 Code, Ch. 12, § 4.2) (Amended 12-5-2000)

CONDUCT IN PARKS

§ 96.20 DEFINITIONS.

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

DIRECTOR. A person immediately in charge of any park area and its activities, and to whom all park attendants of the area are responsible.

PARK. A park, reservation, playground, beach, recreation center or any other area in the town, owned or used by the town and devoted to active or passive recreation.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

TOWN. The Town of Farmville.

VEHICLE. Any wheeled conveyance, whether motor powered, animal drawn or self-propelled. The term shall include any trailer in tow of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the town parks.

(2006 Code, Ch. 19, § 5.1)

§ 96.21 PARKS PROPERTY.

It shall be unlawful for any person to:

(A) *Disfiguration and removal.* Willfully mark, deface, disfigure, injure, tamper with or displace or remove, any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal;

(B) *Restrooms and washrooms.* Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of six years shall use the restrooms and washrooms designated for the opposite sex;

(C) *Removal or damage of natural resources.* Dig, or remove any soil, rock, stones, trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency. Damage, cut, carve or transplant trees, shrubs or other plantings, dig or destroy grass areas; and/or

(D) *Erection of structures.* Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across the lands, except on permission issued by the Recreation and Parks Director.

(2006 Code, Ch. 19, § 5.2) Penalty, see § 10.99

§ 96.22 SANITATION.

No person in a park shall have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash. No refuse or trash shall be placed in any waters in or contiguous to any park or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

(2006 Code, Ch. 19, § 5.3) Penalty, see § 10.99

§ 96.23 TRAFFIC.

No person in a park shall:

(A) *Motor vehicle laws.* Fail to comply with all applicable provisions of the state and municipal vehicles traffic laws in regard to equipment and operation of vehicles together with such regulations as are contained in this and other ordinances;

(B) *Enforcement of traffic regulations.* Fail to obey all traffic officers and park employees, the persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions of these regulations and the supplementary regulations as may be issued subsequently by the Director;

(C) *Obey traffic signs.* Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping or parking, and all others posted for proper control and to safeguard life and property;

(D) *Vehicles confined to roads.* Drive any vehicle on any area except the paved park roads or parking areas, or other areas as may on occasion be specifically designated as temporary parking areas by Director. No mini-bikes, mopeds or motorcycles may be operated, except as permitted on public streets or paved park roads;

(E) *Parking.*

(1) *Designated areas.* Park a vehicle in other than an established or designated parking area, and the use shall be in accordance with the posted directions thereat and with the instructions of any attendant who may be present; or

(2) *Double-parking.* Double-park any vehicle on any road or parkway unless unloading children or directed by a park official.

(F) *Bicycles.*

(1) *Confined to roads.* Ride a bicycle on other than a paved vehicular road or path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or on any paved area reserved for pedestrian use;

(2) *Designated racks.* Leave a bicycle in a place other than a bicycle rack when it is provided and there is a space available; or

(3) *Hazards.* Leave a bicycle lying on the ground or paving, or set against trees, or in any place or position where other persons may trip over or be injured by them.

(2006 Code, Ch. 19, § 5.4) Penalty, see § 10.99

§ 96.24 DUTY OF PICNICKER.

It shall be unlawful for any person to:

(A) *General.* Leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. If no trash receptacles are available, then refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere;

(B) *Games.* Take part in or abet the playing of any games involving thrown or otherwise propelled objects such as balls, stones, arrow, javelins or model airplanes, except in areas set apart for the forms of recreation. The playing of rough or comparatively dangerous games such as football, baseball and soccer is prohibited, except on the fields and courts or areas provided therefor. Roller skating or skateboarding shall be confined to those areas specifically designated for the pastime; and

(C) *Horseback riding.* Ride a horse, except on designated bridle trails. Where permitted, horses shall be thoroughly broken and properly restrained, and ridden with due care and shall not be allowed to graze or go unattended, nor shall they be hitched to any rock, tree or shrub.

(2006 Code, Ch. 19, § 5.5) Penalty, see § 10.99

§ 96.25 BEHAVIOR.

No person in a park shall:

(A) *Intoxicating beverages.* Have not brought alcoholic beverages, nor shall any person drink alcoholic beverages at any time in the park;

(B) *Fireworks and explosives.* Bring, possess or set off or otherwise cause to explode or discharge or burn, any fireworks or explosives of inflammable material, or discharge them or throw them into any area from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints;

(C) *Alms.* Solicit alms or contributions for any purpose, whether public or private;

(D) *Fires.* Build or attempt to build a fire, except in areas and under regulations as may be designated by the Director. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material, within any park area or on any highway, road or street abutting or contiguous thereto;

(E) *Closed areas.* Enter an area posted as “closed to the public”, nor shall any person use or abet the use of any area in violation of posted notices;

(F) *Games of chance.* Gamble or participate in or abet any game of chance, except lawfully conducted bingo games;

(G) *Loitering and boisterousness*. Sleep or lounge for protracted periods on the seats, or benches, or other areas, or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the public peace; and

(H) *Posted regulations*. Fail to observe and obey any posted regulations or instructions for the use of park grounds or facilities.

(2006 Code, Ch. 19, § 5.6)

§ 96.26 MERCHANDISING, ADVERTISING AND SIGNS.

No person in a park shall:

(A) *Vending and peddling.* Expose or offer for sale any article or thing, nor shall he or she station or place any stand, cart or vehicle for the transportation, sale or display of any article or thing. Exceptions are here made for concessionaires operating under the authority and regulation of the town, for fundraising, festivals, fairs and similar events conducted by non-profit organizations and approved by the town, and for town operated sales of refreshments or other items; and

(B) *Signs.* Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park.

(2006 Code, Ch. 19, § 5.7) Penalty, see § 10.99

§ 96.27 PARK OPERATING POLICY.

(A) *Open.* Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year.

(B) *Closed areas.* Any section or part of any park may be declared closed to the public by the Director at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the Director shall find reasonably necessary.

(2006 Code, Ch. 19, § 5.8)

§ 96.28 ENFORCEMENT.

(A) *Officials.* The Director, park attendant and police officers shall diligently enforce the provisions of this subchapter.

(B) *Ejection.* The Director, any park attendant and police officers shall have the authority to eject from the park any person acting in violation of this subchapter.

(C) *Seizure of property.* The Director, any park attendant or any police officer shall have the authority to seize and confiscate any property, thing or device used in the park in violation of this subchapter.

(2006 Code, Ch. 19, § 5.9)

PARK DEDICATIONS

§ 96.40 WALTER B. JONES TOWN COMMON.

(A) The land known as the "Walter B. Jones Town Common" in the town and bounded on the east by Main Street, on the north by Horne Avenue, on the west by Walnut Street and on the south by Belcher Street, is hereby dedicated as a public park on behalf of the people of the town and set aside and restricted to the uses hereinafter set forth:

(1) To be forever known as the Walter B. Jones Town Common, as stated by that resolution adopted by the Board of Commissioners on 10-6-1981, which is hereby ratified and confirmed;

(2) For the primary purpose of providing for the natural beauty provided by trees, shrubs, grasses, flowers, herbs and bushes and the placement or construction of monuments, fountains, pools, walkways, tables, walls and all structures ancillary to a public garden; and

(3) For the construction of and maintenance of facilities, indoor and outdoor, for recreation sports, the arts, handicrafts, governmental functions of every kind, including office space and parking areas, and other functions approved by the Town Board.

(B) It is the intent of the Board of Commissioners to express its belief that the people of the town desire to utilize the Town Common as effectively as possible to preserve the natural beauty already there, to promote and enhance its further development as a peaceful retreat, and as a park setting and to recognize that parts of it be desirable for the construction of facilities for the public use. The town would encourage that any structures or facilities built on the Common in the future be so placed as to preserve all developed park area, and that all plans for development of the common must be approved by the Town Board of Commissioners prior to construction.

(C) To ensure the safety of all persons utilizing the Town Common and to prevent damage to the Town Common and its facilities for all to enjoy, the town must prohibit certain activities from the Walter B. Jones Town Common:

(1) The operation or use of any device for recreational purposes that transports or propels the occupant or rider by the use of either motorized or human power is prohibited. These devices shall be inclusive, but not limited to, such devices as skates, skateboards, roller blades, scooters, bicycles, tricycles or similar device or toy. These devices do not include devices used to carry or transport small children or infants that are pushed, pulled or propelled by continual human force by other than the child or infant being transported;

(2) The use of the gazebo for any function upon the Town Common is prohibited without the prior approval of the Board of Commissioners or their designated representative;

(3) The introduction of any substance or item into the Millennium Fountain is prohibited, except that which is done with regard to the normal; and

(4) The entry of any person or the parts of any person into the Millennium Fountain is prohibited, except that which is done with regard to normal maintenance by designated representatives of the town.

(Added 12-5-2000)

(2006 Code, Ch. 19, § 6)

MAY MUSEUM AND PARK

§ 96.55 PREAMBLE.

The May Museum and Park Commission was established by resolution by the Town Board of Commissioners on 8-2-1983 according to the wishes of Tabitha M. DeVisconti as outlined by her last will and testament. The property as identified in the August 1983 resolution as the May Museum and Public Park was a gift to the town from Tabitha M. DeVisconti.

(2006 Code, Ch. 31, § 1) (Amended 2-4-1997)

§ 96.56 ESTABLISHMENT.

There shall be a municipal museum and park known as the May Museum and Park, which shall operate as a department of the town.

(2006 Code, Ch. 31, § 2) (Amended 2-4-1997; 11-7-2006)

§ 96.57 MAY MUSEUM AND PARK ADVISORY COMMISSION.

(A) *General.* There shall be a May Museum and Park Advisory Commission to assist the Board of Commissioners and the Town Manager in the development, promotion and operation of the May Museum and Park programs, policies and facilities. This advisory commission shall consist of seven members. Two members must also be members of the Major Benjamin May Chapter of the Daughters of the American Revolution. No more than two members shall be from outside the corporate limits of the town. The two members from outside the corporate limits must have a special interest in or special knowledge of museums so as to especially qualify him or her for service.

(Amended 7-2-1991)

(B) *Appointment, term, removal.* Each member shall be appointed in accordance with the procedures set forth in § 11.02(B). The members shall be appointed for staggered three-year terms. Each member shall hold office until his or her successor has been appointed and qualified. Any vacancy in the membership shall be filled for the unexpired term. Vacancies for the unexpired terms shall be promptly filled. The Board of Commissioners may remove any member for incapacity, unfitness, misconduct or neglect of duty. A member shall forfeit membership on the May Museum and Park Advisory Commission if he or she is absent without excuse for more than three consecutive meetings or more than half of the Board's meetings in any 12-month period. Members shall serve without compensation, except for reimbursement for official travel expenses to conferences and workshops.

(Amended 10-5-2010)

(C) *Powers and duties of advisors.*

(1) The Advisory Commission shall have the following powers and duties:

(a) To formulate and adopt programs, policies and regulations for the operation of the museum and park. The programs, policies and regulations are subject to Town Board review;

(b) To make recommendations to the Board of Commissioners concerning the care of the buildings and grounds of the museum and park;

(c) To approve all matters involving major improvements or alterations to the museum and park buildings, furnishings and grounds;

(d) To assist the Board of Commissioners in the selection of a Museum Director, if such a position is determined needed. The Advisory Commission shall provide this assistance by participating in the screening of applicants and recommending to the Town Manager one or more fully qualified candidate for the position. The Town Manager shall present these recommendations to the Town Board along with his or her recommendations, if he or she has any;

(e) To participate in preparing the annual budget of the museum and park;

(f) To develop and carry out special fundraising efforts to support improvements or alterations to the museum and park buildings or grounds;

(g) To recommend the creation of a special trust fund for the acceptance of gifts, grants and bequests offered to the museum and park and to approve disbursements from these funds, once, created, in accordance with the terms of the gifts, grants or bequests;

(h) To submit annually to the Board of Commissioners a report of the needs and programs of the museum and park; and

(i) To generally advise the Board of Commissioners and the Town Manager concerning the operations of the museum and park and to perform any other reasonable duties requested by the Board of Commissioners.

(2) The Advisory Commission shall have the following additional powers:

(a) To adopt the rules and procedures for its own operation as may be necessary and which conforms with this subchapter and state law; and

(b) To create committees as may be necessary to carry out the responsibilities of the Commission.

(2006 Code, Ch. 31, § 2) (Amended 2-4-1997)

§ 96.58 MUSEUM PERSONNEL.

(A) *General.* There may be a Museum Director, who shall act as the chief administrator of the May Museum and Park.

(1) *Appointment.* The Director shall be appointed by the Town Manager.

(2) *Powers and duties of the Director.* The Director shall have the following duties:

(a) To be in charge of the internal management of the museum;

(b) To propose to the Advisory Commission programs and policies concerning the services and develop adopted programs and policies;

(c) To organize, supervise and carry out the programs and operations of the museum and park;

(d) To execute adopted policies for museum and park operations;

(e) To actively publicize museum and park programs and services;

(f) To prepare, in consultation with the advisors, an annual budget proposal and to operate within the adopted budget;

(g) To act as coordinator for annual giving to the museum and park;

(h) To institute and report to the Advisory Commission the operational procedures he or she feels necessary to the economical and efficient operation of this unit;

(i) To report those maintenance needs that become evident in the normal course of his or her duties;

(j) To make recommendations to the Town Manager as to the appointment of other appropriate museum and park personnel as positions are created or vacated;

(k) To supervise and develop other museum and park personnel;

(l) To attend all Advisory Commission meetings and act as professional advisor to the Commission;

(m) To prepare annual (or as requested) reports of museum and park operations to the Advisory Commission, Board of Commissioners and Town Manager;

(n) To act as professional adviser to the town and the Board of Commissioners on all matters concerning the museum and park and in keeping with this status, he or she shall keep abreast of contemporary standards and practices through conferences and workshops and membership in professional organizations; and

(o) To write and administer grants, with input from the Advisory Commission.

(B) *Other personnel.* Other museum and park personnel shall be appointed by the Town Manager upon recommendation by the Museum Director.

(C) *Personnel generally.* Museum and park employees shall be employees of the town, subject to personnel policies of the town and compensated in accordance with the town pay plan.

(2006 Code, Ch. 31, § 3) (Amended 2-4-1997)

§ 96.59 MUSEUM AND PARK FINANCES.

(A) *Annual budget.* All revenues and appropriations for the operation of the museum and park shall be included in the budget and accounts of the town. Moneys received in the course of museum and park operations shall be deposited under the supervision of the Finance Officer of the town, secured as required by law, and audited at least annually.

(B) *Trust funds.* The Advisory Commission may recommend the acceptance of moneys to be held in trust and may authorize the expenditures of the funds in accordance with the wishes of the grantors. Accounting of these funds will be made through the Finance Department of the town and this department shall make quarterly reports to the Advisory Commission funds.

(2006 Code, Ch. 31, § 4) (Amended 2-4-1997)

Statutory reference:

Related provisions, see G.S. §§ 159-25, 159-26, 159-28, 159-31, 159-32 and 159-34

§ 96.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Violation of §§ 96.20 through 96.28 shall constitute a misdemeanor punishable by a fine up to the maximum allowed by state law, shall subject the offender to a civil penalty to be recovered in a civil action in the nature of debt, and may be remedied by an appropriate equitable remedy issuing from a court of jurisdiction.

(2006 Code, Ch. 19, § 5.9)

CHAPTER 97: SOLID WASTE

Section

97.01 Generally

97.02 Definitions

97.03 Residential services

97.04 Commercial and small industrial site services

97.05 Industrial and heavy commercial site services

97.06 Construction rubbish

97.07 Yard waste collection

97.08 Administration

97.09 Service to non-residents

97.10 Notice of violation

97.99 Penalty

§ 97.01 GENERALLY.

Municipal solid waste collection services will be provided to residences and other sites within the town in accordance with the following policies and regulations.

(2006 Code, Ch. 20)

§ 97.02 DEFINITIONS.

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

BULK CONTAINERS. Four to eight cubic yard metal containers designed for storage of commercial refuse.

CONSTRUCTION RUBBISH. Refuse from the construction, remodeling and repair of houses, commercial buildings and other structures, including, but not limited to, excavated earth, stones, brick, plaster, lumber, concrete, shingles, insulation and waste parts generated by installations and replacements of structures and facilities.

PUBLIC WORKS DIRECTOR. The Town Director of Public Works (department providing sanitation services) or his or her designated agent.

GARBAGE. Putrescible animal and plant refuse resulting from the handling, preparation, cooking and consumption of food, including a minimum amount of liquid necessarily incident thereto. It shall also include non-putrescible items such as paper, boxes, cartons, rubber, tin cans, metals, glass and plastic containers, crockery and other items normally associated with household and small business wastes. All GARBAGE should be capable of being stored in the mobile refuse container.

MOBILE REFUSE CONTAINERS. Rolling, plastic and steel refuse containers with a capacity of 90 gallons, designed for storage of residential and small business garbage and capable of being automatically dumped by the town's garbage collection equipment.

PUTRESCIBLE. Solid wastes capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal and carcasses.

REFUSE. Both putrescible and non-putrescible solid wastes, including, but not limited to, garbage, trash and construction rubbish.

ROLL-OFF CONTAINERS. Forty cubic yard refuse containers designed for storage of heavy commercial and industrial refuse.

SANITARY. Conditions or methods promoting or ensuring cleanliness, health, hygiene and the prevention of disease.

TRASH. Non-putrescible items such as discarded lumber, wood, furniture, mattresses, metal, glass, leather, toys and other items that cannot be disposed of in the mobile refuse containers.

WASTE. Useless, unwanted or discarded materials resulting from community activities, including solids, liquids and gases.

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

YARD WASTES. Solid waste consisting solely of vegetative matter resulting from landscaping maintenance including, but not limited to, stumps, limbs, leaves and grass clippings.

(2006 Code, Ch. 20, § 1.1) (Amended 1-7-1992)

§ 97.03 RESIDENTIAL SERVICES.

(A) *Definition of class.* Location eligible for services under these policies shall include single-family dwellings and multi-family dwellings.

(B) *Garbage storage.* Residential sites shall store their garbage and other refuse in 80 to 90 gallon mobile refuse containers compatible with town collection equipment. All refuse containers shall be kept reasonably clean by the use of effective cleaning agents.

(C) *Garbage collection*. Garbage will be collected one time per week, subject to the availability of municipal resources and to schedule adjustments resulting from holidays. A schedule of fees for this service will be kept on file in the Town Clerk's office. Refuse containers shall be placed within five feet of the curb or street edge or in another accessible location approved by the Public Works Director. Refuse containers shall not be placed in or on any street or sidewalk. Containers shall be placed in the required location for collection no earlier than 4:00 p.m. on the day preceding a designated collection day and shall be removed from the curbside location no later than 7:00 p.m. on the scheduled collection day. Except during these hours, the mobile refuse containers shall be kept in a location no closer to the street than the front line of the residence. In the case of multi-family dwellings with five or more units, the Public Works Director may permit group storage of mobile refuse containers closer to the street as long as the storage area is screened from public view, the area is conveniently located to each dwelling unit and the area and containers are maintained in a sanitary condition.

(D) *Mobile refuse containers*. The mobile refuse containers provided by the town shall remain the property of the town and are provided and assigned for the health, safety, convenience and general welfare of the occupants. Containers which are damaged, destroyed or stolen through

abuse, neglect or improper use of the occupant-users shall be replaced by the town at the expense of the occupants or the owner of the residence. Containers which are damaged in the course of normal and reasonable usage or which are damaged, destroyed or stolen through no abuse, neglect or improper use of the occupant-users or residence owner shall be repaired or replaced by the town at no charge to the occupant-users or residence owners. The containers shall not be damaged, destroyed, defaced or removed from the premises by any person; markings and identification devices on the containers, except as placed or specifically permitted by the town, are expressly prohibited and shall be regarded as damage to the containers. The following materials shall not be placed on or within the mobile refuse containers: rocks, dirt, sod, gasoline, oil, flammable liquids, solvents, hot coals or ashes, heavy building materials. Violation of these prohibitions will be treated as abuse and improper use of the container. In addition, no pet litter, animal waste or disposable diapers shall be placed within a mobile refuse container or other container for collection unless the material is first thoroughly sealed within a plastic or paper bag.

(E) *Hardships.* In order to protect the public health, ensure adequate solid waste collection and prevent undue hardships to the aged, and disabled, the Public Works Director is authorized to vary the requirements of this section relating to placement of the container at a curbside location for collection after conducting a thorough investigation and finding that there is not a person living within a particular residence unit who is physically capable of placing the container in the required location pick up.

(F) *Household items and white goods collection.*

(1) All household items will be collected upon request, subject to the availability of municipal resources. The materials to be picked up shall be placed adjacent to the curb or street edge, but not in the street, paved gutters or drainage ditches. It shall be free of all yard wastes. Wood, boxes, paper cartons and similar materials shall be collapsed and compacted by hand, made free of exposed nail and staple points, and piled neatly next to the street edge or curb. Special pick up requests that are less than a dump truck load will be charged a fee of $15. Any additional loads within a seven-day period will be charged a fee of $50 per load. These fees shall be paid prior to pick up.

(Amended 8-2-2011)

(2) White goods will only be collected upon a request for pick up. Anyone wishing to dispose of a white good should call Public Works to arrange a pick up of the item. Special pick up requests that are less than a dump truck load will be charged a fee of $15. Any additional loads within a seven-day period will be charged a fee of $50 per load. These fees shall be paid prior to pick up.

(Amended 8-2-2011)

(3) The town may provide a special collection of large loads of trash. This can be arranged by calling Public Works.

(Amended 8-2-2011)

(2006 Code, Ch. 20, § 1.2) Penalty, see § 97.99

§ 97.04 COMMERCIAL AND SMALL INDUSTRIAL SITE SERVICES.

(A) *Definition of class.* Locations eligible for service under these policies for service shall include retail stores, service establishments, offices, shopping centers, parks, public facilities, schools, churches and similar uses.

(B) *Storage and collection.* Garbage will be collected up to three times per week and each user in this class will be required to have at least one mobile refuse container. A fee is established for each container. Additional fees will be imposed for each additional container. Businesses requiring additional collections beyond the standard collection schedule will be imposed an additional fee. Refuse shall be stored in 80- to 90-gallon mobile refuse containers (in accordance with § 97.03) compatible with town collection equipment.

(Amended 8-2-2011)

(C) *Preparation.* All cardboard waste generated by commercial and small industrial sites shall be knocked down or thoroughly compacted when placed out for collection and shall not be eligible for collection unless broken down or compacted. This requirement applies to all cardboard boxes larger than one cubic foot in size.

(Amended 8-2-2011)

(2006 Code, Ch. 20, § 1.3) Penalty, see § 97.99

§ 97.05 INDUSTRIAL AND HEAVY COMMERCIAL SITE SERVICES.

(A) *Definition of class*. Locations eligible for service under these policies for service include industrial and heavy commercial sites that typically generate more waste per week than can be handled with the mobile refuse containers.

(B) *Storage*. Industries and other sites in this category shall store their waste in a 40 cubic yard roll-off container for collection.

(C) *Collection*. The town will provide no collection for users in this class, other than corrugated cardboard or recyclable materials.

(D) *Preparation.* Corrugated cardboard if it is knocked down or roughly compacted when placed out for collection. The collection of cardboard and recyclable materials should be arranged through the Public Works Director.

(2006 Code, Ch. 20, § 1.4) Penalty, see § 97.99

§ 97.06 CONSTRUCTION RUBBISH.

Construction rubbish shall be promptly collected, removed and disposed of properly by the builder or contractor generating the rubbish. If the builder or contractor fails to promptly dispose of construction rubbish, the property owner shall be required to do so. The town does not collect any construction debris.

(2006 Code, Ch. 20, § 1.5) (Amended 8-2-2011) Penalty, see § 97.99

§ 97.07 YARD WASTE COLLECTION.

(A) *Yard waste storage.* Residential sites shall store their yard wastes in approved mobile yard waste containers approved by the town. All yard waste containers shall be kept reasonably clean by the effective use of effective cleaning agents.

(B) *Yard waste collection.* Yard wastes will be collected up to one time per week, subject to the availability of municipal resources and to schedule adjustments resulting from holidays. There will be no additional charge for the collection of yard wastes that are properly stored in the yard waste container. Yard waste containers shall be placed within five feet of the curb or street edge or in another accessible location approved by the Public Works Director. Yard waste containers shall not be placed in or on any street or sidewalk. Containers shall be placed in the required location for collection no earlier than 7:00 p.m. on the day preceding a designated collection day and shall be removed from the curbside location no later than 7:00 p.m. on the scheduled collection day.

(C) *Limb and tree removal.* Limbs (smaller than four inches in diameter) and trees that are too large to fit in the yard waste container will be collected upon a request for pick up. Special pick up requests that are less than a dump truck load will be charged a fee of $15. Any additional loads within a seven-day period will be charged a fee of $50 per load. These fees shall be paid prior to pick up. Contractors hired to cut trees, shrubs and grass are required to remove all yard waste, grass clippings and debris from the premises. The town will not pick up any trees and limbs that measure more than four inches in diameter. These fees may be waived by the Board of Commissioners for any event.

(Amended 8-2-2011)

(D) *Depositing of yard wastes*. No person, firm or corporation shall deposit any yard waste, including, but not limited to, grass clippings or twigs within the right-of-way of any public street, sidewalk or storm drain. This includes the blowing or sweeping of grass clippings from recently mowed lawns.

(2006 Code, Ch. 20, § 1.6) (Added 10-5-2004) Penalty, see § 97.99

§ 97.08 ADMINISTRATION.

The Public Works Director shall make all determinations regarding classes of refuse generators, compliance with storage and container maintenance requirements, and compliance with other service requirements and regulations of this section. The Public Works Director may, in addition to other penalties provided for violation of this code, suspend collection service to any person, firm, establishment or organization which fails to comply with the requirements of this section.

(2006 Code, Ch. 20, § 1.7) (Amended 7-3-1999)

§ 97.09 SERVICE TO NON-RESIDENTS.

Persons or firms located outside the town boundaries may, upon approval of the Town Board and payment of fees approved by the Town Board be provided with municipal refuse collection service.

(2006 Code, Ch. 20, § 1.8) (Amended 7-3-1999)

§ 97.10 NOTICE OF VIOLATION.

The actual notice of violation is hereby adopted by reference and incorporated herein as if set out in full.

§ 97.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Violations of § 97.03(D) will be subject to a fine of $50.

(2006 Code, Ch. 20, § 1.2)

CHAPTER 98: PUBLIC HEALTH AND SANITATION; NUISANCES

Section

General Provisions

98.01 Privies

98.02 Water closets

98.03 Waste disposal

98.04 Human waste

Public Nuisance Abatement

98.15 Authority

98.16 Statement of purpose

98.17 Public nuisances

98.18 Investigations

98.19 Nature of violations

98.20 Order of abatement

98.21 Removal of conditions

98.22 Assessment of costs

98.23 Liens

98.24 Remedies

98.25 Chronic violations

Cross-reference:

Solid Waste, see Ch. 97

GENERAL PROVISIONS

§ 98.01 PRIVIES.

No person, firm or corporation shall keep, maintain or allow remaining on his or her premises any privy within the town.

(2006 Code, Ch. 20, § 2.1) Penalty, see § 10.99

§ 98.02 WATER CLOSETS.

(A) *General.* The owner of every building designed for human habitation or use by human beings which is located on a lot adjacent to or abutting the sewer system of the town shall install and maintain in a sanitary condition within every building at least one privately enclosed water closet of the siphon wash-down action or siphon jet-action type. Multi-family dwelling units shall have at least one water closet per family unit.

(B) *Water connection required; payment of charge in lieu of connection.* Each owner of improved property located upon or within a distance of 250 feet of any water line shall connect the plumbing system of his or her premises with the town water system; provided that, any owner who already has in use a private well approved by the County Department of Health may, in lieu of connecting his or her premises to the town water system, pay the minimum monthly charge established for water service and may continue the use of the well for domestic household water service for so long as the charge is duly paid and for so long as the well remains suitable for the use as determined by the County Department of Health.

(Added 11-3-1998)

(C) *Use of wells for other purposes; cross-connection prohibited.* Any person who connects his or her premises to the town water system for domestic household water service may continue the use of a private well for any purpose other than domestic household water supply. There shall be no cross-connection of the town water system with any private well or any other source of water supply.

(Added 11-3-1998)

(2006 Code, Ch. 20, § 2.2) Penalty, see § 10.99

§ 98.03 WASTE DISPOSAL.

No person shall dispose of any dead animal, decayed plant matter, garbage, trash or other refuse on any public street, gutter, right-of-way or property or in any ditch, canal or storm sewer

within the town. All solid waste shall be properly disposed of by municipal collection or by placement in a designated sanitary landfill or designated solid waste collection site.

(2006 Code, Ch. 20, § 2.3) Penalty, see § 10.99

§ 98.04 HUMAN WASTE.

(A) *General.* No person shall urinate, defecate or deposit any human waste of any kind on any street, road, alley, public property, public vehicular area, lot or premises, except in approved sanitary facilities.

(B) *Sewer connection required: payment of charge in lieu of connection*. Each owner of improved property located upon or within a distance of 250 feet of any town sewer line shall connect the plumbing system of his or her premises with the town sewer system; provided that, any owner who already has in use a septic tank approved by the County Department of Health may, in lieu of connecting his or her premises to the town sewer system, pay the minimum monthly charge established for sewer service, and may continue the use of the septic tank for domestic household sewer service for so long as the charge is duly paid and for so long as the septic tank remains suitable for the use as determined by the County Department of Health.

(Added 11-3-1998)

(2006 Code, Ch. 20, § 2.4) Penalty, see § 10.99

PUBLIC NUISANCE ABATEMENT

§ 98.15 AUTHORITY.

The town has the authority to summarily remove, abate or remedy everything prejudicial to the public health or safety.

(2006 Code, Ch. 20, § 3)

§ 98.16 STATEMENT OF PURPOSE.

The Board of Commissioners of the town also finds it necessary and desirable to control public nuisances as a means 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 thoroughfare 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 the nuisances.

(2006 Code, Ch. 20, § 3.1)

§ 98.17 PUBLIC NUISANCES.

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits and one mile thereof is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

(A) The uncontrolled growth of noxious weeds or grass to a height in excess of 12 inches causing or threatening to cause a hazard detrimental to the public health or safety;

(B) Any accumulation of tires, rubbish, trash or junk (as defined by G.S. § 136-143(3) and also including old machinery, machinery parts and damaged, worn out, scrapped or discarded materials), 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, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health;

(C) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitancy therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health;

(D) The open storage of any ice box, refrigerator, stove, glass, building material, building rubbish, household appliances or similar items; and

(E) Any condition detrimental to the public health which violates the rules and regulations of the County Health Department.

(2006 Code, Ch. 20, § 3.2) Penalty, see § 10.99

§ 98.18 INVESTIGATIONS.

The Code Enforcement Officer, upon notice from any person of the possible existence of any of the conditions described in § 98.17, shall cause to be made, an investigation as may be necessary to determine whether conditions exist which may constitute a public nuisance as declared in § 98.17.

(2006 Code, Ch. 20, § 3.3)

§ 98.19 NATURE OF VIOLATIONS.

If it appears that the conditions exist, the Code Enforcement Officer shall cause to be delivered or mailed to the owner of the property upon which the conditions exist a notice stating the reasons why the condition may constitute a violation and that a hearing will be held before the Code Enforcement Officer at a place therein fixed, not less than ten, nor more than 30, days after the delivery or mailing of the notice. The owner or any party in interest shall have the right to file an answer to the notice and to appear in person, or otherwise, and give evidence at the place and time fixed in the notice. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall be controlling in the hearings.

(2006 Code, Ch. 20, § 3.4)

§ 98.20 ORDER OF ABATEMENT.

If a determination is made that the conditions constituting a public nuisance exist, the Code Enforcement Officer shall notify, in writing, the owner 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.

(2006 Code, Ch. 20, § 3.5)

§ 98.21 REMOVAL OF CONDITIONS.

If the owner, having been ordered to abate a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from the receipt of the order, the Code Enforcement Officer shall cause the condition to be removed or otherwise remedied by having employees of the town, or authorized contractors of the town to go upon the premises and

remove or otherwise abate the nuisances under the supervision of the Code Enforcement Officer. Any person who has been ordered to abate a public nuisance may within the time allowed by this chapter request the town in writing to remove the condition, the cost of which shall be paid by the person making the request.

(2006 Code, Ch. 20, § 3.6)

§ 98.22 ASSESSMENT OF COSTS.

The actual cost incurred by 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 persons in possession of the premises with instructions that the charges are due and payable within 30 days from the receipt thereof. The cost of abating the nuisances described in § 98.17 shall be determined by the town taking annual bids from private contractors. All charges for abatement shall include an administrative fee in accordance with the fee schedule established by the town.

(2006 Code, Ch. 20, § 3.7)

§ 98.23 LIENS.

In the event charges and fees 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 § 98.22, 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 G.S. § 160A-193.

(2006 Code, Ch. 20, § 3.8)

§ 98.24 REMEDIES.

The procedure set forth in this chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and this chapter shall not prevent the town from proceeding in a criminal action against any person, firm or corporation violating the provisions of this chapter as provided in G.S. § 14-4.

(2006 Code, Ch. 20, § 3.9)

§ 98.25 CHRONIC VIOLATIONS.

(A) Notwithstanding any other provision of this section, the Code Enforcement Officer may notify a chronic violator that if the chronic violator's property is determined to be a nuisance as defined in § 98.17, the town shall, without further notice in the calendar year in which the notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be served by registered or certified mail. Upon the provision of the notice, the Code Enforcement Officer has full power and authority to enter upon the premises involved and abate the nuisance found to exist during the calendar year in which the notice is given without further notice. The Code Enforcement Officer may proceed to abate the nuisance by utilization of town forces or an outside contractor. The owner of the property shall be liable to the town for the actual cost incurred by the town in the nuisance abatement, including an administrative fee. The cost shall be a lien upon the property and shall be collected as unpaid taxes.

(B) For the purpose of this section, a **CHRONIC VIOLATOR** is a person whose property whereupon, in the previous calendar year, the town abated a nuisance as defined in § 98.17 on at least three occasions.

(2006 Code, Ch. 20, § 3.10)

CHAPTER 99: FALSE ALARM REGULATIONS

General Provisions

99.01 Purpose

99.02 Definitions

99.03 Response to alarms — determination of validity

99.04 Exclusions

99.05 False alarm responses

99.99 Penalty

GENERAL PROVISIONS

§ 99.01 PURPOSE.

The purpose of this ordinance is to encourage alarm users to assume increased responsibility for maintaining the mechanical reliability and the proper use of their alarm systems, to thereby reduce or eliminate false/accidental alarm calls for service and to prevent unnecessary emergency police response to **false alarms.**

§ 99.02 DEFINITIONS.

Alarm *system* means any single device or assembly of equipment designed to signal the occurrence of an illegal entry or other activity requiring immediate attention and to which the police department is expected to respond, but does not include alarms installed in motor vehicles or fire alarms.

Alarm *business* means the business by any individual, partnership or corporation serving, repairing, altering, replacing, moving or installing any alarm system, or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any commercial or residential building, structure or premises.

Alarm *signal* means a detectable signal, either audible or visual, generated by an alarm system, to which the police are expected to respond.

Alarm *dispatch request:* A notification to public safety officials by an alarm company that an alarm has been activated at an alarm site.

***Alarm** user* means any person, corporation, partnership, proprietorship, governmental or educational entity or any other entity owning or leasing an alarm system, or on whose premises an alarm system is maintained for the protection of such premises.

***Automatic** dial protection device* means an automatic dialing device or an automatic telephone dialing alarm system and shall include any system which, upon being activated, automatically initiates the police department, a recorded message or code signal indicating a need for police response.

False alarm means the activation of an alarm system through mechanical or electronic failure, malfunction, improper installation, or the negligence of the alarm user, his/her employees or agents, and signs activated to summon police personnel **unless law enforcement response was canceled by the alarm user or his agent before police personnel arrive at the alarm location.** An alarm is false within the meaning of this ordinance when, upon inspection by the responding officer, evidence indicates that no unauthorized entry, robbery, or other such crime was committed or attempted in or on the premises which would have activated a properly functioning alarm system.

§ 99.03 RESPONSE TO ALARMS — DETERMINATION OF VALIDITY.

(A) Police response. Whenever an alarm is activated in the town and an officer responds, that officer on the scene of the activated alarm system will inspect the area and will determine whether the police response was in fact necessary as indicated by the alarm system or whether the alarm was a false alarm.

(B) Notification. If the police officer at the scene of the activated alarm system determines the alarm to be false, the officer will notify police dispatch to make the appropriate documentation in the police department's Operations Report (OR) referencing the false alarm. An alarm user shall be notified of each false alarm by the police dispatcher so that the alarm user may respond. When officers respond to three (3) false alarms at the same location within a calendar year, a registered letter shall be mailed to the alarm user notifying them of the ordinance and the fees involved.

§ 99.04 FALSE ALARM RESPONSES.

(A) A penalty shall be assessed per each false alarm occurrence in excess of five (5) per calendar year for each alarm user. The penalty shall be a debt owed by the alarm user to the Town of Farmville and if not paid may be collected as a civil penalty. Each penalty incurred for false alarms at the premises shall be paid within thirty (30) days from the date of the penalty notification.

(B) It is hereby found and determined that five (5) or more false alarms within any twelve-month period is excessive and constitutes a public nuisance.

(C) The amount of penalty shall increase based on repeated occurrences, as follows:

(1)	Sixth false alarm	$50.00
(2)	Seventh false alarm	$100.00
(3)	Eighth false alarm	$150.00
(4)	Ninth false alarm	$200.00
(5)	Ten (10) or more false alarms	$250.00

§ 99.05 EXCLUSIONS.

For the purpose of computing the number of alarm responses in section 99-04, the following shall not apply:

(A) If the alarm is determined to be activated by adverse weather conditions as reported by the police dispatcher.

(B) If the alarm is activated by an electrical power outage to the electric meter on the commercial or residential building.

(C) An alarm where there is physical evidence of a fire or either an attempted or actual unauthorized entry at the location where the alarm was activated.

(D) An alarm system activated during alarm system testing shall not be considered an alarm for the purpose of computing alarm responses if the user first notifies the police department.

(E) Any alarm where officers are told to disregard because contact has been made with the alarm user and everything is secure.

(F) Any false alarms occurring within fifteen (15) days of the installation of a new alarm system shall not be considered false alarms for the purposes of the assessment of penalties.

§ 99.99 PENALTY.

(A) Any violation of this chapter shall subject the offender to a civil penalty in the amount stated in section 99.04 (c). Violators shall receive by certified mail a notification stating the date of violation and amount to be paid. This fee must be paid to the Town of Farmville within thirty (30) days of notification.

(B) Violation of this chapter may also constitute a misdemeanor punishable, upon conviction, by a fine not to exceed $50 or imprisonment for not more than 30 days as provided in G.S. § 14-4.

(C) Alternatively, the town may apply to the appropriate court for an injunction and order of abatement requiring a violator to correct any unlawful condition relating to this chapter existing on his or her property, pursuant to G.S. § 160A-175

TITLE XI: BUSINESS REGULATIONS

Chapter

110. GENERAL LICENSING PROVISIONS

111. PEDDLERS AND SOLICITORS

112. CARNIVALS, TENT SHOWS AND EXHIBITIONS

113. TAXICABS

114. MARKETS, ANTIQUE STORES, YARD SALES AND THE LIKE

115. ALCOHOLIC BEVERAGES

116. SEXUALLY ORIENTED BUSINESSES

117. HEALTH MASSAGE THERAPY

118. JUNKYARDS AND JUNK DEALERS

119. ABANDONED VEHICLE ENTERPRISES

120. SIDEWALK CAFÉS AND OUTDOOR DINING AREAS

121. INSULATION INSTALLERS

122. MOVING BUILDINGS

CHAPTER 110: GENERAL LICENSING PROVISIONS

Section

General Provisions

110.01 Definitions

110.02 Construction

GENERAL PROVISIONS

§ 110.01 DEFINITIONS.

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

BUSINESS. Includes each trade, occupation, profession, business and franchise taxed under this title.

PERSON. Includes any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm or other legal entity.

SEASONAL. A business is seasonal in nature when it is conducted for profit six months out of the year or less.

(2006 Code, Ch. 13, § 1.1)

§ 110.02 CONSTRUCTION.

This business title is enacted for revenue purposes only. Therefore, it should be construed to require payment of the maximum tax permitted under its terms. In addition, issuance of a license in accordance with this business title does not excuse a licensee from compliance with any other applicable ordinance or statute. This business title does not prevent the town from imposing license taxes on additional businesses, from increasing or decreasing the amount of any license tax or from regulating any business taxed.

(2006 Code, Ch. 13, § 1.2)

CHAPTER 111: PEDDLERS, SOLICITORS, FOOD TRUCKS AND COMMERCIAL FOOD VENDORS

Section

General Provisions

111.01 Commercial peddling and vending

111.04 Transient Merchants, Itinerant Merchants and Vendors

111.05 Permits Required

111.06 Applications and Investigations

Non-Commercial Fundraising

111.15 Applicability

111.16 Permits required

111.17 Applications, investigations and publicity

111.18 Additional approval by Town Board of Commissioners

Food Trucks and Commercial Food Vendors

111.19 Findings and Intent

111.20 Definitions

111.21 Permitting

111.22 Regulations

111.23 Suspension and Revocation of Permit

GENERAL PROVISIONS

§ 111.01 COMMERCIAL PEDDLING AND VENDING.

(A) *Applicability.* This subchapter shall apply to all peddlers and solicitors who seek to do business at the private residences or along the residential street of the town. This chapter shall not restrict or apply to the sale or soliciting of orders for milk or dairy products or similar regular sales businesses that are properly licensed.

(B) *Permits required.* Any person, firm or corporation desiring to go door-to-door among the private residences of the town, without prior invitation from the occupants of each residence, for the purpose of selling goods, wares, merchandise or services or soliciting orders for same shall first obtain a permit from the Town Manager for this purpose and pay the applicable privilege license fee.

(C) *Applications and investigations.* A permit shall be issued by the Town Manager after investigation of the identity and reputability of the person, firm and/or corporation and a finding that the applicant is apparently a legitimate and reputable business. This investigation shall include obtaining any relevant information from agencies such as the Police Department, Chamber of Commerce and Better Business Bureau, and obtaining positive identification of any proposed salespersons or solicitors. The Town Manager shall employ application forms, permit cards or other procedures deemed necessary to the administration of this chapter and is authorized to place reasonable conditions upon the issuance of a permit which act to protect the public welfare.

(2006 Code, Ch. 13, § 6.1)

§ 111.04 TRANSIENT MERCHANTS, ITINERANT MERCHANTS, AND VENDORS

(A) *Applicability.* This subchapter shall apply to all transient merchants or itinerant vendors, meaning any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the town or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within the town, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, or railroad boxcar, public room in hotels, lodging houses, apartments, shops, or any street, alley, or other place within the town, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction provided that such definition shall not be construed to include:

(1) Any person selling at a flea market taxed under state law.
(2) Any auctioneer licensed and acting under the provisions of G.S. Ch. 85B.
(3) Any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only.
(4) Any person selling at a farmer's market or special event sponsored by the town or the county.

(5) Any person who otherwise meets the definitions of this section but who is part of a group of ten (10) or more merchants selling at the invitation of the shopping area or trade show, and where such sales activities do not last longer than seven (7) days.
(6) Any person selling Christmas trees and holiday decorations.
(7) Licensed automobile dealers selling new automobiles.

(B) No person so engaged shall be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

§ 111.05 PERMITS REQUIRED

Any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, desiring to sell and deliver goods, wares and merchandise within the town shall first obtain a permit from the Town Manager for this purpose and pay the applicable fee

§ 111.06 APPLICATIONS AND INVESTIGATIONS

A permit shall be issued by the Town Manager after investigation of the identity and reputability of the person, firm and/or corporation and a finding that the applicant is apparently a legitimate and reputable business. This investigation shall include obtaining any relevant information from agencies such as the Police Department, Chamber of Commerce and Better Business Bureau, and obtaining positive identification of any proposed salespersons or solicitors. The Town Manager shall employ application forms, permit cards or other procedures deemed necessary to the administration of this chapter and is authorized to place reasonable conditions upon the issuance of a permit which act to protect the public welfare.

(2006 Code, Ch. 13, § 6.1)

NON-COMMERCIAL FUNDRAISING

§ 111.15 APPLICABILITY.

This subchapter shall apply to all organizations seeking to go door-to-door among the residences and businesses of the town for allegedly non-profit fundraising, including, but not limited to, civic organizations, churches, veterans organizations, charitable organizations, scouting groups and the like. This section is enacted for the purpose of protecting the fundraising rights of legitimate and reputable non-profit organizations.

(2006 Code, Ch. 13, § 6.2.1)

§ 111.16 PERMITS REQUIRED.

Any non-profit organization desiring to raise funds by selling merchandise or services or soliciting donations within the town shall first obtain a permit from the Town Manager for this purpose. No permit fee shall be charged.

(2006 Code, Ch. 13, § 6.2.2)

§ 111.17 APPLICATIONS, INVESTIGATIONS AND PUBLICITY.

(A) A permit shall be issued by the Town Manager after investigation and finding that the organization is apparently a legitimate and reputable non-profit organization. This investigation shall include obtaining any available and relevant information concerning whether the organization has tax-exempt status, whether it has a state solicitation permit, what portions of its funds are used for administration and other activities, and who the principal officers of the organization are. Tax-exempt status and state solicitation permits shall not be pre-requisites or sole tests of non-profit status.

(B) The Town Manager shall employ application forms, permit cards or other procedures deemed necessary for administration of this chapter and is authorized to place reasonable conditions upon the issuance of a permit which act to protect the public welfare.

(C) Whenever time allows, the Town Manager shall publish in the media the issuance of any permits for non-profit fundraising.

(2006 Code, Ch. 13, § 6.2.3)

§ 111.18 ADDITIONAL APPROVAL BY TOWN BOARD OF COMMISSIONERS.

In addition to meeting the requirements set forth in §§ 111.15, 111.16 and 111.17, all departments of the town and organizations operating under the budgetary control of the town must receive approval from the Town Board of Commissioners prior to commencing with

fundraising activities. Requests for approval by the Town Board of Commissioners shall state the nature of the fundraising activity, as well as the percentage of funds to be used for promotion and administration.

(2006 Code, Ch. 13, § 6.2.4)

FOOD TRUCKS

§ 111.19 FINDINGS AND INTENT

Allowing food truck businesses to operate in Farmville promotes diversification of the town's economy and employment opportunities. Food trucks support the incubation and growth of entrepreneurial/start-up businesses.

North Carolina General Statute 160A-174 grants towns the power to define, prohibit, regulate, acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the town through the creation of ordinances.

§ 111.20 DEFNITIONS

(A) *FOOD TRUCK*: A readily movable trailer or motorized wheeled vehicle, currently registered with the N.C. Division of Motor Vehicles, designed and equipped to serve food.

(B) *COMMERCIAL FOOD VENDOR:* Any restaurant or retail food vendor, whether a resident of the town or not, who engages in the temporary business of selling pre-packaged food within the town.

(C) *REGULATORY FEE*: A fee assessed to cover the cost of regulating a particular business activity that is assessed to the particular business being regulated.

(D) *TOWN SANCTIONED EVENT*: Any event sponsored by the town, supported with town resources, or in which official permission or approval has been granted by the town manager, or their designee.

§ 111.21 PERMITTING

(A) A food truck or commercial food vendor permit shall be required prior to operation. All food truck and commercial food vending operators shall obtain a one-time use permit or town sponsored permit from the town manager or their designee, unless otherwise exempted in this chapter.

(B) Applicants seeking a one-time use permit shall be assessed a $75 per day regulatory fee. Applicants shall not be allowed to operate more than two (2) times within a calendar week.

(C) Permits shall be posted in a visible location at all times while in operation.

(D) Food truck and commercial food vending operators shall have the signed approval of the property owner for each location at which they operate. This approval must be made available with the permit application.

(E) Food trucks shall provide documentation of approval from the North Carolina Department of Health. A valid health permit must be maintained for the duration of the food truck permit and shall be placed in a conspicuous location for public inspection.

(F) A food truck or commercial food vendor permit does not include peddler, solicitor, or transient vendor as defined by the Town Code.

(G) No permit issued shall authorize a food truck or commercial food vendor to operate on or from a public street.

§ 111.22 REGULATIONS

(A) Food truck shall be positioned at least one hundred feet from the nearest parcel boundary of an existing restaurant during its hours of operation, unless the food truck vendor provides documentation that the restaurant owner supports a closer proximity.

(B) Commercial food vendors shall be allowed to locate on a property within any zoning district that allows Restaurants, including drive-in and fast food, as defined in Chapter 157 of the Town Code.

(C) No food truck nor commercial food vendor shall conduct business within Central Business District (CBD).

(D) A trash receptacle shall be provided for customers. All associated equipment, including trash receptacles, must be within three feet of the food truck, unless they are part of a town approved special event.

(E) Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.

(F) Food trucks shall only operate on private property, unless they are part of a town approved special event.

(G) No food truck shall conduct business on any public right-of-way, sidewalk, upon any public road in the town, or on any property owned by the town; except for town approved special events.

(H) No liquid, grease or solid wastes may be discharged from the food truck. Absolutely no waste may be disposed of in tree pits, storm drains, the sanitary sewer system or public streets.

(I) Food trucks must have the following fire extinguisher on board during hours of operation: minimum Class 2A, 10B, and C rated extinguisher. If food preparation involves deep frying, a Class K fire extinguisher must also be on the truck. All National Fire Protection Association (NFPA) standards shall be met to include fire extinguishers and fire suppression hood systems shall be maintained.

(J) A food truck vendor shall not operate the food truck as a drive-in window.

(K) Lighting shall be such that minimizes the glare on roadways and surrounding properties.

(L) No signage shall be allowed other than signs permanently attached to the motor vehicle.

(M) The noise level from the food truck shall comply with the municipality's noise ordinance.

(N) Food trucks shall be positioned at least three feet away from any fire hydrants, any fire department connection, utility box or vault. The food truck shall not locate within any area of the lot that impedes, endangers, or interferes with pedestrian or vehicular traffic. A food truck shall not impede ingress and egress from driveway entrances, handicapped parking spaces & ramps, building entrances and exits.

§ 111.23 SUSPENSION AND REVOCATION OF PERMIT

(A) The permit issued for the food truck business may be revoked if the vendor violates any of the provisions contained in this article.

(B) The Town Manager may revoke a permit if he or she determines that the food truck vendor's operations are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or that such use is otherwise creating a danger to the public health or safety.

(C) The Town Manager reserves the right to temporarily suspend food truck permits during times of special events in the downtown area.

CHAPTER 112: CARNIVALS, TENT SHOWS AND EXHIBITIONS

Section

112.01 Purpose

112.02 Permits required

112.03 Findings required

112.04 Temporary permits

§ 112.01 PURPOSE.

This chapter is for the purpose of regulating temporary shows and exhibitions in order to protect the health and safety of citizens, preserve peaceful enjoyment of property and residence within the town and prevent public nuisances.

(2006 Code, Ch. 13, § 7.1)

§ 112.02 PERMITS REQUIRED.

Any person, firm or corporation proposing to operate or cause to be operated any carnival, tent show, outdoor exhibition, minstrel show or show of like kind shall first obtain a permit for operation of same.

(2006 Code, Ch. 13, § 7.2)

§ 112.03 FINDINGS REQUIRED.

A permit shall be issued upon a finding by the Town Manager that:

(A) The Chief Building Inspector has inspected the premises and found them to be generally safe for public entry and use on the day of inspection;

(B) The Zoning Administrator has confirmed that the site is located in an area zoned for the proposed use;

(C) The Police Chief and the Streets Superintendent has found that the site has adequate provision for parking and traffic flow; and

(D) A deposit has been submitted by the carnival company or other show affected by this chapter in the form of cash, certified check or money order payable to the town in the amount considered adequate by the Manager to cover costs of cleaning the site if the site is not left in clean condition or of any damage to public property.

(2006 Code, Ch. 13, § 7.3)

§ 112.04 TEMPORARY PERMITS.

A permit for operation may be revoked by the Town Manager at any time that he or she finds that unsafe conditions, inadequate parking or traffic flow, improper zoning or conditions constituting a public nuisance exist.

(2006 Code, Ch. 13, § 7.4)

CHAPTER 113: TAXICABS

Section

113.01 Rates approval

113.02 Tax identification

§ 113.01 RATES APPROVAL.

It shall be unlawful for any person, firm or corporation to operate any taxicab within the town unless the town be a point of destination from some other place or that the town be en route from two other places, until the rates of the taxi have been approved by the Board of Commissioners of the town.

(2006 Code, Ch. 13, § 8.1) Penalty, see § 10.99

§ 113.02 TAXI IDENTIFICATION.

It shall be unlawful for any person, firm or corporation to operate, after having had the rates of the taxi approved by the Board, any taxi in the town without displaying prominently on the side or back of the vehicle, the name of owner or company of the taxi or cab, and the number of the taxi if the person, firm or corporation owns or operates more than one taxi in the town.

(2006 Code, Ch. 13, § 8.2) Penalty, see § 10.99

CHAPTER 114: MARKETS, ANTIQUE STORES, YARD SALES AND THE LIKE

Section

114.01 Prohibition

114.02 Conditions

114.99 Penalty

§ 114.01 PROHIBITION.

It shall be unlawful for any flea market, antique sale, yard sale or auction sale to display and/or store merchandise, material and display fixtures outside of a building between the hours of 6:00 p.m. and 6:00 a.m.

(2006 Code, Ch. 13, § 10.1) Penalty, see § 114.99

§ 114.02 CONDITIONS.

Persons or groups shall be allowed to hold four yard sales per year within the town at no charge.

(2006 Code, Ch. 13, § 10.2)

§ 114.99 PENALTY.

Any person violating the requirements of this chapter shall be guilty of a misdemeanor, punishable according to the limits set by the general statutes. Each violation of a separate provision and each day's continuing violation of a single provision shall constitute a separate offense. This provision shall not prevent the town from proceeding in other action as provided in G.S. § 14-4.

(2006 Code, Ch. 13, § 10.3)

CHAPTER 115: ALCOHOLIC BEVERAGES

Section

115.01 Purpose

115.02 Obtaining criminal history information; recommendations

115.03 Authority

115.04 Effective date

ABC PERMIT CHECKS

§ 115.01 PURPOSE.

The purpose of this chapter is to authorize the Town Police Department to seek state access to SBI/DCI Criminal Record information for use in making recommendations on the suitability of a person or of a location for an ABC permit.

(2006 Code, Ch. 13, § 12.1) (Amended 2-3-2009; 10-6-2009)

§ 115.02 OBTAINING CRIMINAL HISTORY INFORMATION; RECOMMENDATIONS.

(A) G.S. § 18B-904(f) provides that the governing body of a town may designate an official of the town, by name or position, to make recommendations to the State ABC Commission on behalf of the town concerning the suitability of a person or of a location for an ABC permit when the proposed location is within the town.

(B) The Chief of Police is designated as the official authorized to make recommendations on behalf of the governing body of the town concerning the suitability of a person or of a location for an ABC permit within the town jurisdiction pursuant to G.S. § 18B-904(f).

(C) In order to make the recommendations, the Town Police Department desires state access to the SBI/DCI criminal history record information to obtain criminal history information on all persons applying for ABC permits for proposed locations within the town.

(D) The Town Police Department will obtain the criminal history information on each applicant based on identification information regarding the applicant contained in the notice of permit application received from the State ABC Commission.

(E) If the criminal history information reveals that an applicant has been convicted of any felony, a misdemeanor involving drugs or alcohol, or any offense in violation of G.S. Ch. 14, Art. 26, the Town Police Department will file a written objection to the issuance of the permit.

(F) The State ABC Commission is the government agency responsible for the issuance of all ABC permits.

(2006 Code, Ch. 13, § 12.2) (Amended 2-3-2009; 10-6-2009)

§ 115.03 AUTHORITY.

The Police Department shall be authorized to seek state access to SBI/DCI criminal history record information to obtain criminal history information on all persons applying for ABC permits for proposed locations within the town.

(2006 Code, Ch. 13, § 12.3) (Amended 2-3-2009; 10-6-2009)

§ 115.04 EFFECTIVE DATE.

This effective date of this subchapter is 6-1-2002.

(2006 Code, Ch. 13, § 12) (Amended 2-3-2009; 10-6-2009)

CHAPTER 116: SEXUALLY ORIENTED BUSINESSES

Section

116.01 Purpose; exemptions

116.02 Definitions

116.03 Business classification

116.04 License required

116.05 Issuance of license

116.06 Appeal

116.07 Fees

116.08 Location requirements

116.09 Inspection

116.10 Expiration of license

116.11 Suspension of license

116.12 Revocation of license

§ 116.01 PURPOSE; EXEMPTIONS.

The town is committed to protecting the general welfare of the town through the enforcement of laws prohibiting obscenity, indecency and sexual offenses. It seeks to reduce and eliminate the deleterious effects of sexually oriented businesses while preserving constitutionally protected forms of expression. The town finds that sexually oriented businesses in certain locations contribute to neighborhood deterioration and blight through an increase in crime and diminution of property values, among other adverse consequences, and finds that the effects are contrary to the general welfare of the town. The town recognizes that important and substantial government interests provide a constitutional basis for reasonable regulation of the time, place and manner under which sexually oriented businesses operate; and that, therefore, the town has determined that persons seeking to operate sexually oriented businesses shall be required to observe specific locational requirements before they commence business, as provided for in this chapter. The town finds that the licensing of sexually oriented businesses is necessary to ensure compliance with the locational and zoning requirements of the businesses. The town finds that sexually oriented businesses in other communities have been used for unlawful sexual activities, including prostitution and sexual encounters of a casual nature. The concern over sexually transmitted diseases is a legitimate health concern of the town. The provisions of this chapter shall not be construed as permitting any use, activity or structure that is otherwise prohibited,

illegal or made punishable by law, nor shall it be construed so as to prohibit conduct or expression that is subject to constitutional protection.

(2006 Code, Ch. 32, § 1) (Adopted 5-1-2001)

§ 116.02 DEFINITIONS.

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

ADULT ARCADE. (Also known as PEEP SHOW.) Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically- or mechanically-controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE or ***ADULT VIDEO STORE.*** A commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations that depict or describe specified sexual activities or specified anatomical areas; or

(2) Instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities.

ADULT CABARET. A nightclub, bar, restaurant or other commercial establishment that regularly features, exhibits or displays as one of its principal business purposes:

(1) Persons who appear nude or semi-nude;

(2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

(3) Films, motion pictures, videocassettes, slides or other photographic reproductions which depict or describe specified sexual activities or specified anatomical areas.

ADULT MOTEL. A hotel, motel or similar commercial establishment that:

(1) Offers accommodations to the public for any form of consideration, provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions that depict or describe specified sexual activities or specified anatomical areas as one of its principal business purposes;

(2) Offers a sleeping room for rent for a period of time that is less than ten hours; or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of less than ten hours.

ADULT MOTION PICTURE THEATER. A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe specified sexual activities or specified anatomical areas.

ADULT THEATER. A theater, concert hall, auditorium or similar commercial establishment which regularly features, exhibits or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict specified anatomical areas or specified sexual activities.

APPLICANT. The person who will operate the sexually oriented business, and shall include each of the following persons associated with that business:

(1) The owner of a sole proprietorship;

(2) Each member of a firm, association or general partnership;

(3) Each general partner in a limited partnership;

(4) Each officer, director and owner of more than 10% of the stock of a corporation;

(5) The manager of an establishment operated by a corporation; and

(6) Any manager who has been empowered as attorney-in-fact for a non-resident individual or partnership.

EMPLOY, EMPLOYEE AND EMPLOYMENT. Describe and pertain to any person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise.

ESCORT. A person who, for tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business that furnishes, offers to furnish or advertises to furnish escorts as one of its principal business purposes, for a fee, tip or other consideration.

ESTABLISHMENT. Includes any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of any existing business, whether or not a sexually oriented business, to any sexually oriented business;

(3) The addition of any sexually oriented business to any other existing sexually oriented business; or

(4) The relocation of any sexually oriented business.

LICENSEE. Person(s) in whose name a license to operate a sexually oriented business has been issued.

NUDE MODEL STUDIO. Any place where a person who appears semi-nude, in a state of nudity or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. ***NUDE MODEL STUDIO*** shall not include a proprietary school or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure:

(1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;

(2) Where in order to participate in a class a student must enroll at least three days in advance of the class; and

(3) Where no more than one nude or semi-nude is on the premises at any one time.

NUDITY or A STATE OF NUDITY.

(1) The appearance of a human anus, male genitals or female genitals; or

(2) A state of dress which fails to opaquely cover a human anus, male genitals or female genitals.

OPERATES or CAUSES TO BE OPERATED. To cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner or licensee of the business.

PERSON. An individual, proprietorship, partnership, corporation, association or other legal entity.

SEMI-NUDE. A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex, or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

SEXUAL ORIENTED BUSINESS. An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center or any combination of the foregoing.

SPECIFIED ANATOMICAL AREAS. Human genitals in a state of sexual arousal.

SPECIFIED SEXUAL ACTIVITIES. Includes any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;

(3) Masturbation, actual or simulated; or

(4) Excretory functions as part of or in connection with any of the activities set forth in divisions (1) through (3) above.

TOWN MANAGER. The Farmville Town Manager.

TRANSFER OF OWNERSHIP OR CONTROL. Of a sexually oriented business means and includes any of the following:

(1) The sale, lease or sublease of the business;

(2) Persons other than those named as applicants for a license becoming associated with the business, as provided in the definition of "applicant"; except that, a mere substitution of a person as manager of an establishment shall only require filing with the Code Enforcement Officer and Chief of Police; or

(3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(2006 Code, Ch. 32, § 2) (Adopted 5-1-2001)

§ 116.03 BUSINESS CLASSIFICATION.

Sexually oriented businesses are classified as follows:

(A) Adult arcades;

(B) Adult bookstores or adult video stores;

(C) Adult cabarets;

(D) Adult motels;

(E) Adult motion picture theaters;

(F) Adult theaters;

(G) Escort agencies;

(H) Nude model studios; and

(I) Sexual encounter centers.

(2006 Code, Ch. 32, § 3) (Adopted 5-1-2001)

§ 116.04 LICENSE REQUIRED.

(A) It is unlawful for any person to operate a sexually oriented business without a valid sexually oriented business privilege license approved by Code Enforcement Officer pursuant to this chapter.

(B) (1) An application for a license must be made on a form prescribed by the Code Enforcement Officer.

(2) An application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business.

(3) The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises.

(C) The applicant may request and the applicant shall provide information as to enable the Code Enforcement Officer to determine whether each applicant meets the qualifications established in this chapter.

(D) Each applicant must be qualified in accordance with this chapter and each applicant shall be considered a licensee if a license is granted.

(E) Each applicant must request and receive a special use permit when required by the local zoning ordinances.

(2006 Code, Ch. 32, § 4) (Adopted 5-1-2001) Penalty, see § 10.99

§ 116.05 ISSUANCE OF LICENSE.

(A) Within 30 days after receipt of a completed application, the town will approve or deny the issuance of a license to an applicant for a sexually oriented business license. The town will approve the issuance of a license to an applicant unless it finds one or more of the following to be true:

(1) An applicant is under 18 years of age;

(2) The license fee required by this section has not been paid;

(3) An applicant or an applicant's spouse is overdue in payment to the town taxes, fees, fines or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to a sexually oriented business;

(4) An applicant has failed to provide information required in order to determine the qualifications of the applicant under this chapter for issuance of the license, or has falsely answered a question or request for information on the application form;

(5) An applicant or the proposed establishment is in violation of or is not in compliance with this chapter or other provisions of this code, including local zoning requirements;

(6) An applicant or an applicant's spouse has been convicted of a violation of a provision of this chapter, other than the offense of operating a sexually oriented business without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect; and

(7) The Chief of Police shall make a recommendation to the Code Enforcement Officer based on a check of any state, federal and/or local repository for criminal history to determine if an applicant and/or an applicant's spouse has been convicted of a crime involving:

(a) Any offense described in G.S. Ch. 14, Arts. 7A, 26, 26A, 27, 37 or 39, or any similar offenses to those described above under the Criminal or Penal Code of the state, other states, the town or other towns, cities or other countries; or facilitation, attempt, conspiracy or solicitation to commit any of the foregoing offenses; for which:

1. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

2. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

3. Less than five years have elapsed since the date of the last conviction or the date of release from confinement of the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(b) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse;

(c) An applicant who has been convicted or whose spouse has been convicted of an offense listed above may qualify for a sexually oriented business license only when the period required by this chapter has lapsed; and

(d) The applicant has failed to make application using a legal name or has failed to produce a valid state driver's license or a valid state identification card.

(B) The license, if granted, shall state on its face the legal name of the person or persons to whom it is granted, the classification of sexually oriented business for which it is granted, the expiration date, and the address of the sexually oriented business. Licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

(2006 Code, Ch. 32, § 5) (Adopted 5-1-2001)

§ 116.06 APPEAL.

An applicant whose application is denied, suspended or revoked by Code Enforcement Officer may appeal the action in writing within 30 days, to the Town Board of Commissioners, who shall decide either to uphold the action or to issue the license not later than the second regular Town Board meeting after receipt of the appeal. The applicant or licensee shall have the right to present evidence before the Town Board. The decision to uphold the action of the Code Enforcement Officer or issue the license shall be based solely on the criteria established in this chapter for the action by the Code Enforcement Officer. A suspension or revocation shall be stayed during the pendency of an appeal to the Town Board.

(2006 Code, Ch. 32, § 6) (Adopted 5-1-2001)

§ 116.07 FEES.

(A) Every sexually oriented business that is granted a license (new or renewal) shall pay to the town an annual non-refundable privilege license fee of $1,000 upon license issuance or renewal.

(B) A substitution of a manager of the business, which occurs during the license years, shall be filed with the Code Enforcement Officer within 30 days of its occurrence and a $100 investigation fee paid.

(C) All license applications and fees shall be submitted to the town.

(2006 Code, Ch. 32, § 7) (Adopted 5-1-2001)

§ 116.08 LOCATION REQUIREMENTS.

(A) *Overconcentration.* No more than one sexually oriented business is located in any 2,000-foot radius (determined by a straight line and not street distance). Sexually oriented businesses, because of their very nature, are recognized as having serious objectionable operational characteristics upon adjacent neighborhoods, particularly when they are concentrated. Special regulation of these establishments is necessary to ensure that these adverse effects will not

contribute to the blighting or downgrading of the surrounding neighborhood. To prevent an overconcentration of sexually oriented businesses and the creation of a de facto downgrading or blighting of surrounding neighborhoods; this radius requirement is necessary.

(B) *Residential proximity.* No sexually oriented business is located within a 2,000-foot radius (determined by a straight line and not street distance) of any place of worship, school (public or private), specialty school, day care facility or any residential zoning districts or residential properties. Sexually oriented businesses, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when they are located near a residential zoning district or certain other districts which permit residential uses. Special regulation of these establishments is necessary to ensure that these adverse effects will not contribute to a downgrading or blighting of surrounding residential districts or certain other districts which permit residential uses.

(2006 Code, Ch. 32, § 8) (Adopted 5-1-2001) Penalty, see § 10.99

§ 116.09 INSPECTION.

(A) A business license applicant or licensee shall permit representatives of the Police Department or any other town, town, county, state or federal department, division or agency that enforces codes, regulations of statutes relating to human health, safety or welfare or structural safety, to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

(B) The provisions of this chapter do not apply to areas of an adult motel which are currently being rented by the customer for use as a permanent or temporary habitation.

(2006 Code, Ch. 32, § 9) (Adopted 5-1-2001)

§ 116.10 EXPIRATION OF LICENSE.

(A) All licenses shall expire one year from the date of issuance and may be renewed only by making application as provided in this chapter.

(B) Application for renewal should be made at least 30 days before the expiration date and, when made less than 30 days before the expiration date, the expiration of the license will not be affected.

(2006 Code, Ch. 32, § 10) (Adopted 5-1-2001)

§ 116.11 SUSPENSION OF LICENSE.

The Code Enforcement Officer is authorized to, and will, suspend a sexually oriented business license for a period not to exceed 30 days if the Police Department and/or Inspections Department determines that a business licensee has:

(A) Violated or is not in compliance with this chapter or with any other requirements of this code, including those relating to buildings, electricity, plumbing, fire safety and mechanical equipment;

(B) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;

(C) Permitted illegal gambling by any person on the sexually oriented business premises; or

(D) Demonstrated an inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

(2006 Code, Ch. 32, § 11) (Adopted 5-1-2001)

§ 116.12 REVOCATION OF LICENSE.

(A) The Code Enforcement Officer is authorized to, and will, revoke a license if a cause for suspension occurs and the license has been suspended within the preceding 12 months.

(B) (1) The Code Enforcement Officer is authorized to, and will, revoke a sexually oriented business license if the Police Department determines that a business licensee:

(a) Gave false or misleading information in the material submitted to the town during the application process, including, but not limited to, the use of a name other than a legal name to procure a license;

(b) Has allowed the possession, use or sale of controlled substances on the premises;

(c) Has allowed prostitution on the premises;

(d) Has operated or worked in the sexually oriented business during a period of time when the licensee's license was suspended;

(e) Has been convicted of an offense named in § 116.05 for which the time period required has not lapsed;

(f) On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime named in § 116.05 for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed;

(g) Has allowed any act of sexual intercourse, masturbation, oral copulation or sodomy to occur in or on the licensed premises; and/or

(h) Is delinquent in payment to the town of ad valorem taxes, sales taxes or the annual license fee, or any other fee or tax related to the sexually oriented business or other business of the licensee.

(2) The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(C) When the Code Enforcement Officer revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective. If, subsequent to revocation, the Code Enforcement Officer finds that the basis for the revocation has been corrected or abated, the licensee may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked, an applicant may not be granted another license until the appropriate number of years required under this chapter has elapsed.

(2006 Code, Ch. 32, § 12) (Adopted 5-1-2001)

CHAPTER 117: HEALTH MASSAGE THERAPY

Section

117.01 Purpose and objective

117.02 Definitions

117.03 Hours of operation; restrictions; prohibitions

117.04 Exemptions

117.05 Licensing of health massage therapist

117.06 Licensing of health massage therapy establishments

117.07 Denial of license

117.08 Facilities required for a health massage therapy establishment

117.09 Revocation

117.10 Posting of license

117.11 Location requirements

117.12 Application fees

117.13 Annual privilege license

§ 117.01 PURPOSE AND OBJECTIVE.

To protect the public health, safety, welfare and morals, the following privilege license provisions and regulations are ordained for the privilege of carrying on the business, trade or profession of health massage therapy and for the operation or carrying on of the business, trade or profession commonly known as health message therapy establishment wherein health massage therapy or physical manipulation of the human body is carried on or practiced. The objective is to permit only the professions of massage or health massage therapy as authorized under this chapter.

(2006 Code, Ch. 35, § 1) (Adopted 4-21-1993)

§ 117.02 DEFINITIONS.

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

BUSINESS OR PROFESSION OF HEALTH MASSAGE THERAPY. Includes health massage therapy or treatment of any person for a fee or for other good or valuable consideration from the person receiving the health massage therapy.

HEALTH MASSAGE THERAPIST. Any person, whether male or female, who is engaged in the practice of health massage therapy and who receives compensation for his or her services.

HEALTH MASSAGE THERAPY. Any form of manipulation of the muscles, skin or other soft tissue of the body by kneading, stroking, pressing, tapping or movement of extremities, whether applied by hand, arm, foot or aided by mechanical device.

HEALTH MASSAGE THERAPY ESTABLISHMENT. Any business or establishment wherein health massage therapy is practiced.

PRIVATE PARTS. The penis, scrotum, mons veneris, vulva or vaginal area of a person.

(2006 Code, Ch. 35, § 2) (Adopted 4-21-1993)

§ 117.03 HOURS OF OPERATION; RESTRICTIONS; PROHIBITIONS.

(A) *Hours of operation.*

(1) No person licensed as a health massage therapist shall massage or treat any person, or engage in the business or profession of health massage therapy, before 7:00 a.m. or after 10:00 p.m., prevailing time.

(2) No person licensed under the provisions of this chapter shall admit customers or prospective customers, or remain open for business, or allow, permit or condone the administration of health massage therapy or treatment of any person upon the premises before

7:00 a.m. or after 10:00 p.m., prevailing time, except upon written order by a licensed physician, osteopath, chiropractor, registered physical therapist or legal guardian, the order being dated, and a true copy of the order being in the possession of the licensee before administration of any health massage therapy or treatment. A violation of this section shall be grounds for revocation of any license issued under this chapter.

(3) No person in charge of managing a health massage therapy business upon the premises shall allow, permit or condone any health massage therapy or treatment of any person before 7:00 a.m. or after 10:00 p.m., prevailing time.

(B) *Patronage of health massage therapy establishment by minors.*

(1) No person licensed as a health massage therapist shall administer health massage therapy or treat any person under the age of 18 upon the licensed premises, except upon written order by a licensed physician, osteopath, chiropractor, registered physical therapist or legal guardian, the order being dated and in the possession of the health massage therapist giving the health massage therapy or treatment. A violation of this division (B)(1) shall be grounds for revocation of any license issued under this chapter.

(2) No person licensed as a health massage therapist under the provisions of this chapter shall allow, permit or condone the administration of health massage therapy or treatment of any person under the age of 18 upon the licensed premises, except upon written order by a licensed physician, osteopath, chiropractor, registered physical therapist or legal guardian, the order being dated, and a true copy of the order being in the possession of the licensee before administration of any health massage therapy or treatment. A violation of this division (B)(2) shall be grounds for revocation of any license issued under this chapter.

(C) *Massage of private parts for hire prohibited.* It shall be unlawful for any person to massage or to offer to massage the private parts of another for hire.

(2006 Code, Ch. 35, § 3) (Adopted 4-21-1993) Penalty, see § 10.99

§ 117.04 EXEMPTIONS.

(A) The practice of health massage therapy shall not include and is distinct from the practice of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry. Requirement of this chapter shall have no application to the following:

(1) Physicians, surgeons, chiropractors, osteopaths, physical therapists or podiatrists duly licensed to practice in the state;

(2) Registered or licensed practical nurses working under the supervision of a licensed physician, chiropractor, osteopath or podiatrist;

(3) Athletic directors or trainers who are affiliated with an approved educational institution or professional sports team, and whose work is limited to athletic team members; and

(4) Licensed cosmetologist, barbers or beauty culturists who do not give, or hold themselves out to give, massages other than are customarily given in those establishments, solely for the purposes of beautification.

(B) Other persons not duly qualified and licensed as a health massage therapist under this chapter, whether employed by physicians, chiropractors, osteopaths, podiatrists, or not, may not render health massage therapy.

(2006 Code, Ch. 35, § 4) (Adopted 4-21-1993)

§ 117.05 LICENSING OF HEALTH MASSAGE THERAPIST.

(A) No person shall engage in the business or profession of health massage therapy unless the person shall have first applied for and received the privilege license provided by this section.

(B) Applicants are required to have a minimum of 150 hours of professional training in health massage therapy, to be obtained through an institute or school of health massage, therapy, college level courses, workshops and seminars, or apprenticeship with a licensed health massage therapist. On and after 1-1-1994, all applicants shall be required to have a minimum of 325 hours of professional training in health massage therapy. On and after 1-1-1995, all applicants shall be required to have a minimum of 500 hours of professional training or in lieu thereof a certificate of completion from a course of study from a nationally recognized or accredited institution. These requirements shall apply to all applicants and no applicant shall be exempted therefrom, except as expressly provided in § 117.04. Until the applicant has attained 500 hours of training or in lieu thereof a certificate of completion from a course of study from a nationally recognized or accredited institution as hereinabove set forth, each applicant shall respectively submit on or before 1-1-1994 and 1-1-1995 a written, notarized certification stating the number of hours of completed professional health massage therapy training. The training, whether from one or several following criteria:

(1) At least 50% of the total training, provided by a licensed health massage therapist to be in hands-on health massage therapy techniques, massage treatment principles and theory;

(2) At least 20% of total training to be in the area of anatomy and physiology;

(3) The balance of the total training to be in other health-related areas, such as hydrotherapy, movement and nutrition; and

(4) Licensee shall provide evidence of having completed at least eight hours of continuing training or workshops annually in order to renew the license.

(C) The application for the license required by this section shall be upon a form approved by the Town Manager and shall be filed with the Town Clerk. The application shall be given under oath and shall contain the following information:

(1) The name, age and residence of the applicant;

(2) A complete statement of the previous business or occupation of the applicant for the two years immediately preceding the date of application;

(3) The date and place of applicant's birth and the residence address or addresses of the applicant for the three years immediately preceding the date of application;

(4) A complete statement of all convictions of the applicant for any offense involving sexual misconduct, including G.S. §§ 14-177 through G.S. § 14-202.1, Art. 26 (offenses against public morality and decency), and G.S. §§ 14-203 through 14-208, Art. 27 (prostitution), or of any violation of any law or ordinance of any governmental unit concerning or related to the business or profession of massage;

(5) A complete statement of any revocation of any license granted by any governmental unit to the applicant to engage in the business or profession of massage or health massage therapy;

(6) The applicant must furnish the following proof of training:

(a) A diploma or certificate of graduation from an institute or school of massage whose curriculum is approved by the American Massage Therapy Association; or

(b) A diploma, transcript or certificate of completion from a school or other institution of learning, or a workshop/seminar leader, which indicates the subjects studied and number of hours of hands-on experience and classroom hours taken.

(7) In addition to divisions (C)(6)(a) or (C)(6)(b) above, all applicants shall have submitted two written notarized recommendations from two members in good standing with the American Massage Therapy Association or from two persons or instructors from other schools or institutions of learning, attesting to the qualifications and good standing of any applicant for a license hereunder; and

(8) The town reserves the right to request submission of any additional information deemed necessary to process any application.

(D) Upon payment of the application fee, as set out in § 117.12, and upon submission of all the information required by the application under this chapter, the Town Clerk shall transmit a copy of the application to the Chief of Police for an investigative report which shall contain a background investigation regarding any convictions for crimes or sexual misconduct or other offenses against public morality. The Chief of Police shall report the results of the investigation to the Town Clerk within a reasonable time, not to exceed 30 days. Unless it appears that any applicant is under the age of 18 years, has deliberately falsified the application, has had a previously issued license for engaging in the business or profession of health massage therapy revoked, or the record of the applicant reveals a conviction as set out in division (C)(4) above, a license shall be granted immediately by the Town Clerk if all requirements described herein are met.

(2006 Code, Ch. 35, § 5) (Adopted 4-21-1993)

§ 117.06 LICENSING OF HEALTH MASSAGE THERAPY ESTABLISHMENTS.

(A) No person, partnership, corporation or association shall operate a health massage therapy establishment as herein defined unless the person, partnership, corporation or association shall have first applied for and received the privilege license provided by this section.

(B) Every application for the privilege license prescribed herein shall be upon a form approved by the Town Manager and shall be filed with the Town Clerk. Every application shall be made under oath and shall contain the following information:

(1) If the applicant is a person, the name and residence of the person. If the applicant is a partnership, corporation or association, the name and residence address of all persons having any legal or beneficial interest in the applicant;

(2) The address of the premises where the health massage therapy establishment shall be located;

(3) A complete statement of all convictions of any person whose name is required to be given in division (B)(1) above for any offense as previously set out in § 117.05(C)(4);

(4) A complete statement of any revocation, by any governmental unit, of any license to operate a health massage therapy establishment or to engage in the business or profession of massage held by any person whose name is required to be given in division (B)(1) above;

(5) The name and address of any massage establishment or other establishment owned or operated by any person whose name is required to be given in division (B)(1) above wherein the business or profession of massage is carried on;

(6) A description of any business to be operated on the same premises or on adjoining premises owned or controlled by the applicant; and

(7) The town reserves the right to request submission of any additional information deemed necessary to process any application.

(C) The Town Clerk shall transmit a copy of the application to the Chief of Police for an investigative report; to the Building Inspector to determine compliance with all building regulations and ordinances; to the Planning Department to determine compliance with all zoning regulations and ordinances; and to the Fire Department to determine compliance with any law relating to fire protection. The Chief of Police, Fire Department, Building Inspector and the Planning Department shall, within a reasonable time, not to exceed 30 days, report the results of their investigation to the Town Clerk.

(D) An application in proper form, accompanied by all reports required by this section and by the application fee as required by § 117.12, shall be submitted to the Town Clerk who shall approve the application if the Town Clerk determines that:

(1) The application contains no misstatement of fact;

(2) The applicant, and any person having legal or beneficial ownership interest in the applicant, is over the age of 18 years and has not been convicted of any crime involving sexual misconduct, as set out in § 117.05(C)(4);

(3) The applicant conforms to all requirements of applicable Zoning, Building and Fire Prevention Codes; and

(4) The applicant, or any person having a legal or beneficial ownership interest in the applicant, has not, for the three-year period preceding the application, had a previously issued license for engaging in the business or profession of massage or health massage therapy or a license to operate a health massage therapy establishment or massage business revoked.

(2006 Code, Ch. 35, § 6) (Adopted 4-21-1993)

§ 117.07 DENIAL OF LICENSE.

Any person denied a license pursuant to the provisions in §§ 117.05 and 117.06 may appeal to the Town Board in writing stating reasons why the license should be granted. The Town Board may grant or deny the license. The Town Board may also review any determination of the granting or denial of a license on its own motion. All licenses issued hereunder are non-transferable.

(2006 Code, Ch. 35, § 7) (Adopted 4-21-1993)

§ 117.08 FACILITIES REQUIRED FOR A HEALTH MASSAGE THERAPY ESTABLISHMENT.

No license to conduct a health massage therapy establishment shall be issued unless an inspection discloses that the establishment complies with all of the minimum requirements of the State Building Code and all the state laws and regulations relating to health and sanitation governing health-related facilities. The town reserves the right to impose additional conditions for reasons of public health and safety.

(2006 Code, Ch. 35, § 8) (Adopted 4-21-1993)

§ 117.09 REVOCATION.

(A) *Notice and hearing.* No license under this chapter shall be revoked until after due notice and a hearing shall have been held before the Town Manager to determine just cause for the revocation. Notice of the hearing shall be given in writing and served at least ten days prior to the date of the hearing thereon. The notice shall state the grounds of the complaint against the holder of the license and shall designate the time and place where the hearing will be held.

(B) *Method of notice.* The notice shall be served upon the license holder by delivering the same personally or by leaving the notice at the place of business or residence of the license holder in the custody of a person of suitable age and discretion. In the event the license holder cannot be found and the service of the notice cannot be otherwise made in the manner herein provided, a copy of the notice shall be mailed, registered or certified, postage fully prepaid, addressed to the license holder at his or her place of business or residence at least ten days prior to the date of the hearing.

(C) *Revocation of health massage therapist license.* Grounds for revocation shall not be limited to, but shall include:

(1) The licensee has violated any provision of this chapter;

(2) The licensee has been convicted of a crime involving sexual misconduct, or has become a habitual criminal offender;

(3) The licensee is guilty of fraudulent, false, misleading or deceptive advertising, including the use of the term "massage" to describe, promote or advertise any type of business activity or service offered which is expressly not health massage therapy, as herein defined;

(4) The licensee has fraudulently obtained a license pursuant to the provisions of this chapter;

(5) The licensee allows the use of his or her license by an unlicensed person; or

(6) The licensee is addicted to the habitual use of alcohol, narcotics or other drugs, to such an extent as to incapacitate the person for the safe and normal performance of his or her professional duties.

(D) *Revocation of health massage therapy establishment license.* Grounds for revocation shall not be limited to, but shall include:

(1) The licensee has violated any provision of this chapter;

(2) The licensee, or any agent of the licensee, employs or permits to be on the premises of the applicant's health massage therapy establishment any person who has not been issued the privilege license required by the chapter;

(3) The licensee, or the legal or beneficial owner of any interest in the licensee is convicted of any crime involving sexual misconduct;

(4) The licensee is guilty of fraudulent, false, misleading or deceptive advertising, including the use of the term "health massage" or health massage therapy to describe, promote or advertise any type of business activity or service offered which is expressly not health massage therapy, as defined by this chapter, or has otherwise fraudulently engaged in the business or profession of health massage therapy; or

(5) The licensee violates any zoning, building or fire prevention ordinance or other local, state or federal laws.

(E) *Appeal.*

(1) Any person whose license is revoked hereunder may appeal to the Town Board in writing stating why the license should not be revoked.

(2) The Town Board after due notice shall conduct a hearing, at which hearing the Town Board shall affirm the revocation or authorize the re-issuance of any license.

(2006 Code, Ch. 35, § 9) (Adopted 4-21-1993)

§ 117.10 POSTING OF LICENSE.

(A) Every health massage therapist licensed under § 117.05 shall post the license required by this chapter in his or her work area at all times.

(B) Every person, corporation, partnership or association licensed under § 117.06 as a health massage therapy establishment shall display the license in a prominent place at all times.

(2006 Code, Ch. 35, § 10) (Adopted 4-21-1993)

§ 117.11 LOCATION REQUIREMENTS.

All health massage therapy or treatment shall be administered in a health massage therapy establishment duly licensed under this chapter and in a location permitted under the Zoning Code.

(2006 Code, Ch. 35, § 11) (Adopted 4-21-1993)

§ 117.12 APPLICATION FEES.

(A) The application fee for a privilege license for a health massage therapist as set out in § 117.05 shall be $15.

(B) The application fee for a privilege license for a health massage therapist establishment pursuant to § 117.06 shall be $25.

(2006 Code, Ch. 35, § 12) (Adopted 4-21-1993)

§ 117.13 ANNUAL PRIVILEGE LICENSE.

The licenses required under this chapter are annual privilege licenses. The licenses shall be due and payable in the same manner as prescribed for other privilege licenses issued by the Building Inspections Department pursuant to § 117.11:

(A) Health massage therapist privilege license: $25; and

(B) Health massage therapist establishment privilege license: $50.

(2006 Code, Ch. 35, § 13) (Adopted 4-21-1993)

CHAPTER 118: JUNKYARDS AND JUNK DEALERS

Section

118.01 Definitions

118.02 Licensing

118.03 Condition of premises

118.04 Operating procedures

118.99 Penalty

§ 118.01 DEFINITIONS.

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

JUNK. Damaged, worn out, scrapped or discarded materials including, but not limited to, old iron, steel, brass, copper, tin, lead or other base metals; wrecked or inoperable motor vehicles or vehicle parts; old cordage, ropes, rags, fibers, fabrics, cardboard or wastepaper; old bottles or other glass; old machinery, machinery parts or plumbing fixtures; and other scrapped or discarded materials commonly regarded as **JUNK** or defined as **JUNK** by G.S. § 136-143(3).

JUNK DEALER. A person who operates a junkyard.

JUNKYARD. Any lot, yard or place, outdoors or in a building, containing junk and used for buying, storing, keeping, dismantling, processing, salvaging, buying, selling or offering for sale any junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds are received for profit or charitable reasons. **JUNKYARDS** includes areas so defined by G.S. § 136-143(4). **JUNKYARDS** shall include areas within or adjacent to industrial operations where materials are being stored pending salvage or reprocessing.

PERSON. Any person, firm, partnership, association, corporation, company or organization.

SOLID FENCE. A fence constructed of standard and customary fencing materials and properly painted, treated and maintained so as to prevent as nearly as is practical, any contents of the junkyard from being visible from any public road or residence taking into consideration, the surrounding terrain.

(2006 Code, Ch. 20, § 4.1)

§ 118.02 LICENSING.

All junk dealers operating within the town shall obtain a business privilege license as required by the town code. The license may be denied or revoked if the junk dealer fails to comply with the requirements of this chapter or if the junk dealer or junkyard is in violation of public health laws, the Building Code, fire hazard laws, zoning regulations or public nuisance laws. Any person aggrieved by the denial or revocation of a license may request a hearing before the Board of Commissioners to determine whether the license was properly denied or revoked by filing a written request with the Town Manager.

(2006 Code, Ch. 20, § 4.2)

§ 118.03 CONDITION OF PREMISES.

Junkyards shall be maintained and operated in accordance with the following procedures and standards.

(A) *Solid fence required*. Each junkyard shall be entirely enclosed, by a solid fence or wall having a minimum height of six feet from ground level and a greater height equal to the

maximum height of any stored materials if junk is stored in levels above six feet high. Solid enclosures are required for the purposes of eliminating attraction of children, vagrants and animals; containing fire and other hazards; preventing urban blight; preventing scattering or windblown trash; and protecting the enjoyment and value of private property. This requirement shall be effective as follows: all existing junkyards must be entirely fenced and the fence must be solid by 4-1-1993.

(B) *Gates required.* Entrances and exists shall not be wider or more numerous than reasonably necessary for the conduct of business, shall have solid gates or doors equal in height and material to the fence or wall, and shall be closed and locked at all times, except when materials are being transported out of the premises.

(C) *Sanitation.* The junkyard and all materials therein shall be maintained in a sanitary condition at all times. No water shall be allowed to stand in any container or placed in a manner which affords a breeding place for mosquitoes. Weeds and vegetables on the premises, other than shrubs outside the fence or wall or trees, shall be kept at a height of six inches or less. No garbage or other waste liable to give off a foul odor or attract vermin, nor any refuse which is not part of the junk business, shall be kept on the premises.

(D) *Fire control.* Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises, and combustible materials not necessary to the business shall be kept off the premises. Junk shall be stored in piles not exceeding ten feet in height and shall be arranged so as to permit ready access for firefighting purposes. No junk shall be burned on the premises.

(E) *Junk placement.* No junk shall be kept outside the solid fence or wall, allowed to rest upon or obstruct any public street, right-of-way, walkway or curb, or allowed to become scattered or blown off the premises.

(F) *Signs.* No signs, handbills, posters or notices shall be affixed or allowed to be affixed to the exterior of the fence or wall enclosing a licensed junkyard, except those giving the name of the business or stating “no trespassing” or “post no bills”. All signs comply in size and other characteristics with the zoning regulations of the town.

(2006 Code, Ch. 20, § 4.3) Penalty, see § 118.99

§ 118.04 OPERATING PROCEDURES.

The following general operating requirements shall apply to all junkyards and junk dealers.

(A) *Noise.* Any vehicles or engines operating in a junkyard or in connection therewith shall be equipped at all times with a muffler in good working order to prevent excessive or unusual noise and annoying smoke. No noisy processing of junk shall be carried on on Sunday, Christmas, Easter or Thanksgiving.

(B) *Vehicle identification.* Vehicles used by a junk dealer in the conduct of his or her business shall bear thereon the name and address of the dealer.

(C) *Recordkeeping.* A junk dealer shall maintain a written record of receipts and sales of junk, including the name and address of the buyer or seller, a description of the junk, including serial numbers of vehicles or machinery, and the date of the transaction. A junk dealer shall not purchase or receive any junk from a person under the age of 18 years without the written consent of a parent or guardian of the person. These records shall be maintained for at least three years and shall be available for inspection by the Police Chief or authorized police officers at reasonable times.

(D) *Inspections.* A junk dealer shall permit inspection of the junkyard by the Police Chief, Building Inspector, Zoning Administrator, Fire Chief, Health Inspector and/or Town Manager at reasonable times to ensure compliance with the provisions of this chapter.

(2006 Code, Ch. 20, § 4.4) Penalty, see § 118.99

§ 118.99 PENALTY.

Any person violating the requirements of this chapter shall be guilty of a misdemeanor, punishable according to the limits set by the general statutes. Each violation of a separate provision and each day's continuing violation of a single provision shall constitute a separate offense. This provision shall not prevent the town from proceeding in other actions as provided in G.S. § 14-4.

(2006 Code, Ch. 20, § 4.5)

CHAPTER 119: ABANDONED VEHICLE ENTERPRISES

Section

General Provisions

119.01 Application

119.02 Definitions

Administration

119.15 Generally

119.16 Contracting on annual basis

119.17 Definitions

119.18 Abandoned vehicle unlawful; removal authorized

119.19 Nuisance vehicle unlawful; removal authorized

119.20 Junked motor vehicle regulated; removal authorized

119.21 Removal of vehicles; pre-towing notice requirements

119.22 Exceptions to prior notice requirement

119.23 Removal of vehicles; post-towing notice requirements

119.24 Right to probable cause hearing before sale or final disposition of vehicle

119.25 Redemption of vehicle during proceedings

119.26 Sale and disposition of unclaimed vehicle

119.27 Conditions on removal of vehicles from private property

119.28 Protection against criminal or civil liability

119.29 Exceptions

119.30 Unlawful removal of impounded vehicle

GENERAL PROVISIONS

§ 119.01 APPLICATION.

The following shall apply to business enterprises being operated in which an unlicensed and/or uninspected/abandoned/nuisance vehicle, as defined in this chapter, is considered necessary to their enterprises. Furthermore, this code shall apply to tractors and their trailers, boats, lawn mowers and other large landscaping or grading supplies being stored on properties for which the use is not allowed.

(2006 Code, Ch. 20, § 5) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011)

§ 119.02 REGULATIONS APPLICABLE TO AUTO REPAIR SHOPS

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

AUTOMOTIVE REPAIR SHOPS. A building and its premises used for the storage, care, repair or refinishing motor vehicles, including major mechanical overhauling, paint and body work. Also referred to as **VEHICLE REPAIR.**

NON-RESIDENTIAL USE. Non-residential uses shall not be allowed to have any unlicensed and/or uninspected /abandoned/nuisance vehicle.

UNLICENSED AND/OR ABANDONED/NUISANCE VEHICLE. Hereby be permitted after the issuance of a permit by the Town Board of Commissioners and subject to the vehicles meeting the following requirements.

(1) A business that qualifies for the possession of unlicensed and/or uninspected/ abandoned/nuisance vehicles must have the vehicles located no closer than 40 feet to the curb of any street and 20 feet of abutting property lines (business or residential). If the vehicles are placed closer to the curb of any street or abutting property line they must be screened.

(2) Unlicensed and/or uninspected /abandoned/nuisance vehicles placed closer than 40 feet to the curb of any street or 20 feet to abutting property lines (business or residential) must be behind screening using either Option A or Option B as listed below.

(a) Option A. A six-foot high solid fence (80% solid) constructed of wood, PVC vinyl, masonry or chain link fencing with slates installed to effectively screen vehicles from view.

(b) Option B. Screening consisting of a continuous row of large evergreen shrubs. Shrubs shall have a minimum height of 30 inches at planting and shall attain a minimum height of six feet at maturity. Shrubs shall be planted a maximum of six feet apart. Minimum planting area width for the shrubs shall be five feet.

(3) A vehicle may be left outside of the screened area for a period not to exceed five business days. A business is allowed one vehicle for every 250 feet of screened area.

(4) Businesses that are in existence at the time of the adoption of this chapter shall be granted 90 days to come into full compliance with this chapter. New businesses established after adoption of this chapter shall comply fully with this chapter prior to receipt of a certificate of occupancy.

(2006 Code, Ch. 20, § 5.1) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011)

ADMINISTRATION

§ 119.15 GENERALLY.

The Planning and Code Enforcement Department of the town shall be responsible for the administration and enforcement of this chapter. The Chief of Police or his or her designee shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the town, and on property owned by the town, and shall be responsible for administering the removal and disposition of "abandoned", "nuisance" or **"**unlicensed and/or uninspected vehicles" located on private property.

(2006 Code, Ch. 20, § 6) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011)

§ 119.16 CONTRACTING ON ANNUAL BASIS.

The town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store and dispose of abandoned vehicles, nuisance vehicles and unlicensed and/or uninspected motor vehicles in compliance with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the Town Police Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.

(2006 Code, Ch. 20, § 6.1) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011)

§ 119.17 DEFINITIONS.

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

ABANDONED VEHICLE. As authorized and defined in G.S. § 160A-303, one that:

(1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking;

(2) Is left on a public street or highway for longer than seven days;

(3) Is left on property owned or operated by the town for longer than 24 hours; or

(4) Is left on private property without the consent of the owner, occupant or lessee thereof, for longer than two hours.

AUTHORIZING OFFICIAL. The Planning Director or his or her designee, designated to authorize the removal of vehicles under the provisions of this chapter.

UNLICENSED AND/OR UNINSPECTED VEHICLE. From and after the effective date of this ordinance, the keeping of unlicensed and/or uninspected vehicles is subject to the following restrictions:

(1) In residential districts, the property owner shall have (60) business days to obtain license and/or inspection on the vehicle or remove it from the property. After sixty (60) business days, action will be taken by the Town to bring the property into compliance

(2) In commercial districts, the property owner shall have one hundred and twenty (120) business days to obtain license and/or inspection on the vehicle or remove it from the property. After one hundred twenty (120) business days, action will be taken by the town.

Exceptions to this regulation are genuine antique vehicles, authorized new or used vehicle sales operations, and commercial junkyard/salvage yard operations where legally permitted.

MOTOR VEHICLE or **VEHICLE**. All machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

NUISANCE VEHICLE. A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance and unlawful, including a vehicle found to be:

(1) A breeding ground or harbor for mosquitoes, other insects, rats other pests;

(2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;

(3) A point of collection of pools or ponds of water;

(4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;

(5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods and the like;

(6) So situated or located that there is a danger of it falling or turning over;

(7) One which is a point of collection of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind;

(8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or

(9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Board of Commissioners.

(2006 Code, Ch. 20, § 6.2) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011)

§ 119.18 ABANDONED VEHICLE UNLAWFUL: REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow the vehicle to be abandoned, as the term is defined herein.

(B) Upon investigation, proper authorizing officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

(2006 Code, Ch. 20, § 6.3) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011) Penalty, see § 10.99

§ 119.19 NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

(B) Upon investigation, the Planning Director or his or her designee may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle, as defined above, and order the vehicle removed.

(2006 Code, Ch. 20, § 6.4) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011) Penalty, see § 10.99

§ 119.20 UNLICENSED AND/OR UNINSPECTED MOTOR VEHICLE REGULATED; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to the possession of a unlicensed and/or uninspected motor vehicle, or for the owner, lessee or occupant of the real property upon which a unlicensed and/or uninspected motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

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

(C) It shall be unlawful for any owner, person entitled to the possession of an unlicensed and/or uninspected motor vehicle, or for the owner, lessee or occupant of the real property upon which an unlicensed and/or uninspected motor vehicle is located to fail to comply with the locational requirements or the concealment requirement of this section.

(D) Subject to the provisions of division (E) below, upon investigation, the Planning Director or his or her designee may order the removal of an unlicensed and/or uninspected motor vehicle as defined in this chapter after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. The finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant factors may be considered:

(1) Protection of property values;

(2) Promotion of 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.

(E) Permitted concealment or enclosure of unlicensed and/or uninspected motor vehicle:

(1) One unlicensed and/or uninspected motor vehicle, in its entirety, can be located in the rear yard as defined by the town's Zoning Ordinance, if the unlicensed and/or uninspected motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering. The Planning Director or his or her designee has the authority to determine whether any unlicensed and/or uninspected motor vehicle is adequately concealed as required by this provision. The covering must remain in good repair and must not be allowed to deteriorate. The covering or enclosure must be compatible with the objectives stated herein.

(2) More than one unlicensed and/or uninspected motor vehicle. Any other unlicensed and/or uninspected motor vehicle(s) must be kept in a garage or building structure that provides a complete enclosure so that the unlicensed and/or uninspected motor vehicle(s) cannot be seen from a public street or abutting property. A garage or building structure means either a lawful, non-conforming use or a garage or building structure erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all Zoning and Building Code regulations.

(2006 Code, Ch. 20, § 6.5) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011) Penalty, see § 10.99

§ 119.21 REMOVAL OF VEHICLES; PRE-TOWING NOTICE REQUIREMENTS.

(A) Except as set forth in § 119.22, an abandoned, nuisance or unlicensed and/or uninspected vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed. If the names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the town on a specified date (no sooner than seven days after the notice is affixed), unless the vehicle is moved by the owner or legal possessor prior to that time.

(B) With respect to abandoned vehicles on private property, nuisance vehicles and unlicensed and/or uninspected motor vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle, but chooses to appeal the determination that the aesthetic benefits of removing the vehicle outweigh the burdens, the appeal shall be made to the Board of Commissioners in writing, heard at the next regularly scheduled meeting of the Board of Commissioners and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

(2006 Code, Ch. 20, § 6.6) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011)

§ 119.22 EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.

The requirement that notice be given prior to the removal of an abandoned, nuisance or unlicensed and/or uninspected motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. The findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

(A) *Vehicles abandoned on the streets.* For vehicles left on the public streets and highways, the Board of Commissioners hereby determines that immediate removal of the vehicles may be warranted when they are:

(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 loading zones;

(5) Parked in bus zones; or

(6) Parked in violation of temporary parking restrictions imposed by code sections.

(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, the vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, the circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

(2006 Code, Ch. 20, § 6.7) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011)

§ 119.23 REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS.

(A) Any abandoned, nuisance or unlicensed and/or uninspected vehicle which has been ordered removed may, as directed by the town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform the services for the town. Whenever a vehicle is removed, the authorizing town official shall immediately notify the last known registered owner of the vehicle, the notice to include the following:

(1) The description of the removed vehicle;

(2) The location where the vehicle is stored;

(3) The violation with which the owner is charged, if any;

(4) The procedure the owner must follow to redeem the vehicle; and

(5) The procedure the owner must follow to request a probable cause hearing on the removal.

(B) The town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in divisions (A)(1) through (5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his or her agent.

(C) If the vehicle is registered in the state, notice shall be given within 24 hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within 72 hours from the removal of the vehicle.

(D) Whenever an abandoned, nuisance or unlicensed and/or uninspected motor vehicle is removed and the vehicle has no valid registration or registration plates, the authorizing town official shall make reasonable efforts, including checking the vehicle identification number, to

determine the last known registered owner of the vehicle and to notify him or her of the information set forth in divisions (A)(1) through (A)(5) above.

(2006 Code, Ch. 20, § 6.8) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011)

§ 119.24 RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.

After the removal of an abandoned vehicle, nuisance vehicle or unlicensed and/or uninspected motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the County Magistrate designated by the Chief District Court Judge to receive the hearing requests. The Magistrate will set the hearing within 72 hours of receipt of the request and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11, as amended.

(2006 Code, Ch. 20, § 6.9) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011)

§ 119.25 REDEMPTION OF VEHICLE DURING PROCEEDINGS.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of the fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of the vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this chapter.

(2006 Code, Ch. 20, § 6.10) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011)

§ 119.26 SALE AND DISPOSITION OF UNCLAIMED VEHICLE.

Any abandoned, nuisance or unlicensed and/or uninspected motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of a vehicle shall be carried out in coordination with the town and in accordance with G.S. Ch. 44A, Art. 1.

(2006 Code, Ch. 20, § 6.11) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011)

§ 119.27 CONDITIONS ON REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

As a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of the 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 unlicensed and/or uninspected motor vehicle which has been ordered removed by the Planning Director or his or her designee. The town may require a person requesting the removal of an abandoned, nuisance or unlicensed and/or uninspected motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage or sale thereof.

(2006 Code, Ch. 20, § 6.12) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011)

§ 119.28 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or unlicensed and/or uninspected motor vehicle, for disposing of the vehicle as provided in this chapter.

(2006 Code, Ch. 20, § 6.13) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011)

§ 119.29 EXCEPTIONS.

Nothing in this chapter shall apply to any vehicle:

(A) Which is located in a bona fide **AUTOMOBILE GRAVEYARD** or **JUNKYARD**, as defined in G.S. § 136-143, in accordance with the Junkyard Control Act, G.S. §§ 136-141 et seq.;

(B) Which is in an enclosed building;

(C) Which is on the premises of a business enterprise being operated in a lawful place and manner the vehicle is necessary to the operation of the enterprise; or

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

(2006 Code, Ch. 20, § 6.14) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011)

§ 119.30 UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town, any vehicle which has been impounded pursuant to the provisions of this chapter unless and until all towing and impoundment fees which are due, or bond in lieu of the fees, have been paid.

(2006 Code, Ch. 20, § 6.15) (Amended 1-7-1992; 7-11-1995; 11-3-1998; 7-6-1999; 10-5-2004; 3-6-2007; 5-6-2008; 3-2-2010; 3-1-2011; 8-2-2011) Penalty, see § 10.99

CHAPTER 120: SIDEWALK CAFÉS AND OUTDOOR DINING AREAS

Section

120.01 Application
120.02 Definitions
120.03 License application
120.04 Issuance of permit
120.05 Alcoholic beverages
120.06 Denial
120.07 Permit revocation
120.08 Reservation of rights
120.09 Term, transfer, renewal and the like
120.10 Design guidelines

§ 120.01 APPLICATION.

Planning and Code Enforcement may issue permits for the serving of food and beverages on town sidewalks and pedestrian ways in the area of the town known as the central business district and general business district.

(2006 Code, Ch. 22, § 7.01) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

§ 120.02 DEFINITIONS.

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

RESTAURANT. An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises or carried out, including businesses that are referred to as restaurants, cafeterias, cafés, lunch stands, grills, snack bars, fast food businesses and other establishments such as drug stores and pharmacies, that have a lunch counter or other section on their premises where food or beverages are sold to be eaten on the premises or carried out.

RESTAURANT OPERATOR. The person, firm or corporation operating a restaurant and associated sidewalk café or dining area; or the manager, if different from the owner of the restaurant and associated sidewalk café.

SIDEWALK. The portion of public street between the curbline, or the lateral lines of roadway if there is no curb, and the adjacent property line, that is intended for the use of pedestrians.

(2006 Code, Ch. 22, § 7.02) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

§ 120.03 LICENSE APPLICATION.

Any restaurant desiring to operate a sidewalk café or outdoor dining area shall prepare and file an application with Planning and Code Enforcement which shall contain the following information:

(A) The name, address and telephone number of the restaurant desiring to operate a sidewalk café or outdoor dining area;

(B) The name, address and telephone number of the restaurant operator;

(C) The type of food, beverage or other products to be sold and served at the sidewalk café or outdoor dining area;

(D) The hours of operation of the restaurant and the proposed hours of operation of the sidewalk café or outdoor dining area, including movement of furniture and equipment after closing hours to other areas;

(E) A drawing or site plan showing how the sidewalk will be used for the sidewalk café or outdoor dining area, including the design and style of the tables, chairs and a plan describing clearance for pedestrians using the sidewalk, and the proposed placement of tables, chairs, delineation of the sidewalk café or outdoor dining area, and any other relevant furnishings of the sidewalk;

(F) Design guidelines for tables, chairs and articles delineating the sidewalk café or outdoor dining area will be restricted to the regulations contained in § 120.10;

(G) Evidence of adequate insurance or other form of security to hold the town and its taxpayers harmless from claims arising out of the operation of the sidewalk café or outdoor dining area, as determined by the Town Manager in consultation with the Town Attorney and insurance carrier;

(H) An indemnity statement, approved by the Town Attorney, whereby the restaurant operator agrees to indemnify and hold harmless the town and its officers, agents and employees from any claim arising from the operation of the sidewalk café or outdoor dining area;

(I) A copy of all permits and licenses issued by the state or the town, including health and ABC permits business licenses, necessary for the operation of the restaurant business, or a copy

of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the town for exterior alteration or improvement to the restaurant;

(J) A sworn statement describing any violation by the restaurant operator of any laws, regulations or ordinances relating to the possession, sale, consumption or transportation of intoxicating beverages or controlled substances during the three years immediately preceding the date of the permit application;

(K) Additional information as may be requested by Planning and Code Enforcement to determine compliance with this section; and

(L) A fee in the amount of $75 as provided in the town fee schedule to processing and investigating the application and issuing the permit.

(2006 Code, Ch. 22, § 7.03) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

§ 120.04 ISSUANCE OF PERMIT.

No permit for the operation of a sidewalk café or outdoor dining area may be issued unless the application is complete and unless the following requirements are met.

(A) The sidewalk café or outdoor dining area is to be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, restroom facilities and other customer convenience facilities as the restaurant. The sidewalk café or outdoor dining area must be operated under the same name as the restaurant and may not be open or be operated at any time when the restaurant is not open for business.

(B) The operation of the sidewalk café or outdoor dining area must be clearly incidental to the associated restaurant business. The seating capacity of the sidewalk café or outdoor dining area may not constitute more than 50% of the total seating capacity of the associated restaurant.

(C) The placement of tables, chairs, barriers or other furnishings as shown in the drawing submitted with the site plan must be done in a manner that at least four feet of unobstructed space (as measured from the street-side edge of the sidewalk) remains on the sidewalk for the passage of pedestrians.

(D) The restaurant seeking to operate the sidewalk café or outdoor dining area must front on and open onto the sidewalk proposed for the sidewalk café. The placement of tables, chairs, barriers and other furnishings may not extend beyond the sidewalk frontage of the associated restaurant. The tables must be contained within visible barriers of the area.

(E) The tables, chairs, barriers and other furnishings used in the sidewalk café or outdoor dining areas shall not be permanent structures and shall meet the design guidelines in § 120.10.

(F) Except as elsewhere permitted, the operation or furnishing of the sidewalk café or outdoor dining area shall not make permanent, any alteration to, or encroachment upon any street or sidewalk to the exterior of the associated restaurant.

(G) There shall be adequate lighting available in the area of the sidewalk café or outdoor dining area for the safety of the patrons of the area, as well as the public use of the sidewalk. If adequate public lighting is not available, the restaurant must provide additional lighting pursuant to the guidelines in § 120.10.

(2006 Code, Ch. 22, § 7.04) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

§ 120.05 ALCOHOLIC BEVERAGES.

Alcoholic beverages may be served at sidewalk cafés and outdoor dining areas provided the following requirements are met.

(A) The sidewalk café or outdoor dining area shall be part of a standard restaurant as that term is defined in the definitions of this section, and shall otherwise be authorized, permitted or licensed under state laws and the town code to serve and sell alcoholic beverages for on-premises consumption.

(B) The sidewalk café or outdoor dining area must be included as part of the premises for which an ABC permit is issued pursuant to G.S. § 18B-1001 for the purpose of applying and enforcing state laws regarding the sale and consumption of alcoholic beverages.

(C) The restaurant operator shall not have violated any law, regulation or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the three years preceding the commencement of the sale of alcoholic beverages at the sidewalk café or outdoor dining area.

(2006 Code, Ch. 22, § 7.05) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

§ 120.06 DENIAL.

A permit may be denied if it is found that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk café or outdoor dining area shall receive a written statement outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the Board of Commissioners within 15 working days after the date of the written denial and the Board of Commissioners may take corrective action as it shall find necessary. The findings and determination of the Board of Commissioners shall be final.

(2006 Code, Ch. 22, § 7.06) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

§ 120.07 PERMIT REVOCATION.

Planning and Code Enforcement may revoke a permit issued pursuant to this section if he or she finds that the restaurant operator has:

(A) Deliberately misrepresented or provided false information in the permit application;

(B) Violated any provisions of Town or County Health Department regulations;

(C) Violated any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;

(D) Operated the sidewalk café or outdoor dining area in a manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare; specifically including failure to keep the sidewalk café area clean and free of refuse; and/or

(E) Failed to maintain any health, business or other permit or license required by law for the operation of a restaurant business. Before the revocation of a permit, Planning and Code Enforcement shall notify the permit holder of the intent to revoke the permit and to reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of the revocation. After the hearing, Planning and Code Enforcement shall notify the permit holder in writing of his or her decision and the reasons therefor. A decision of Planning and Code Enforcement to revoke a permit may be appealed to the Board of Commissioners in accordance with the provisions of § 120.06.

(2006 Code, Ch. 22, § 7.07) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

§ 120.08 RESERVATION OF RIGHTS.

The town reserves the right to require any sidewalk café or outdoor dining area established pursuant to this section to cease part or all if its operation in order to allow for construction, maintenance or repair of any street, sidewalk, utility or public building by the town, its agents or employees, or by any other governmental entity or public utility; and to allow for use of the street or sidewalk in connection with parades, civic events and other events of a temporary nature as permitted by the town.

(2006 Code, Ch. 22, § 7.08) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

§ 120.09 TERM, TRANSFER, RENEWAL AND THE LIKE.

Permits issued in accordance with the provisions of this section shall:

(A) Be issued for the period beginning July 1 and expiring June 30 of each year; and

(B) Be in addition to the annual privilege license requirements.

(2006 Code, Ch. 22, § 7.09) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

§ 120.10 DESIGN GUIDELINES.

The town's design guidelines provide standards for the use of outdoor dining areas within the central and general business districts to maintain a quality appearance in keeping with the town's historic character.

(2006 Code, Ch. 22, § 7.10) (Amended 12-2-1997; 8-1-2006; 11-7-2006; 1-2-2007; 12-2-2008; 7-7-2009)

CHAPTER 121: INSULATION INSTALLERS

Section

General Provisions

121.01 Authority

121.02 Permits

Licensing Requirements

121.15 License required

121.16 Applications

121.17 Procedures for issuance

121.18 Bond required

121.19 Termination and renewal of licenses

121.20 Suspension; revocation

121.21 Change of location

121.99 Penalty

GENERAL PROVISIONS

§ 121.01 AUTHORITY.

This chapter is adopted pursuant to Ch. 703, State Session Laws of 1977, and G.S. § 160A-194.

(2006 Code, Ch. 4, § 5.1)

§ 121.02 PERMITS.

(A) *Permits required.* On and after 1-1-1978, 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 Building Inspector for each item of work, which permit shall evidence compliance with the insulation and energy utilization standards of the State Building Code.

(B) *Fees.* There shall be a fee of $3 for each permit issued.

(C) *Exceptions.* The following shall not be required to obtain the permit required by division (A) above:

(1) An owner working upon his or her own building;

(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; and

(3) A contractor licensed to do the proposed work under G.S. Ch. 87, when the work is being performed under a general building permit.

(2006 Code, Ch. 4, § 5.3)

LICENSING REQUIREMENTS

§ 121.15 LICENSE REQUIRED.

On and after 1-1-1978, 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:

(A) Licensed as a contractor to do the proposed work under G.S. Ch. 87;

(B) Working under the supervision of a registered architect or professional engineer;

(C) An owner working upon his or her own building; or

(D) Licensed under this chapter.

(2006 Code, Ch. 4, § 5.2.1) Penalty, see § 121.99

§ 121.16 APPLICATIONS.

Every person desiring a license under this chapter shall submit an application for the license to the Building Inspector conforming to the following requirements.

(A) *Form of application.* Each application shall be a written statement upon forms provided by the Building Inspector.

(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; and

(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) above 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 of $10 for the license, the amount to be for the fiscal year and prorated to $5 if obtained in the second half of the fiscal year.

(D) *False statements.* False statements on any application for a license shall be ground for immediate revocation or denial of the license.

(2006 Code, Ch. 4, § 5.2.2)

§ 121.17 PROCEDURES FOR ISSUANCE.

(A) *Review by town officers.* A copy of each application received by the Building Inspector shall be promptly forwarded to the Police Department for review. The officers shall promptly make any comments and recommendations pertaining to the application and forward them to the Building Inspector.

(B) *Licensing agency*. The application and any comments and recommendations relating thereto shall be considered by the Building Inspector, which shall then issue or deny the license pursuant to the following standards.

(C) *Standards*. The Building Inspector shall issue the license unless he or she 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 act involving dishonesty, fraud or deceit, whether in this or any other state or jurisdiction;

(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 government or agency and the government or agency has not subsequently granted or restored the license;

(3) Has knowingly made a false statement in the application; and/or

(4) Has failed to post the bond or other security required.

(2006 Code, Ch. 4, § 5.2.3)

§ 121.18 BOND REQUIRED.

(A) Before a license shall be issued to any applicant, the applicant shall post a bond with the town in the amount of $1,000. 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 this section 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.

(2006 Code, Ch. 4, § 5.2.4) Penalty, see § 121.99

§ 121.19 TERMINATION AND RENEWAL OF LICENSES.

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

(2006 Code, Ch. 4, § 5.2.5)

§ 121.20 SUSPENSION; REVOCATION.

(A) The Building Inspector 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:

(1) Knowingly made a false statement in the application for a license;

(2) Violated the State Building Code requirements as to insulation or energy utilization equipment or materials whether in this or any other jurisdiction; or

(3) Been convicted of an act involving dishonesty, fraud or deceit with respect to any contract entered into for work requiring this license.

(B) Any licensee whose license is suspended or revoked may appeal the suspension or revocation to the 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.

(2006 Code, Ch. 4, § 5.2.6)

§ 121.21 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 the new location does not violate any applicable state or local law, ordinance or regulation.

(2006 Code, Ch. 4, § 5.2.7)

§ 121.99 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 G.S. § 160A-175 and Ch. 703, State Session Laws of 1977.

(2006 Code, Ch. 4, § 5.4)

CHAPTER 122: MOVING BUILDINGS

Section

122.01 Permit required

122.02 Written application

122.03 Permit issuance

122.04 Bond required

122.05 Notice to certain departments

122.06 Sufficient lighting required

122.07 Necessary improvements

§ 122.01 PERMIT REQUIRED.

A building or part of any building shall not be moved through or across any sidewalk, street, alley or highway within the jurisdiction of the town without first obtaining a permit from the Building Inspector.

(2006 Code, Ch. 4, § 1) (Amended 1-2-2007) Penalty, see § 10.99

§ 122.02 WRITTEN APPLICATION.

Any person desiring to move a building shall first file with the Building Inspector a written application setting forth the following information:

(A) The type and kind of building to be moved;

(B) The original cost of the building;

(C) The extreme dimensions of the length, height and width of the building;

(D) Its present location and proposed new location by lot, block, subdivision and street number; and

(E) The approximate time the building will be upon the streets and contemplated route that will be taken from present to new location.

(2006 Code, Ch. 4, § 2) (Amended 1-2-2007)

§ 122.03 PERMIT ISSUANCE.

If, in the opinion of the Building Inspector, the moving of any building will cause serious injury to persons or serious injury to the streets or other public improvements, or the building to be moved has deteriorated more than 50% of its original value by fire or other element, or the moving of the building will violate any of the requirements of this chapter or of the zoning regulations, the permit shall not be issued and the building shall not be moved over the streets. Any building being moved for which a permit was granted shall not be allowed to remain in or on the streets of the town for more than 48 hours.

(2006 Code, Ch. 4, § 3) (Amended 1-2-2007) Penalty, see § 10.99

§ 122.04 BOND REQUIRED.

The Building Inspector, as a condition precedent to the issuance of the permit, shall require a bond to be executed by person desiring the removal permit, with corporate surety to his or her satisfaction. The bond shall be made payable to the town and for the amount as he or she prescribes. It shall indemnify the town against any damage caused by the moving of the building to streets, curbs, sidewalks, shade trees, highways and any other public property which may be affected by the moving of a building. The surety shall also be conditioned upon and liable for strict compliance with the terms of the permit, as to route to be taken and limit of time in which to effect the removal and to repair or compensate for the repair and to pay the town liquidated damages in an amount not exceeding $50 to be prescribed by the Building Inspector for each day's delay in completing the removal or in repairing any damages to property or public improvement or in clearing all public streets, alleys or highways of all debris occasioned thereby.

(2006 Code, Ch. 4, § 4) (Amended 1-2-2007)

§ 122.05 NOTICE TO CERTAIN DEPARTMENTS.

(A) Upon the issuance of the moving permit, the Building Inspector shall cause notice to be given to the Chief of the Fire Department, Utilities Department, Street Department, telephone company, Police Department, cable television and any others whose property may be affected by the removal.

(B) The Building Inspector shall set forth in all notices the route that will be taken, time started and approximate time of completion.

(2006 Code, Ch. 4, § 5) (Amended 1-2-2007)

Bookmark§ 122.06 SUFFICIENT LIGHTING REQUIRED.

Every building which occupies any portion of public property after sundown, shall have sufficient lights continuously burning between sunset and sunrise for the protection of the public.

(2006 Code, Ch. 4, § 6) (Amended 1-2-2007)

§ 122.07 NECESSARY IMPROVEMENTS.

The owner of any house, building or structure proposed to be moved shall make all necessary improvements required in order for the house, building or structure to comply with the current State Building Code within 90 days from the issuance of the moving permit. Extensions of time as deemed reasonable may be granted by the Building Inspector upon a showing of delay caused by matters beyond the control of the owner or house mover. The application for a moving permit shall be accompanied by an application for a building permit, accompanied by complete plans and specifications showing the changes or conditions of the house, building or structure as the same is proposed to be when moving, and all contemplated improvements, signed by the owner or the owner's agent.

(2006 Code, Ch. 4, § 7) (Amended 1-2-2007)

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

130.01 Profane or indecent language in public

130.02 Indecent exposure

130.03 Seeing events without paying for right

130.04 Defacing public or private property

130.05 Firearms

130.06 Posting bills, distributing circulars; advertising

130.07 Noises

130.08 Barbed wire fences and other dangerous fences

130.09 Drinking in public

130.10 Begging or panhandling prohibited on town streets, sidewalks or other public places

130.99 Penalty

§ 130.01 PROFANE OR INDECENT LANGUAGE IN PUBLIC.

If any person on any public street, road, sidewalk, public vehicular area, store, business or other establishment shall, within the hearing of another person, use indecent or profane language, that person shall be guilty as set out in § 130.99.

(2006 Code, Ch. 14, § 1.0) Penalty, see § 130.99

§ 130.02 INDECENT EXPOSURE.

(A) Any person who shall willfully expose his or her private parts in any public place or upon the property of another or upon his or her own property so as to be in public view, whether to a person of the same or the opposite sex, or aids or abets any such act, or who procures another to perform the act shall be guilty as set out in § 130.99.

(2006 Code, Ch. 14, § 2.0)

(B) (1) Definitions. For the purpose of this division (B), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EXPOSURE OF THE FEMALE BREASTS. The revealing of the female breast or breasts with less than a full opaque covering on any portion or portions thereof below the top of any part of the areola or the exposure of any part of the areola.

PUBLIC PLACE. Those places devoted solely to the use of the public, including any place visited by many persons and to which the neighboring public may have resort.

(2) *Exposure of the female breasts prohibited.* It shall be unlawful for any female, over age 14, or any other physically developed female, to expose her breast or breasts in a manner that they may be seen from or in any street or highway, or any place of entertaining, including any restaurant, club or any other public place of any kind by a member or members of the opposite sex.

(3) Proprietor responsibility. It shall be unlawful for the owner, operator or person in charge of any place of entertainment, restaurant, club, dance hall or any other public establishment of any kind to allow or permit or to encourage or entice any person, whether a visitor or employee, full time or part time, to publicly expose her breast or breasts, as used herein, to members of the opposite sex, whether inside a building or outside, or any other public place.

(2006 Code, Ch. 14, § 8.0)

Penalty, see § 130.99

§ 130.03 SEEING EVENTS WITHOUT PAYING FOR RIGHT.

During any game or other event for which an admission fee is charged, no person shall peep through the fence or use any other means to see the game or event without paying the admission fee therefor.

(2006 Code, Ch. 14, § 3.0) Penalty, see § 130.99

§ 130.04 DEFACING PUBLIC OR PRIVATE PROPERTY.

Any person who shall paint, draw upon, scratch, mar or otherwise mark the buildings, automobiles or any other property belonging to any governmental authority or agency, federal, state, county or municipal, or any other person, without permission given of one authorized to give the permission, shall be guilty as set out in § 130.99. The town will offer a reward of $50 to any person providing information leading to the apprehension and conviction of anyone guilty of vandalism.

(2006 Code, Ch. 14, § 4.0) Penalty, see § 130.99

§ 130.05 FIREARMS.

(A) *Discharge of firearms.* It shall be unlawful for any person to discharge any firearm of any type within the corporate limits, except a law enforcement officer or other person authorized under town, county, state or federal law.

(B) *Responsibility for minors.* No person shall permit his or her child or anyone under the age of 18 years under his or her control to fire a BB rifle or air gun within the town limits; any person in control of the child or anyone under the age of 18 years shall be responsible for destruction of any property by the minor; any rifle or air gun being carried by a child or person under age 18 years within the town limits and having been fired by the child or person under age 18 years shall be confiscated and turned over to the Sheriff of the county for sale and the funds from the sale shall be paid into the school funds of the county.

(C) *Carrying and display of firearms and other weapons.*

(1) *Firearms and deadly weapons generally*. A firearm or deadly weapon as defined in G.S. § 14-269(a). It shall be unlawful for any person willfully and intentionally to carry concealed about his or her person any Bowie knife, dirk, dagger, sling shot, loaded cane, metallic knuckles, razor, shurickin, stun gun, or other deadly weapon of like kind.

(2*)* *Possession.* No person shall carry, possess or have immediate access to any firearm or deadly weapon while in any town-owned buildings (except those leased to some other person or organization), on the grounds or parking areas of those buildings or in town parks or recreation areas, including those areas that the town has leased or has permission to use in order to hold town sponsored events or activities.

(3) *Posing required.* Visible signage will be posted on the exterior of each entrance by which the public has access, at appropriate locations on or within each park, and each building or portion of a building owned, leased, operated, occupied, managed or controlled by the town, as well as the appurtenant premises to such buildings, indicating that carrying a concealed handgun or possessing or displaying any firearm or any other deadly weapon, on the properties and locations described in this division is prohibited unless specifically permitted or authorized by state law or town ordinance.

(4) *Other public locations.* No person shall display any firearm or other deadly weapon while on any public street, sidewalk or other public property within the town unless specifically permitted or authorized by law.

(5) *Exceptions.* The following exceptions to the provisions of this division are authorized:

(a) The Town Manager or Police Chief, or designee, has authorized the public possession or display of a firearm, or other weapon, as part of an official program or event sponsored or sanctioned by the town;

(b) The possession or display of the firearm, or other weapon, was the result of an individual(s) exercising his or her legitimate right to self-defense or the defense of others as allowed by law:

(c) The possession or display of the firearm, or other weapon, was conducted by a person(s) authorized by law to carry and display the items as part of their official or otherwise recognized lawful duties (e.g., law enforcement officers, military personnel, security guards, etc.); or

(d) The possession or display of the firearm, or other weapon, was necessary for the temporary transport and securing of the item (e.g., recent purchase and movement to vehicle for transport, securing of firearm by CCH permit holder in vehicle, found item to be turned to authorities, firearm secured in gun rack, etc.).

(2006 Code, Ch. 14, § 5.0) (Ord. passed 2-3-2009) Penalty, see § 130.99

§ 130.06 POSTING BILLS, DISTRIBUTING CIRCULARS; ADVERTISING.

(A) *Notices and signs.* It shall be unlawful for any person, firm or corporation to stick, paint, brand, stamp, write or put upon any house, fence, wall, pavement, post or other property owned by any person, firm or corporation or public property, any printed, written, painted or other advertisement, bill, notice, sign or poster, without having obtained the written permission of the owner of the property or having received a permit from the Town Manager.

(B) *Handbills on vehicles*. It shall be unlawful for any person, firm or corporation to distribute, or cause to be distributed, any circulars, handbills or any sort of material among, upon, in or around vehicles in the town.

(2006 Code, Ch. 14, § 6.0) Penalty, see § 130.99

§ 130.07 NOISES.

(A) *Noise disturbances.* It shall be unlawful for any person, firm or corporation to create or assist in creating or permit the continuance of any unreasonable loud, disturbing and unnecessary noise in the town. Noise of the character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

(B) *Noises expressly prohibited*. The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but the enumeration shall not be deemed to be exclusive, to wit:

(1) The sounding of any horn or signal device on any motor vehicle, while not in motion, except as a danger signal if another vehicle is approaching apparently out of control or, if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of the signal device of any unreasonably loud or harsh sound; and the sounding of the device for any unnecessary and unreasonable period of time;

(2) The use of any gong or siren on any vehicle other than police, fire or other emergency vehicle;

(3) The use or operation of any piano, manual or automatic, phonograph, gramophone, radio, wireless, loud speaker, any other instrument or sound amplifying devices so loudly as to disturb persons in the vicinity thereof, or in a manner as renders the same a public nuisance; provided, however, that, upon application to the Manager, permits may be granted to responsible organizations to produce programs in music, speeches or general entertainment;

(4) The keeping of any animal or bird which, by noises, shall unduly disturb, by its volume or by long duration, the comfort, peace and repose of the citizens of the town;

(5) The use of any motor vehicle so out of repair, or so equipped or loaded, as to cause loud or unnecessary noises or unreasonable disturbing of the peace of the town;

(6) The blowing of any whistle, stationary or upon a mobile device, except to give notice of the time to begin or stop work, as a warning of danger, in connection with athletic events or training, or by law enforcement officers;

(7) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle, except through muffler or other device which will effectively prevent loud or explosive noises therefrom;

(8) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced;

(9) The erection, excavation, demolition, alteration or repair of any building within the town, in business or residential districts, other than between the hours of 7:00 a.m. and 6:00 p.m. except in the case of urgent necessity and in the interest of public safety, and then only with a permit from the Manager, which permit may be renewed for a period of three days or less while the emergency continues;

(10) The creation of excessive noise on any street adjacent to any school, institution of learning, or court, while the same are in session, or within 150 feet of any hospital, clinic or medical institution which unreasonably interferes with the working of the institution; provided, conspicuous signs are displayed in the streets indicating that the same is school, court or hospital street;

(11) The use of any mechanical loud speakers or amplifiers on trucks, planes or any vehicles for advertising purposes or other purposes, except where specific permission is received from the Manager;

(12) The use of any drum, loud speakers or other instrument or device for the purpose of attracting attention by the creation of noise, sounds, music or speech to any performance, show, sale or display of merchandise; and

(13) It shall be unlawful for any person or persons to play, use or permit to be played any loud sound amplification system in a motor vehicle on any public street, highway, public space or commercial space where the sound generated is plainly audible at a distance of 75 feet from the device producing sound, unless authorized or exempted by any other section of this chapter.

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

PLAINLY AUDIBLE. Any sound produced by a sound amplification system, which can be clearly heard at a distance of 75 feet or more. Measurement standards shall be the auditory senses, based upon the direct line of sight. Cords or phrases need not be discernible and bass reverberations are included.

SOUND AMPLIFICATION SYSTEM. Any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification of sound.

(D) *Exceptions.*

(1) Noise resulting from any authorized emergency response vehicles;

(2) Noise resulting from any authorized utility service vehicles while in the process of repairing and/or restoring a utility service to the public; and/or

(3) Noise resulting from parades, lawful picketing or other public demonstrations protected by the U.S. Constitution or federal law, or for which a local permit has been granted by the town; provided, the activity is of a temporary duration lasting no longer than specified by the permit.

(2006 Code, Ch. 14, § 7.0) (Amended 8-7-2001) Penalty, see § 130.99

§ 130.08 BARBED WIRE FENCES AND OTHER DANGEROUS FENCES.

(A) The term **BARBED WIRE OR OTHER DANGEROUS FENCE**, as used in this section, shall be construed to include all twisted wires armed with barbs or sharp points, when erected or strung from posts or otherwise to form an obstacle to passage, and other fences with sharp or dangerous extrusions designed to cause injury or repel persons or animals who come in contact. Six-foot or greater chain link fences constructed in the usual and customary manner are excluded from this definition.

(B) No person shall erect, string or maintain, or cause to be erected, strung or maintained, any barbed wire or other dangerous fence on any property located within the town.

(2006 Code, Ch. 14, § 9.0) (Added 4-3-1984) Penalty, see § 130.99

§ 130.09 DRINKING IN PUBLIC.

(A) It shall be unlawful for any person to possess any malt beverage, unfortified wine on public streets, alleys, public parks, town commons or public property.

(B) The Town Manager is hereby authorized to issue a special two-day permit during the Farmville Dogwood Festival, which would allow the consumption of malt beverages. This permit would only be valid for the area known as the Farmville Municipal Park at the intersection of Horne Avenue and Ryon Drive. All consumption must be within the fenced areas of the park and shall be limited to the hours associated with the band concerts of the Dogwood Festival.

(2006 Code, Ch. 14, § 10.0) (Added 4-2-1986; 2-1-1994) Penalty, see § 130.99

§ 130.10 BEGGING OR PANHANDLING PROHIBITED ON TOWN STREETS, SIDEWALKS OR OTHER PUBLIC PLACES.

(A) The town's Board of Commissioners finds that begging or panhandling within the right-of-way of any street, sidewalk or other public place is disruptive to the safe and convenient use of the street, sidewalk or public place by the general public, discourages potential customers from patronizing nearby businesses, detracts from the character of residential neighborhoods and is generally inimical to the public safety and welfare.

(B) For the reasons set forth in division (A) above, no person may engage in begging or panhandling within the right-of-way of any public street, sidewalk or other public place.

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

BEGGING or PANHANDLING. Are used interchangeably and refer to an act, verbal or otherwise, by which a person solicits a monetary donation from another person for the principal benefit of the person making the solicitation. The fact that small items, such as pencils, chewing gum and the like are exchanged in return for the donation shall not remove a solicitation from the definition of begging or panhandling. The terms BEGGING and PANHANDLING do not include solicitations made by authorized representatives of non-profit corporations, organizations or groups in order to obtain funds designed principally to further the purpose of the non-profit corporations, organizations or groups, and regulated under Ch. 111 of this code of ordinances.

PUBLIC PLACE. Includes streets, sidewalks, alleys and other public property, as well as town owned and town controlled property and private property open to the public unless permission to solicit has been obtained from the town or from the private property owner or other person in authority.

(2006 Code, Ch. 14, § 13.0) (Added 12-3-2002) Penalty, see § 130.99

Statutory reference:

Authority to regulate begging, see G.S. § 160A-179

§ 130.99 PENALTY.

(A) General violation of this chapter shall constitute a criminal misdemeanor, punishable upon conviction by a fine of not more than $50, or imprisonment for 30 days, or both as provided by G.S. § 14-4.

(2006 Code, Ch. 14, § 12.0) (Amended 8-7-2001)

(B) Any person violating § 130.01 shall be guilty of a misdemeanor and, upon conviction, may be fined (not exceeding $50) or imprisoned (not exceeding 30 days).

(2006 Code, Ch. 14, § 1.0)

(C) Any person violating § 130.02 shall be guilty of a misdemeanor and punishable by a fine not to exceed $50 and imprisonment for not more than 30 days.

(2006 Code, Ch. 14, § 2.0)

(D) Any person violating § 130.04 shall be guilty of a misdemeanor and fined, upon conviction, not exceeding $50 and imprisoned for not more than 30 days and, in addition, may be required to clean or otherwise restore or repair the defaced property.

(2006 Code, Ch. 14, § 4.0)

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS; CONSTRUCTION

151. HOUSING REGULATIONS

152. FLOOD DAMAGE PREVENTION

153. MANUFACTURED HOME PARKS

154. SEDIMENTATION AND EROSION CONTROL

155. SUBDIVISIONS

156. LANDSCAPING

157. ZONING

158. VACANT COMMERCIAL PROPERTY REGISTRATION

CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

Section

General Provisions

150.01 Office of Building Inspector

150.02 Building Code

150.03 Permit and inspection fees

Dilapidated Structures

150.15 Duty of Building Inspector

150.16 Duty of owner

150.17 Notice of hearing

150.18 Order to remedy or demolish

150.19 Appeals

150.20 Report of non-compliance

150.21 Order of Board of Commissioners

150.22 When notice of hearing required

150.23 Presumption of danger to public

Property Numbering

150.35 Assignment of property numbers

150.36 Display of property numbers

150.99 Penalty

GENERAL PROVISIONS

§ 150.01 OFFICE OF BUILDING INSPECTOR.

(A) *Creation, appointment.* The Office of Building Inspector is hereby created and shall be filled by appointment by the Town Manager under § 30.21.

(B) *Inspections Department.*

(1) For the purposes of G.S. §§ 160A-411 through 160A-339, as amended from time to time, it shall be deemed the department of inspections and the Building Inspector shall be the Director of Inspections.

(2) The Building Inspector shall cooperate with the Division of Engineering of the State Department of Insurance and all state, county and local departments or divisions in the administration and enforcement of the provisions of the State Building Code within the town as provided in G.S. § 143-139.

(C) *Rights of entry.* In the performance of official duties, the Building Inspector and the Inspector's deputies and assistants shall have the right to enter upon and within public and private premises at all reasonable hours upon proper identification and in compliance with all applicable provisions of the law.

(2006 Code, Ch. 4, § 1.0)

§ 150.02 BUILDING CODE.

(A) The Board of Commissioners hereby adopts the State Building Code in its entirety and the provisions thereof, as amended from time to time, are hereby incorporated in and made a part of this section.

(B) The Town Clerk, as well as the Building Inspector, shall maintain in their respective offices at all times or currently in effect, each volume of and supplement with amendments thereto, the State Building Code.

(2006 Code, Ch. 4, § 3.0)

§ 150.03 PERMIT AND INSPECTION FEES.

(A) (1) The Board of Commissioners may from time to time, by resolution not in conflict with state law, promulgate schedules of fees which shall be charged for permits and certificates issued or to be issued and for inspections made or to be made by the Building Inspector.

(2) A current fee schedule shall be maintained on file in the office of the Building Inspector and in the office of the Town Clerk for information and use by the public during all

regular business hours; no permit or certificate shall be issued or inspection made for which a fee is prescribed until the fee has been paid.

(B) The town hereby adopts by reference Ch. 4 of the Standard Fire Prevention Code, current edition.

(2006 Code, Ch. 4, § 4.0) (Amended 5-5-1992; 2-6-2007)

DILAPIDATED STRUCTURES

§ 150.15 DUTY OF BUILDING INSPECTOR.

(A) Any building or structure or part thereof, partially destroyed or otherwise, which is found by the Building Inspector to be in a dilapidated state of disrepair or other substandard condition as to be dangerous to life, health or other property, or to constitute a fire or safety hazard or a public nuisance shall be declared by the Building Inspector to be unsafe.

(B) The unsafe condition may be caused by defective construction, overloaded structural parts, decay, susceptibility to fire or any other hazardous conditions or circumstances.

(C) The Building Inspector shall have authority, and it shall be his or her duty, to declare all buildings or structures unsafe and to take appropriate action to have the conditions corrected or removed.

(D) The declaration by the Building Inspector shall be in writing and shall constitute an order of condemnation for the purposes of this subchapter.

(2006 Code, Ch. 4, § 2.1)

§ 150.16 DUTY OF OWNER.

Whenever any building or structure has been condemned by the Building Inspector, and the existence of the building or structure in a dilapidated state of disrepair or other substandard condition is found and determined by the Building Inspector or, upon appeal from or report by the Building Inspector, as hereafter provided, by the Board of Commissioners to be dangerous to life, health or other property, or is in a condition to constitute a fire or safety hazard or a public nuisance, the owner or owners of the building or structure shall be required to demolish and remove the same and remedy the conditions under the regulations and procedures herein provided; and, in the event the owner fails or refuses to do so within the time directed by the Building Inspector or by the Board of Commissioners, as hereinafter provided, the Board of Commissioners may, in its judgment, cause the same to be demolished and removed or other steps taken as it may find to be necessary to suppress and abate the nuisance and remove the fire or safety hazard and the danger to life, health or other property found to exist, and specially

assess the cost and expense of doing the work against the lot or parcel of land on which the building or structure is located.

(2006 Code, Ch. 4, § 2.2)

§ 150.17 NOTICE OF HEARING.

Before any building or structure may be ordered to be demolished and removed as provided in § 150.02 herein, the Building Inspector shall notify the owner or owners thereof, in writing, by certified or registered mail to the last known address of the owner, or by personal service of the notice by the Building Inspector or his or her assistant or by posting notice, as hereinafter provided, that the building or structure is in a condition as appears to constitute a fire or safety hazard or dangerous to life, health or other property, or to be a public nuisance, and that a hearing will be held before the Building Inspector at a designated place at a time not less than ten days after the date of the written notice, at which time and place the owner shall be entitled to be heard in person or by counsel upon all legal or factual questions relating to the matter and shall be entitled to offer the evidence as he or she may desire which is relevant or material to the questions sought to be determined or the remedies sought to be effected. If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice herein referred to 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 date fixed for the hearing and a notice of the hearing is published one time in a newspaper having general circulation in the town at least one week prior to the date fixed for the hearing. The notice shall state the address or location of the building or structure and the time, place and purpose of the hearing.

(2006 Code, Ch. 4, § 2.3)

§ 150.18 ORDER TO REMEDY OR DEMOLISH.

If, upon the hearing, the Building Inspector shall find that the building or structure in question is in a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard or to be dangerous to life, health or other property, or is a public nuisance, he or she shall make an order in writing, directed to the owner of the building or structure, requiring the owner to remedy the conditions so found to exist by demolishing and removing the building or structure or taking other steps as may be necessary to abate the nuisance and remove the hazards, within the period, not less than 60 days, as the Building Inspector may prescribe.

(2006 Code, Ch. 4, § 2.4)

§ 150.19 APPEALS.

The owner of any building or structure ordered by the Building Inspector to be demolished and removed, or who is directed by the Building Inspector to take any other steps to abate a nuisance

or remove hazards found by the Building Inspector to exist, shall have the right of appeal from the orders to the Board of Commissioners; provided, the owner gives notice of appeal to the Building Inspector at the time of the hearing at which the order is made, or within ten days after the order is made, files with the Building Inspector a written notice of the appeal. Notice of appeal shall state the grounds therefor. Unless an appeal is taken within the time and in the manner herein prescribed, the action of the Building Inspector shall be deemed final, subject only to the action as the Board of Commissioners may take as herein elsewhere provided. Where an appeal has been properly taken and notice thereof given in accordance with the provisions of this section, it shall be the duty of the Building Inspector to report the same to the Town Clerk who shall cause the matter to be placed on the agenda for action by the Board of Commissioners at its next ensuing regular meeting. The Board of Commissioners shall have the right to continue the hearing of the appeal from time to time, in its discretion.

(2006 Code, Ch. 4, § 2.5)

§ 150.20 REPORT OF NON-COMPLIANCE.

(A) In the event the owner does not appeal from the final order or direction of the Building Inspector requiring that the building or structure be demolished and removed or the taking of other steps as may be required to abate the nuisance and remove the hazards, and fails or refuses to comply with the order and direction, it shall be the duty of the Building Inspector to file a written report thereof with the Town Clerk who shall cause the report to be placed on the agenda for action by the Board of Commissioners at its next ensuing regular meeting or to some subsequent meeting to which the Board of Commissioners may continue the same.

(B) The Building Inspector shall mail a copy of the report by certified or registered mail to the owner at his or her last known address, or have a copy of the report delivered to the owner.

(C) The report shall specify the date of the meeting of the Board of Commissioners for which the matter will be docketed for action.

(2006 Code, Ch. 4, § 2.6)

§ 150.21 ORDER OF BOARD OF COMMISSIONERS.

In all cases referred to in this subchapter which reach the Board of Commissioners for action, either upon appeal of the owner from the ruling of the Building Inspector or upon report of the Building Inspector that the owner fails or refuses to comply with his or her order or direction, the Board of Commissioners shall hear the matter and, if it finds and determines that the building or structure in question is in a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard, or to be dangerous to life, health or other property, or is a public nuisance, and that the owner of the building or structure has failed or refused to abate the nuisance and has failed or refused to have the building or structure demolished and removed or has failed or refused to take other steps as may be necessary to abate the nuisance and remove the hazards found to exist, it

may cause the demolition and removal of the building or structure to be done, or effect other remedies as may be necessary to abate the nuisance and remove the hazards, and specially assess the cost of the work against the lot or parcel of land on which the building or structure was situated; and the assessment shall constitute a specific lien upon the lot or parcel of land, which may be enforced by an action instituted in the name of the town in the nature of an action to foreclose a mortgage as provided by G.S. § 105-374 in the case of ad valorem taxes and local improvement assessments.

(2006 Code, Ch. 4, § 2.7)

§ 150.22 WHEN NOTICE OF HEARING REQUIRED.

In cases in which the Building Inspector has been unable to give to the owner actual notice of hearing in the manner hereinabove provided, and has given notice by posting and publishing the same as authorized above, the owner has failed or refused to comply with the order or direction of the Building Inspector to demolish and remove the building or structure, or take other remedial action as will remove the hazards, and the case is referred to the Board of Commissioners for action, the Board of Commissioners shall, before taking the action, caused to be posted on the outside of the building or structure in question at least ten days prior to the date fixed for the hearing, and published one time in a newspaper having general circulation in the town at least one week prior to the date fixed for the hearing, a written notice stating the address or location of the building or structure involved and the time, place and purpose of the hearing and other information as the Board of Commissioners may deem advisable.

(2006 Code, Ch. 4, § 2.8)

§ 150.23 PRESUMPTION OF DANGER TO PUBLIC.

In all cases in which the Board of Commissioners, under authority of this subchapter, causes the demolition and removal of any building or structure to be carried out, or directs other remedial steps to be taken as may be necessary to abate the nuisance and remove the hazards, it shall be conclusively presumed that the public nuisance and the fire and safety hazard and danger to life, health or other property, created and maintained by the continued presence of the building or structure in the condition as is found to exist, constitute a clear and present danger amounting to a situation of emergency involving the public health, safety and general welfare, which required entry upon private property for the summary abatement and removal of the danger, in the public interest.

(2006 Code, Ch. 4, § 2.9)

PROPERTY NUMBERING

§ 150.35 ASSIGNMENT OF PROPERTY NUMBERS.

The Chief Building Inspector shall assign property numbers in keeping with the official property numbering map to all newly improved and/or subdivided property and shall have authority to set official property numbers for all improved property within the town, including re-numbering of existing improved property when its numbering is inconsistent with the official property numbering map.

(2006 Code, Ch. 4, § 6.2)

§ 150.36 DISPLAY OF PROPERTY NUMBERS.

Every owner or occupant of improved property shall at all times display in a conspicuous place on the street side of the property the correct property number as determined by the Chief Building Inspector. The numerals used to display this number shall be at least six inches high and ¾" wide for Commercial Properties, at least four inches high and 1/2" wide for Residential Properties, shall be readily visible and legible from the street and shall be of a color to contrast with their background

(2006 Code, Ch. 4, § 6.3)

§ 150.99 PENALTY.

It shall be unlawful for any person to willfully fail or refuse to comply with any final order or direction of the Building Inspector or Board of Commissioners made by virtue and in pursuance of this chapter and any person violating this chapter shall, upon conviction, be published as provided by G.S. § 14-4 for the violation of municipal ordinances; and, every day the person shall willfully fail or refuse to comply with any final order or direction of the Building Inspector or Board of Commissioners made by virtue and in pursuance of this chapter shall constitute a separate and distinct offense.

(2006 Code, Ch. 4, § 2.10)

CHAPTER 151: HOUSING REGULATIONS

Section

General Provisions

151.01 Findings

151.02 Definitions

151.03 Scope

151.04 Conflicts

Conditions and Requirements

151.15 Substandard and unfit housing

151.16 Minimum dwelling space requirements

151.17 Light and ventilation standards

151.18 Exit standards

151.19 Plumbing standards

151.20 Heating standards

151.21 Electrical standards

151.22 Structural standards

151.23 Property maintenance

Administration and Enforcement

151.35 Town's right of entry for inspection; duty of owner and occupants

151.36 Non-liability of town personnel

151.37 Refusal to permit entry upon premises

151.38 Procedure for repairing, closing or demolishing certain abandoned structures

151.39 Procedure generally for correction of dwellings unfit for human habitation

151.40 Failure to comply with orders; dwellings declared nuisances; occupancy after issuance of order

151.41 Removal of complaint, notice or order

151.42 Renting of unfit dwelling after notice

151.43 Securing vacated property; approval before reoccupancy

151.44 Disposition of abandoned personal property, fixtures and appurtenances found in or attached to dwellings ordered demolished

151.99 Penalty

GENERAL PROVISIONS

§ 151.01 FINDINGS.

The Board of Commissioners of the town hereby finds and declares that there now exists in the town and that there may reasonably be expected to exist in the future housing which is unfit for human habitation because of dilapidation; defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities; or because of conditions rendering the housing unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the town; and that a public necessity exists to exercise the police powers of the town pursuant to G.S. Ch. 160A, Art. 19, and other applicable law, as now or hereafter amended, to cause the repair and rehabilitation, closing or demolishing of the housing in the manner herein provided; and pursuant to the exercise of the police power, the Board of Commissioners finds as facts and so declares that the ensuing sections of this chapter are necessary to the implementation of its purposes hereinabove declared in this chapter and that, specifically, but without limitation, the minimum standards of fitness for dwelling and dwelling units, as enacted in this chapter herein below, are reasonable and necessary for this community and are, all and sundry of them, reasonable and necessary criteria for determining whether dwellings and dwelling units in the town are fit for human habitation.

(2006 Code, Ch. 11, § 1.1)

§ 151.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Whenever the words “dwelling”, “dwelling unit”, “rooming house”, “rooming unit”, “premises” are used in this chapter, they shall be construed as though they were followed by the words “or any part thereof”.

ACCESSORY BUILDING OR OUTHOUSE. A building or structure the use of which is incidental to that of the main building or structure and which is located on the same lot or on a contiguous lot.

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

CELLAR. A portion of a dwelling which is 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. 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 chapter at a cost not in excess of 50% of its value, as determined by finding of the Inspector.

DILAPIDATED. 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 chapter, except at a cost in excess of 50% of its value, as determined by finding of the Inspector.

DWELLING. Any building, structure or part thereof which is wholly or partly used or intended to be used for living, sleeping or habitation by human occupants, and includes any outhouses, and appurtenances belonging thereto or usually enjoyed therewith. Temporary housing, as hereinafter defined, shall not be regarded as a DWELLING. The term shall include, within its meaning, the terms rooming house and rooming unit, as hereinafter defined.

DWELLING UNIT. 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.

EXIT. A clear and unobstructed way of departure from the interior of a building or structure to the exterior at street or grade level.

EXTERMINATION. The control and elimination of insects, rodents or other pests by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal pest elimination methods approved by the Inspector.

FAMILY. One or more persons living together and having common housekeeping facilities.

GARBAGE. Except for human excretes, the animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE SPACE or ***HABITABLE ROOM***. Any room or enclosed floor space in a building or structure used or intended for use in living, sleeping, cooking or eating, including kitchens, but excluding bathrooms, toilets, halls, corridors, pantries, storage space, closets, laundries and other spaces not used frequently or during extended periods.

HOUSING. Any building or structure, or part thereof, used and occupied for human habitation or intended to be so used, including any accessory buildings and appurtenances belonging thereto or usually enjoyed herewith.

HOUSING UNIT. A habitable space or spaces in any structure occupied or intended for occupancy by not more than one family and forming a single habitable unit with facilities used or intended to be used for living, sleeping, cooking and eating.

INFESTATION. The presence within or around housing of any insects, rodents or other pests in numbers as to constitute a threat or deterioration to the housing or a hazard to the health or physical well-being of the occupants.

INSPECTOR. The Codes Enforcement Officer of the town or any authorized agent of the Inspector.

MAY or ***SHOULD***. The act referred to is permissible.

MULTI-FAMILY HOUSING. A building or structure occupied or intended for occupancy as the home or residence of more than two families, living independently of each other, and doing their own cooking within their respective housing units.

OCCUPANT. Any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of dwelling, dwelling unit or rooming unit.

OWNER. A holder of the legal title and every mortgagee of record, or every cestui que trust under a deed of trust.

PARTIES IN INTEREST. All individuals, associations and corporations who have interest or record in a dwelling, and any who are in possession thereof.

PARTY WALL. A wall which is used or adapted for joint service between two building units and in which the owner or occupant of each dwelling unit has a common interest.

PERSON. Any individual, corporation, firm, partnership, association, organization or other legal entity.

PLUMBING. All of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), sewage disposal pipes, water closets sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

PREMISES. A lot, plot or parcel of land, including the building or structure thereon or any part thereof, except land occupied by streets, alleys or public thoroughfares.

PUBLIC AUTHORITY. The Town Housing Authority 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.

PUBLIC SPACE. The space within any multi-family housing, which is open to common use by occupants of and visitors to the premises.

REMOVAL. The demolition and removal of the entire building, leaving the premises free and clear of any debris; any excavation properly filled in and with no holes or pockets, which may retain water.

ROOMING HOUSE. Any dwelling, or that part of any dwelling, containing one or more rooming units in which space is let by the owner or operator to three or more persons none of

whom is husband, wife, son, daughter, mother, father, sister or brother (or in a "step" or "in-law" kinship, with respect to the six last-named relationships) of the owner or operator.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit, used or intended to be used for living and sleeping, but not for cooking or eating.

RUBBISH. Combustible or non-combustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust, and discarded appliances.

SHALL. The act referred to is mandatory.

STORY. The part of a building comprised between a floor and the floor or roof next above.

STRUCTURE. That which is built or constructed, an edifice or building of any kind; or any piece of work artificially built up or composed of parts joined together in some definite manner. The term structure shall be construed as if followed by the words "or part thereof".

SUBSTANDARD. Any condition existing in any housing or structure, which does not meet the standards of fitness in this code.

SUPPLIED. Paid for, furnished or provided by, or under the control of, the owner or operator.

TEMPORARY HOUSING. Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than 30 consecutive days.

UNFIT FOR HUMAN HABITATION. A residential building which contains any of the following conditions, which conditions the Board of Commissioners hereby finds renders any building dangerous or injurious to the health, safety or morals of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the town:

(1) Interior walls or vertical studs which seriously list, lean or buckle to an extent as to render the building unsafe;

(2) Supporting member or members which show 33% or more damage or deterioration, or non-supporting, enclosing or outside wall or covering which shows 50% or more of damage or deterioration;

(3) Floor or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used;

(4) The damage by fire, wind or other causes as to render the building unsafe;

(5) Dilapidation, decay, unsanitary conditions or disrepair, which is dangerous to the health, safety or morals of the occupants or other people in the town;

(Amended 7-7-1992)

(6) Inadequate facilities for egress in case of fire, accident or other calamities;

(7) Defects significantly increasing hazards of fire, accident or other calamities;

(8) Lack of adequate ventilation, light, heating or sanitary facilities to such an extent as to endanger the health, safety, morals or general welfare of the occupants or other residents of the town;

(9) Lack of proper electrical heating or plumbing facilities required by this chapter, which constitute a health or definite safety hazard;

(10) Lack of adequate weatherization as required by this chapter; and

(11) Any combination of other substandard items under this chapter which in the judgment of the Codes Enforcement Officer renders any building dangerous or injurious to the health, safety or morals of the occupants of the dwelling, the occupants of neighboring dwellings or other residents of the town.

VENTILATION. The insufflations and the exsufflation of air by natural or mechanical means, to and from housing.

VENTILATION, MECHANICAL. Ventilation by power-driven devices.

VENTILATION, NATURAL. Ventilation by opening to outer air through windows, skylights, doors, louvers or stacks with or without wind-driven devices.

(2006 Code, Ch. 11, § 1.2)

§ 151.03 SCOPE.

The provisions of this chapter shall apply to all existing housing and to all housing constructed within the town. Portable, mobile or demountable buildings or structures, including trailers, when used or intended for use as housing within the town shall be subject to the applicable provisions of this chapter.

(2006 Code, Ch. 11, § 1.3)

§ 151.04 CONFLICTS.

The provisions of this chapter shall not be construed to conflict with any other applicable laws, codes or ordinances pertaining to housing, but are supplemental thereto, and where the provisions of this chapter are similar to provisions of other applicable laws, codes or ordinances, the more stringent provisions shall apply.

(2006 Code, Ch. 11, § 1.22)

CONDITIONS AND REQUIREMENTS

§ 151.15 SUBSTANDARD AND UNFIT HOUSING.

(A) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, which does not comply with all the requirements of this chapter shall be deemed substandard.

(B) Unless otherwise provided in this chapter, all requirements relating to housing shall be the responsibility of the owner.

(C) No person shall occupy as owner-occupant, or let to another or others for occupancy or use, or cause to be used as a human habitation, any dwelling or dwelling unit, which exhibits any of the conditions, described contained in § 151.02.

(D) The Inspector shall determine that a residential building is unfit for human habitation if he or she finds that any of the conditions contained in § 151.02, exist in the building.

(E) A vacant residential dwelling unit that has been inspected and found to be unfit for human habitation may not be occupied until its owner receives a certificate of occupancy from the town.

(2006 Code, Ch. 11, § 1.4) Penalty, see § 151.99

§ 151.16 MINIMUM DWELLING SPACE REQUIREMENTS.

No person shall occupy as owner-occupant any dwelling designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, which does not comply with the following requirements.

(A) *Required space in dwelling unit.* Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor for the next three occupants and at least 75 square feet of additional habitable floor area for each additional occupant.

(B) *Required space in sleeping rooms.* In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each additional occupant thereof.

(C) *Floor area.* At least one-half of the floor area of every habitable room, foyer, hall or corridor shall have a ceiling height of at least seven feet; and the floor area of that part of any room where the ceiling height is less than seven feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(D) *Occupancy of dwelling unit below grade.* No basement or cellar space shall be used as a habitable room or dwelling unit unless:

(1) The floor and walls are impervious to leakage of underground and surface runoff water and insulated against dampness; or

(2) There is at least one window above grade.

(E) *Location of sanitary facilities.* All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet, tub or shower and lavatory shall be located in a room affording privacy to the user and the room shall have a minimum floor space of 30 square feet.

(F) *Holes, cracks in walls.* Bathroom walls, toilet room walls and bedroom walls shall have no holes or excessive cracks.

(G) *Access.* Access shall be provided to all rooms within a dwelling unit without passing through other dwelling units.

(H) *Doors.* Shall be provided at all doorways leading to bedrooms, toilet rooms and bathrooms and at all rooms adjoining a public space.

(I) *Kitchen facilities.* Each living unit shall have a specific kitchen space, which contains a sink with counter work space and having hot and cold running water, and adequate space for food preparation and storing food and cooking utensils.

(2006 Code, Ch. 11, § 1.5)

§ 151.17 LIGHT AND VENTILATION STANDARDS.

(A) No person shall occupy as owner-occupant any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, which does not comply with the following requirements.

(B) Every habitable room shall have at least one window or skylight facing directly to the outdoors.

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

(D) (1) Every habitable room shall have at least one window or skylight which can easily be opened, or other device as will adequately ventilate the room.

(2) The total of openable window area in every habitable room shall 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.

(E) Every bathroom shall comply with the light and ventilation requirement for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms equipped with an approved ventilation system.

(2006 Code, Ch. 11, § 1.6)

§ 151.18 EXIT STANDARDS.

(A) Every dwelling unit shall have safe, unobstructed means of egress with minimum ceiling height of seven feet leading to a safe and open space at ground level.

(B) Every inside and outside stair, step, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair.

(C) Protective railings shall be required on any unenclosed structure over five feet from the ground level or on any steps containing four risers or more.

(D) Where protective handrails are required above five feet, they shall be constructed with intermediate rails or ornamental patterns, such that a six-inch diameter sphere cannot pass through any opening.

(E) Smoke detectors shall be installed as required in § 903.2 of the State Building Code.

(2006 Code, Ch. 11, § 1.7)

§ 151.19 PLUMBING STANDARDS.

(A) Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstruction.

(B) Every dwelling unit shall have connected to the kitchen sink, lavatory and tub or shower an 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.

(C) (1) Every dwelling shall have water heating facilities which are properly installed and maintained in a safe and good working condition and are capable of heating water to a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120°F.

(2) The water heating facilities shall be capable of meeting the requirements of this section when the dwelling or dwelling unit heating facilities required under the provisions of this chapter are not in operation. The minimum storage capacity of the water heater shall be 30 gallons.

(D) All water piping shall be protected from freezing by proper installation in protected space.

(E) Every water closet compartment floor surface and every bathroom floor surface shall be so constructed and maintained as to be reasonably impervious to water and as to permit the floor to be readily kept in a clean and sanitary condition.

(2006 Code, Ch. 11, § 1.8)

§ 151.20 HEATING STANDARDS.

(A) Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe and good working conditions, and are capable of safely and adequately heating all habitable rooms and bathrooms in every dwelling unit located therein to a temperature of at least 70°F at a distance three feet above floor level, under ordinary minimum winter condition.

(B) Where a gas or electric central heating system is not provided, each dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to furnish a minimum temperature of 70°F measured at a point three feet above the floor during ordinary minimum winter conditions.

(C) All gas and oil burning equipment installed on the premises shall be of a type approved by Underwriters' Laboratories, Inc., or by American Gas Association and shall be installed in accordance with the provisions of the State Building Code.

(D) Liquid fuel stored on the premises shall be stored in accordance with the provisions of the Fire Prevention Code.

(E) There shall be no hanging masonry chimneys.

(F) If the fireplace opening is closed, the closure shall be of masonry.

(G) Fireplaces shall be used only for supplemental heat and not for basic heating.

(2006 Code, Ch. 11, § 1.9)

§ 151.21 ELECTRICAL STANDARDS.

(A) Every dwelling shall be wired for electric lights and convenience receptacles. Every habitable room of the dwelling shall contain at least separate floor or wall-type electric convenience outlets; and every kitchen, bathroom, bedroom, laundry room, furnace room, corridors or hallways, and porches shall contain at least one supplied ceiling or wall-type electric light fixture. Every outlet and fixture shall be properly installed, shall be maintained in good and safe working condition and shall be connected to the source of electric power in a safe manner.

(B) Every public hall and stairway in every multiple dwelling containing five or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than four dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

(C) No person shall occupy, as owner-occupy, any dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, which does not comply with the following requirements. All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed and connected to the source of electric power.

(1) Where the determination is made, upon examination of the existing electrical service supply, that the electrical service supply is obsolete or is being used in a manner as would constitute a hazard to the occupants or would otherwise constitute a hazard to life and property, the following shall be used for determining the adequacy of the service supply and main disconnect switch:

Capacity of Main Service	
Total Number of Lighting Electrical Outlets Only	***Supply and Main Disconnect Switch***
0-50	100 amp service

(2) The maximum capacity of the service supply and the main disconnect switch shall be sufficient to adequately carry the total load.

(2006 Code, Ch. 11, § 1.10) Penalty, see § 151.99

§ 151.22 STRUCTURAL STANDARDS.

(A) *Foundation.*

(1) The building foundation walls, piers or other structural elements shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon.

(2) The foundation shall be on firm, reasonable dry ground and there shall be no water standing or running under the building.

(3) There shall be no isolated masonry piers exceeding in height ten times the least horizontal dimension of the pier.

(4) The space between the ground and the first floor of every dwelling shall be enclosed with masonry or other permanent material, except where underpinning is not consistent with the architecture of the dwelling, and where an enclosure would cause excessive related water damage as determined by the Inspector. Where wood is used as underpinning, the wood, in

addition to the conditions set out above, shall be weather-treated and permanently affixed. Where no underpinning is required, the ground level floor shall be substantially weather tight and insulated to R-19 value.

(B) *Floors.* Every floor shall be maintained structurally rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(C) *Walls, exterior.*

(1) The exterior walls and materials shall be reasonably plumb, substantially weather-tight, water-tight and shall be made impervious to the adverse effects of weather and be maintained in sound condition and good repair.

(2) No deterioration due to the elements because of lack of preventive maintenance consisting of painting, waterproofing and repair shall be allowed.

(D) *Walls, interior.* Every interior wall shall be maintained structurally rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(E) *Ceilings.* Every ceiling shall be maintained structurally rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(F) *Roof.*

(1) Roofs shall be maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building.

(2) The roof covering shall be at least class C, as defined by the State Building Code.

(G) *Porches.* Every porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.

(H) *Stairs and steps.* Every inside and outside stair, step and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(I) *Accessory buildings.* All accessory buildings and structures, including detached garages, shall be maintained structurally sound and in good repair.

(J) *Fire-resistance rating.* Where applicable because of the number of dwelling units in a structure, the fire-resistance rating requirements of the State Building Code shall apply to party walls and ceilings.

(2006 Code, Ch. 11, § 1.12)

§ 151.23 PROPERTY MAINTENANCE.

(A) *Buildings and structures.*

(1) 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) Floors, walls, ceilings and fixtures shall be maintained in clean and sanitary condition.

(3) Every window, exterior door and basement or cellar door and hatchway shall be substantially weather-tight, water-tight and rodent proof; and shall be kept in sound working condition and good repair.

(4) Window panes or an approved substitute shall be maintained without cracks or holes.

(5) Window sashes shall be properly fitted and weather-tight within the window frame.

(6) Every window required for light and ventilation for habitable rooms shall be capable of being easily opened and secured in position by window hardware.

(7) Every exterior door shall fit reasonably well within its frame so as to substantially exclude rain and wind from entering the dwelling building and shall be provided with proper hardware and maintained in good condition.

(8) Every door opening directly from a dwelling unit to outdoor space shall have screens and every window or other device with opening to outdoor space, used or intended to be used for ventilation, shall likewise have screens. Dwelling buildings containing central heating furnaces and air-conditioning equipment for mechanically ventilating the building year around are not required to have screens on door or window openings. Window type air-conditioning units are not included in this exception.

(9) Floor covering, where provided, shall be maintained in a safe, sanitary and serviceable manner.

(B) *Public areas.* Every owner of a structure, containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the structure and premises thereof.

(C) *Rubbish and garbage.* Every person who occupies and controls a dwelling unit shall dispose of all rubbish and garbage in a clean and sanitary manner by placing it in proper storage facilities. In the case of single-family and two-family dwellings, the persons who occupy and control the dwellings shall be responsible for providing the receptacles for disposing of garbage and rubbish. In the case of multi-family housing, the owner shall be responsible for providing the receptacles for the storage of garbage and rubbish. In all cases, the receptacles shall meet the specifications set out in the town code of ordinances.

(D) *Interior cleanliness.* Every occupant of a dwelling unit shall be responsible for maintaining the dwelling in a safe and sanitary condition.

(E) *Premises.* The owner or occupants of a residential building, structure or property shall not utilize the premises of the residential property for the open storage of any abandoned motor vehicle, ice box, 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 above, including, but not limited to, weeds, dead trees, trash, garbage and the like.

(F) *Infestation.*

(1) Premises, buildings and structures shall, by generally accepted methods of extermination, be maintained free of vermin and rodent harborage and infestation.

(2) Every basement or cellar which might provide an entry for rodents shall be supplied with screens installed or with other approved devices as will effectively prevent entrances by rodents.

(Amended 7-7-1992)

(G) *Insulation.* Ceiling insulation rated at least R-19, or a minimum thickness of four inches of insulation, when approved by the Inspector, and consisting of rock wool (glass) or fiber glass, or other materials exhibiting fire-resistant capabilities equal to or greater than rock wool or fiber glass, shall be required in the ceilings of all dwellings within 60 months of 7-1-1992.

(H) *Rooming houses, additional requirements.*

(1) No person shall operate or cause to be operated any rooming house, unless there is provided:

(a) Lavatory facilities consisting of one flush water closet, one washbasin and one bathtub or shower for every six persons residing in the rooming house;

(b) Access within the rooming house to lavatory facilities without entering another rooming unit;

(c) Walls, floors and ceilings maintained in a sanitary condition;

(d) Prompt and sanitary disposal of all garbage; and

(e) A furnace room enclosed with material having at least one-hour protection rating.

(2) No person shall operate or cause to be operated any rooming house that permits that heating or cooking of food within a rooming unit.

(2006 Code, Ch. 11, § 1.13) Penalty, see § 151.99

§ 151.35 TOWN'S RIGHT OF ENTRY FOR INSPECTION; DUTY OF OWNER AND OCCUPANTS.

For the purpose of making inspection and otherwise performing their duties under this chapter, the Inspector and his or her duly appointed agents are hereby authorized, upon presentation of proper credentials, to enter, examine and survey at all reasonable times, all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall, upon being presented with proper credentials, give the Inspector free access to the dwelling, dwelling unit or rooming unit and its premises at all reasonable times for the purpose of the inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his or her agent or employee, access to any part of the dwelling or dwelling unit and its premises at all reasonable times for the purpose of making the 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 the town code of ordinances. If the owner or occupant refuses admission for this purpose, admission may be obtained through the provisions of G.S. Ch. 15, Art. 4A.

(2006 Code, Ch. 11, § 1.13)

§ 151.36 NON-LIABILITY OF TOWN PERSONNEL.

No officer, agent or employee of the town shall render himself or herself 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 his or her duties under this chapter. Any suit brought against any officer, agent or employee of the town as a result of any act required or permitted in the discharge of the duties under this chapter shall be defended by the Town Attorney until the final determination of the proceedings therein.

(2006 Code, Ch. 11, § 1.14)

§ 151.37 REFUSAL TO PERMIT ENTRY UPON PREMISES.

It shall be unlawful for any owner or persons in possession of premises on which housing is located in the town to refuse, after being presented with a warrant as issued under G.S. § 15-27.2, to permit the Inspector or his or her duly appointed agents to enter upon the premises for the purpose of making examinations as authorized by this chapter. Violations of this section shall constitute a misdemeanor.

(2006 Code, Ch. 11, § 1.15) Penalty, see § 151.99

§ 151.38 PROCEDURE FOR REPAIRING, CLOSING OR DEMOLISHING CERTAIN ABANDONED STRUCTURES.

In addition to the exercise of police power authorized herein with respect to dwellings, the town shall cause to be repaired, closed or demolished any abandoned structure which the Board of Commissioners finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities. The repair, closing or demolition of the structures shall be pursuant to the same provisions as included in this chapter for dwellings found to be unfit for human habitation.

(2006 Code, Ch. 11, § 1.16)

§ 151.39 PROCEDURE GENERALLY FOR CORRECTION OF DWELLINGS UNFIT FOR HUMAN HABITATION.

(A) Whenever a petition is filed with the Inspector by a public authority, or by at least five residents of the town, charging that any housing is unfit for human habitation or whenever it appears to the Inspector (on his or her own motion) that any housing is unfit for human habitation, the Inspector shall, if his or her preliminary investigation discloses a basis for the charges, issue and cause to be served upon the owner of and parties in interest in the housing a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Inspector at a place within the town at a time fixed not less than ten days, nor more than 30 days, after serving of the complaint. The owner and parties in interest shall have the right to file an answer to the complaint, to appear in person or otherwise, and to give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearing before the Inspector. The owner and parties in interest shall also have the right to file with the Inspector a written statement agreeing that the housing referred to in the complaint is unfit for human habitation, that the same should be demolished, and agreeing that the town may have the housing demolished, and agreeing that the cost of demolition shall be a lien in the nature of a special assessment upon the property. In these cases, the Inspector may proceed with the demolition without complying with the additional provision of this section.

(B) (1) If, after the notice and hearing, the Inspector determines that the housing under consideration is unfit for human habitation, he or she shall state in writing his or her findings of fact in support of the determination and shall issue and cause to be served upon the owner thereof an order, requiring the owner, within the time specified in the order, to repair, alter or improve the housing to render it fit for human habitation or to vacate and close the housing as a human habitation:

(a) If the repair, alteration or improvement of the housing can be made at a reasonable cost in relation to the value of the housing, not to exceed 65% of the value; or

(b) If the repair, alteration or improvement of the housing cannot be made at a reasonable cost in relation to the value of the housing, not to exceed 65% of the value, requiring the owner, within the time specified in the order, to remove or demolish the housing.

(2) The Inspector's order shall also provide that the housing to which it applies shall not be occupied if it is vacant as of the date of the order or becomes vacant before the required repair, alteration or improvements have been made, unless the owner obtains from the Inspector a certificate of fitness for occupancy which shall be issued upon a finding by the Inspector that the housing subject to the order is not unfit for human habitation.

(C) The Inspector is hereby authorized to fix the reasonable value of any housing for the purpose of this section and the value shall be binding, unless the owner protests the value in writing to the Inspector within ten days after receipt of an order. Upon the protests, the Inspector shall nominate one competent and disinterested person; the protesting party shall nominate one competent and disinterested person; and the two persons so nominated shall nominate a third competent and disinterested person; and the three persons so nominated shall serve as commissioners of appraisal. The commissioners shall make their appraisal of the value of the housing under consideration, shall return the appraisal to the Inspector and the protesting party within ten days after their appointment and the appraisal shall be binding and conclusive for the purpose of this section. The costs of any appraisal shall be paid by the protesting party to the Inspector at the time of filing written request.

(D) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the housing, the Inspector, subject to the provisions of division (E) below, may cause the housing to be repaired, altered or improved or to be vacated and closed, and may cause to be posted on the main entrance of any housing so closed a placard with the following words:

"This building is unfit for human habitation; the use or occupancy of this building for human habitation is prohibited and unlawful."

(E) If the owner fails to comply with an order to remove or demolish the housing, the Inspector may cause the housing to be removed or demolished; provided, however, that, the powers of the Inspector set forth in divisions (D) and (E) above shall not be exercised until the Board of Commissioners shall have, by ordinance, ordered the Inspector to proceed to effectuate the purpose of this chapter with respect to the particular property or properties which the Inspector shall have found to be unfit for human habitation and which shall be described in the chapter. The ordinances shall be recorded in the office of the Register of Deeds in the county and shall be indexed in the name of the property owner in the grantor index.

(F) (1) Whenever the Board of Commissioners has adopted an ordinance ordering a dwelling to be repaired or vacated and closed pursuant to the provisions of this section, and the owner has vacated and closed the dwelling and kept the dwelling vacated and closed for a period of one year pursuant to the order, the Board of Commissioners shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be

inimical to the health, safety, morals and welfare of the town in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this state; then, in the circumstances, after the expiration of the one-year period, the Board of Commissioners may enact an ordinance and serve the ordinance upon the owner, requiring that the owner either:

(a) Repair or demolish and remove the dwelling within 90 days, if the repair necessary to render the dwelling fit for human habitation would cost less than 50% of the present value of the dwelling; or

(b) Demolish and remove the dwelling within 90 days, if the repair necessary to render the dwelling fit for human habitation would cost in excess of 50% of the present value of the dwelling.

(2) The order shall be recorded in the office of the Register of Deeds in the county and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this order within the time fixed by the order, then the Inspector shall cause the dwelling to be repaired or demolished and removed pursuant to the order.

(G) The cost of the repairs, alterations, improvements, vacating and closing, removal, demolition, grading, filling, seeding or securing and making safe by the Inspector shall be a lien in the nature of a special assessment against the real property upon which the cost was incurred. If the housing is removed or demolished by the Inspector, he or she shall sell the materials of the housing 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 by the Inspector, shall be secured in a manner as may be 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.

(H) Complaints or orders issued by the Inspector pursuant to this code shall be served upon persons either personally or by registered or certified mail; but, if the whereabouts of the persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, and the Inspector shall make an affidavit to that effect, then the serving of the complaint or order upon the persons may be made by publishing the same at least once, no less than ten days and no more than 30 days prior to the hearing, in a newspaper printed and published in the town. A copy of the complaint order shall be posted in a conspicuous place on the premises affected by the complaint or order.

(I) (1) The Board of Commissioners shall hear and determine appeals from any decision or order of the Inspector. An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby or by any officer, Board of Commissioner of the town. 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 Board of Commissioners a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing

of any notice of appeal, the Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his or her decision shall remain in force until modified or reversed. When any appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with him or her, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his or her requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one-day's written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to division (I)(4) below.

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

(3) Every decision of the Board of Commissioners shall be subject to review by the Superior Court by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(4) Any person aggrieved by an order issued by the Inspector or a decision rendered by the Board of Commissioners may petition the Superior Court for an injunction restraining the Inspector from carrying out the order or decision, and the Court may, upon the petition, issue a temporary injunction restraining the Inspector pending a final disposition of the cause; provided, however, that, the petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the Court on any petition within 20 days and shall be given preference over other matters on the Court's calendars. The Court shall hear and determine the issues raised and shall enter the final order or decree as law and justice may require; provided, however, that, it shall not be necessary to file bond in any amount before obtaining a temporary injunction under this division (I)(4).

(5) In case any housing is erected, constructed, altered, repaired, converted, maintained or used in violation of this chapter or of any ordinance adopted under authority of the code of ordinances or any valid order or decision of the Inspector or Board of Commissioners made pursuant to this chapter, the Inspector or Board may institute any appropriate action or

proceedings to prevent the unlawful erection, construction, reconstruction, alteration or use, to restrain, correct or abate the violation or to prevent any illegal act, conduct or use in or about the premises of the housing.

(J) The Inspector is hereby further authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the provisions of this chapter, including the following powers in addition to others herein granted:

(1) To diligently investigate and examine residential building and accessory structures located in the town especially in those portions of the town where the conditions described in this chapter exist for the purpose of locating and taking action with respect to the buildings and structures as appear to be unfit for human habitation. Whenever the owner of property has complied with the minimum standards in this chapter for each dwelling or dwelling unit in accordance with previous inspections and orders issued by the Inspector, then no further inspections for violations shall be required for a period of two years from the date of final inspection and approval, except where, in the opinion of the Inspector, it is necessary in the interest of public health or safety of the residents or the violations constitute a health and safety hazard which is inimical to the general welfare of the citizens in the community. In instances where the owner or tenant who was residing in a dwelling or dwelling unit at the time that the final inspection and approval was made quits the premises, then this division (J)(1), which does not require further inspection for a period of two years, shall no longer be applicable with respect to the dwelling or dwelling unit;

(2) To administer oaths and affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examinations; provided that, the entries shall be made at reasonable times and in a manner as to cause the least possible inconvenience to the person in possession;

(4) To appoint and fix the duties of the officers, agents and employees as he or she deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his or her functions and powers under this code to the officers and agents as he or she may designate.

(2006 Code, Ch. 11, § 1.17)

§ 151.40 FAILURE TO COMPLY WITH ORDERS; DWELLINGS DECLARED NUISANCES; OCCUPANCY AFTER ISSUANCE OF ORDER.

(A) If any order issued and served in accordance with this chapter is not complied with, within the time specified therein, the housing with respect to which the order has been issued is hereby declared to be a public nuisance, and it shall be unlawful for any person who has knowledge of the issuance of the order to use or occupy or to permit anyone else to use or occupy the housing or any part thereof as a human habitation. Any person violating any provision of this section or failing to comply therewith shall be guilty of a misdemeanor.

(B) It shall be unlawful for any person to use or to occupy or to permit anyone else to use or occupy as a human habitation any housing on the main entrance of which the Inspector has caused a placard to be posted declaring the building to be unfit for human habitation and stating that the use or occupancy of the building for human habitation is prohibited and unlawful. Any person violating any provision of this section or failing to comply therewith shall be guilty of a misdemeanor.

(2006 Code, Ch. 11, § 1.18) Penalty, see § 151.99

§ 151.41 REMOVAL OF COMPLAINT, NOTICE OR ORDER.

No person, without written consent of the Inspector, shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of this chapter. Any person violating or failing to comply with the provisions of this section shall be guilty of a misdemeanor.

(2006 Code, Ch. 11, § 1.19) Penalty, see § 151.99

§ 151.42 RENTING OF UNFIT DWELLING AFTER NOTICE.

(A) Any person (landlord or tenant) violating any lawful order of the Board of Commissioners to vacate and close, or to demolish, any residence found to be unfit for human habitation shall, upon the expiration of the date for compliance with the order, be guilty of a misdemeanor and each day the offense continues shall be deemed a separate offense.

(B) Any person occupying, or permitting re-occupancy, of a vacant house found by the Inspector to be unfit for human habitation, without making the house fit for human habitation and receiving the approval of the Inspector, shall be guilty of a misdemeanor and each day any offense continues shall be deemed a separate offense.

(C) The provisions of this section shall be in addition to any other provisions of this chapter of the town code of ordinances, which make violations of the town code a misdemeanor.

(2006 Code, Ch. 11, § 1.20) Penalty, see § 151.99

§ 151.43 SECURING VACATED PROPERTY; APPROVAL BEFORE REOCCUPANCY.

A dwelling ordered vacated by the Inspector shall have all outer doors firmly locked and basement, cellar and first-story windows barred or boarded to prevent entry, and shall not again be used for human habitation until written approval is secured from the Inspector.

(2006 Code, Ch. 11, § 1.21) Penalty, see § 151.99

§ 151.44 DISPOSITION OF ABANDONED PERSONAL PROPERTY, FIXTURES AND APPURTENANCES FOUND IN OR ATTACHED TO DWELLINGS ORDERED DEMOLISHED.

(A) Any article of personal property, fixtures or appurtenances founding or attached to a dwelling, which items have been determined by the Inspector to be abandoned in a house which the Board of Commissioners has ordered the Inspector to demolish, shall be disposed of in the following manner: the Inspector shall send a notice by certified or registered mail to the owner of the personal property, fixtures and other items, if the owner can be reasonably identified, and request that the owners remove the same from the premises within 15 days of receipt of the notice.

(B) If the owner of the personal property, fixtures or other items fails or refuses to remove the property after being requested to do so, the property shall be subject to sale by the town. The Inspector shall cause a notice of sale of property to be placed in the county courthouse ten days prior to the sale. A sale shall be conducted by a public officer and shall be open to the public. All items will be sold to the highest bidder for cash. If no bids are received, the Inspector shall proceed with the demolition of the property.

(2006 Code, Ch. 11, § 1.23)

§ 151.99 PENALTY.

(A) Each violation of any provision of this chapter shall constitute a misdemeanor, punishable by a fine of not more than $50 or imprisonment of not more than 30 days, as provided by G.S. § 14-4, as amended.

(B) An owner who fails to comply with an order to repair or to improve, vacate or close any occupied dwelling determined unfit for human habitation pursuant to the provisions contained in this chapter, or who permits the re-occupancy of an unfit dwelling in violation of this chapter shall be subject to a civil penalty of $100 for the first day following the expiration of an order to repair or improve, vacate or close any occupied dwelling or following a determination that an unfit dwelling has been reoccupied in violation of this chapter. In each instance, a penalty of $10 per day shall be imposed for each subsequent day that the unfit unit remains occupied in violation of an order or in violation of this chapter. If a person fails to pay the civil penalty within ten days after being notified of the amount due, the town may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

(C) The provisions of this chapter may also be enforced through any equitable or other remedy deemed appropriate by the town and permitted by law.

(2006 Code, Ch. 11, § 1.24)

CHAPTER 152: FLOOD DAMAGE PREVENTION

Section

General Provisions

152.01 Statutory authorization

152.02 Findings of fact

152.03 Objectives

152.04 Definitions

152.05 Lands to which chapter applies

152.06 Basis for establishing the special flood hazard areas

152.07 Establishment of floodplain development permit

152.08 Compliance

152.09 Abrogation and greater restrictions

152.10 Interpretation

152.11 Warning and disclaimer of liability

Administration and Enforcement

152.25 Designation of Floodplain Administrator

152.26 Floodplain development permit and certification requirements

152.27 Corrective procedures

152.28 Variance procedures

Flood Hazard Reduction

152.40 General standards

152.41 Specific standards

152.42 Subdivisions, manufactured home parks and major developments

152.43 Standards for floodplains without established base flood elevations

152.44 Standards for floodplains with BFE but without established floodways or non-encroachment areas

152.45 Floodways and non-encroachment areas

Legal Status Provisions

152.60 Effect on rights and liabilities under the existing flood damage prevention ordinance

152.61 Effect upon outstanding building permits

152.62 Effective date

152.99 Penalty

GENERAL PROVISIONS

§ 152.01 STATUTORY AUTHORIZATION.

(A) The legislature of the state has, in G.S. Ch. 143, Art. 21, part 6; G.S. Ch. 160A, Art. 19, parts 3, 5 and 8; and G.S. Ch. 160A, Art. 8, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

(B) Therefore, the Board of Commissioners of the town does ordain as follows.

(2006 Code, Ch. 29, Art. 1, § A)

§ 152.02 FINDINGS OF FACT.

(A) The flood-prone areas within the jurisdiction of the town and its extra-territorial jurisdiction are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood-prone areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed or otherwise unprotected from flood damages.

(2006 Code, Ch. 29, Art. 1, § B)

§ 152.03 OBJECTIVES.

The objectives of this chapter are:

(A) To protect human life and health;

(B) To minimize expenditure of public money for costly flood control projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) To minimize prolonged business losses and interruptions;

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

(F) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in a manner as to minimize flood blight areas; and

(G) To ensure that potential home buyers are notified that property is in a special flood hazard area.

(2006 Code, Ch. 29, Art. 1, § D)

§ 152.04 DEFINITIONS.

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

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common ***URBAN ACCESSORY STRUCTURES.*** Pole barns, hay sheds and the like qualify as ***ACCESSORY STRUCTURES*** on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

ADDITION (TO AN EXISTING BUILDING). An extension or increase in the floor area or height of a building or structure.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

AREA OF SPECIAL FLOOD HAZARD. See ***SPECIAL FLOOD HAZARD AREA (SFHA).***

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

BASE FLOOD ELEVATION (BFE). A determination as published in the flood insurance study of the water surface elevations of the base flood.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BUILDING. See ***STRUCTURE.***

CHEMICAL STORAGE FACILITY. A building, portion of a building or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

DEVELOPMENT. Any human-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 or storage of equipment or materials.

DISPOSAL. Defined as in G.S. § 130A-290(a)(6).

ELEVATED BUILDING. A non-basement building which has its reference level raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

ENCROACHMENT. The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is pre-FIRM.

FLOOD or ***FLOODING.*** A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

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

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the flood insurance rate map (FIRM).

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard areas have been defined as Zone A.

FLOOD INSURANCE. The insurance coverage provided under the National Flood Insurance Program.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

FLOOD INSURANCE STUDY (FIS). An examination, evaluation and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones and other flood data in a community issued by ***FEMA***. The ***FLOOD INSURANCE STUDY*** report includes flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), if published.

FLOOD ZONE. A geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

FLOODPLAIN or ***FLOOD-PRONE AREA***. Any land area susceptible to being inundated by water from any source.

FLOODPLAIN ADMINISTRATOR. The individual appointed to administer and enforce the floodplain management regulations.

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

FLOODPLAIN REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

FLOOD-PRONE AREA. See ***FLOODPLAIN.***

FLOOD-PROOFING. Any combination of structural and non-structural additions, changes or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities or structures with their contents.

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

FLOOR. See ***LOWEST FLOOR***.

FREEBOARD. The additional amount of height added to the base flood elevation (BFE) to account for uncertainties in the determination of flood elevations. See also ***REGULATORY FLOOD PROTECTION ELEVATION***.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding or ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

HAZARDOUS WASTE MANAGEMENT FACILITY. A facility for the collection, storage, processing, treatment, recycling, recovery or disposal of hazardous waste, as defined in G.S. Ch. 130A, Art. 9.

HIGHEST ADJACENT GRADE (HAG). The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

HISTORIC STRUCTURE. Any structure that is:

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

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

(3) Individually listed on a state inventory of historic places; and/or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified:

(a) By an approved state program as determined by the Secretary of Interior; or

(b) Directly by the Secretary of Interior in states without approved programs.

LOWEST ADJACENT GRADE (LAG). The elevation of the ground, sidewalk, patio slab or deck support immediately next to the building after completion of the building. For Zone A and AO, use the natural grade elevation prior to construction.

LOWEST FLOOR. The subfloor, top of slab or grade of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or limited storage in an area other than a basement area is not considered a building's ***LOWEST FLOOR***; provided that, such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

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

MARKET VALUE. The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. ***MARKET VALUE*** can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value) or adjusted assessed values.

MEAN SEA LEVEL. For purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988 or other vertical control datum used as a reference for establishing varying elevations within the

floodplain, to which base flood elevations (BFEs), shown on a FIRM, are referenced. Refer to each FIRM panel to determine datum used.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of the original version of this chapter and includes any subsequent improvements to the structures.

NON-CONFORMING BUILDING OR DEVELOPMENT. Any legally existing building or development which fails to comply with the current provisions of this chapter.

NON-ENCROACHMENT AREA. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the flood insurance study report.

OBSTRUCTION. Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

POST-FIRM. Construction or other development which started on or after 1-1-1975 or on or after the effective date of the initial flood insurance rate map for the area, whichever is later.

PRE-FIRM. Construction or other development which started before 1-1-1975 or before the effective date of the initial flood insurance rate map for the area, whichever is later.

PUBLIC SAFETY AND/OR NUISANCE. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal or basin.

RECREATIONAL VEHICLE (RV). A vehicle, which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

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

REFERENCE LEVEL. The portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance of the building. Within special flood hazard areas designated as zones A1-A30, AE, A, A99, AO or AH, the reference level is the top of the lowest floor.

REGULATORY FLOOD PROTECTION ELEVATION. The elevation to which all structures and other development located within the special flood hazard areas must be elevated or flood-proofed, if non-residential. Within areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE, plus four feet of freeboard. In areas where no BFE has been established, all structures and other development must be elevated or flood-proofed, if non-residential, to two feet above the highest adjacent grade.

REMEDY A VIOLATION. To bring the structure or other development into compliance with state or community floodplain management regulations, or, if this is not possible, to reduce the impacts of its non-compliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

RETROFITTING. Measures, such as flood-proofing, elevation, construction of small levees and other modifications, taken on an existing building or its yard to protect it from flood damage.

RIVERINE. Relating to, formed by or resembling a river (including tributaries), stream, brook and the like.

SALVAGE YARD. Property used for the storage, collection and/or recycling of any type of equipment whatsoever, whether industrial or non-commercial, and including, but not limited to, vehicles, appliances and related machinery.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year as determined in § 152.06.

SOLID WASTE DISPOSAL FACILITY. Any facility involved in the disposal of solid waste, as defined in G.S. § 130A-290(a)(35).

SOLID WASTE DISPOSAL SITE. Defined as in G.S. § 130A-290(a)(36).

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

STRUCTURE. A walled and roofed building, a manufactured home, a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure during any one year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of ***SUBSTANTIAL IMPROVEMENT***.

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

(1) Any correction of existing violations of state or community Health, Sanitary or Safety Code specifications which have been identified by the Community Code Enforcement Official and which are the minimum necessary to assure safe living conditions; or

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

VARIANCE. A grant of relief from the requirements of this chapter.

VIOLATION.

(1) The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

(2) A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in §§ 152.25 through 152.28 and 152.40 through 152.45 is presumed to be in violation until the time as that documentation is provided.

WATER SURFACE ELEVATION (WSE). The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

(2006 Code, Ch. 29, Art. 2)

§ 152.05 LANDS TO WHICH CHAPTER APPLIES.

This chapter shall apply to all special flood hazard areas within the jurisdiction, including the extra-territorial jurisdiction of the town and within the jurisdiction of any other community whose governing body agrees, by resolution, to the applicability.

(2006 Code, Ch. 29, Art. 3, § A)

§ 152.06 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

(A) The special flood hazard areas are those identified by the Federal Emergency Management Agency (FEMA) or produced under the cooperating technical state (CTS) agreement between the state and FEMA in its flood hazard boundary map (FHBM) or flood insurance study (FIS) and its accompanying flood maps such as the flood insurance rate map(s) (FIRM) and/or the flood boundary floodway map(s) (FBFM), for the town dated 4-17-1989, which with accompanying supporting data, and any revision thereto, including letters of map amendment or revision, are adopted by reference and declared to be a part of this chapter.

(B) The special flood hazard areas also include those defined through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM.

(C) This includes, but is not limited to, detailed flood data:

(1) Generated as a requirement of § 152.25(B);

(2) Preliminary FIRMs where more stringent than the effective FIRM; or

(3) Post-disaster flood recovery maps.

(D) In addition, upon annexation to the town or inclusion in the extra-territorial jurisdiction (ETJ), the special flood hazard areas identified by the Federal Emergency Management Agency (FEMA) and/or produced under the cooperating technical state agreement between the state and FEMA as stated above for the unincorporated areas of the county, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this chapter.

(2006 Code, Ch. 29, Art. 3, § B)

§ 152.07 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas as determined in § 152.06.

(2006 Code, Ch. 29, Art. 3, § C)

§ 152.08 COMPLIANCE.

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

(2006 Code, Ch. 29, Art. 3, § D) Penalty, see § 152.99

§ 152.09 ABROGATION AND GREATER RESTRICTIONS.

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

(2006 Code, Ch. 29, Art. 3, § E)

§ 152.10 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements; liberally construed in favor of the governing body; and, deemed neither to limit, nor repeal, any other powers granted under state statutes.

(2006 Code, Ch. 29, Art. 3, § F)

§ 152.11 WARNING AND DISCLAIMER OF LIABILITY.

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

(2006 Code, Ch. 29, Art. 3, § G)

ADMINISTRATION AND ENFORCEMENT

§ 152.25 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

(A) The Code Enforcement Officer, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this chapter.

(2006 Code, Ch. 29, Art. 4, § A)

(B) Duties of the Floodplain Administrator shall include, but not be limited to:

(1) Review all floodplain development applications and issue permits for all proposed development within flood-prone areas to assure that the requirements of this chapter have been satisfied;

(2) Advise permittees that additional federal or state permits (i.e., wetlands, erosion and sedimentation control, riparian buffers, mining and the like) may be required, and if specific federal or state permits are known, require that copies of the permits be provided and maintained on file with the floodplain development permit;

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

(4) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished;

(5) Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of § 152.44 are met;

(6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) of all attendant utilities of all new or substantially improved structures, in accordance with § 152.26(C);

(7) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures and all utilities have been flood-proofed, in accordance with § 152.26(C);

(8) Obtain actual elevation (in relation to mean sea level) of all public utilities, in accordance with § 152.26(C);

(9) When flood-proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with §§ 152.26(C) and 152.41(B);

(10) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting

the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided herein;

(11) When base flood elevation (BFE) data has not been provided in accordance with § 152.06, obtain, review and reasonably utilize any base flood elevation (BFE) data, along with floodway data and/or non-encroachment area data available from a federal, state or other source, including data developed pursuant to § 152.42(D), in order to administer the provisions of this chapter;

(12) When base flood elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with § 152.06, obtain, review and reasonably utilize any floodway data, and/or non-encroachment area data available from a federal, state or other source in order to administer the provisions of this chapter;

(13) When the exact location of boundaries of the special flood hazard areas conflict with the current, natural topography information at the site, the property owner may apply and be approved for a letter of map amendment (LOMA) by FEMA. A copy of the letter of map amendment issued from FEMA will be maintained by the Floodplain Administrator in the floodplain development permit file;

(14) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection;

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

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

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

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

(19) Follow through with corrective procedures of § 152.27.

(2006 Code, Ch. 29, Art. 4, § C) Penalty, see 152.99

§ 152.26 FLOODPLAIN DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS.

(A) *Plans and application requirements.* Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities proposed to be located within flood-prone areas. The following items/information shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

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

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

(b) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in § 152.06 or a statement that the entire lot is within the special flood hazard area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in § 152.06;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in § 152.06;

(e) The base flood elevation (BFE) where provided as set forth in §§ 152.06, 152.25(B)(11) and (12), 152.41(E), 152.42 or 152.43;

(f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

(g) Preparation of the plot plan by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

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

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

(b) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed; and

(c) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or flood-proofed.

(3) If flood-proofing, a flood-proofing certificate and back-up plans from a registered professional engineer or architect certifying that the non-residential flood-proofed development will meet the flood-proofing criteria in §§ 152.41(B) and 152.42(B);

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

(a) Proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/piers);

(b) Should solid foundation perimeter walls be used in floodplains, details of sufficient openings to facilitate the unimpeded movements of flood waters in accordance with § 152.41(D);

(5) Usage details of any enclosed space below the regulatory flood protection elevation;

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

(7) Copy of all other local, state and federal permits required prior to floodplain development permit issuance (i.e., wetlands, erosion and sedimentation control, riparian buffers, mining and the like);

(8) If floodplain development permit is issued for placement of recreational vehicles and/or temporary structures, documentation to ensure § 152.41(F) and (G) are met; and

(9) If a watercourse is proposed to be altered and/or relocated, a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B) *Floodplain development permit data requirements.* The following information shall be provided at a minimum on the floodplain development permit to ensure compliance with this code:

(1) A description of the development to be permitted under the floodplain development permit issuance;

(2) The special flood hazard area determination for the proposed development per available data specified in § 152.06;

(3) The regulatory flood protection elevation required for the reference level and all attendant utilities;

(4) The regulatory flood protection elevation required for the protection of all public utilities;

(5) All certification submittal requirements with timelines;

(6) State that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, if applicable;

(7) If in an AE zone, there shall be a minimum of two foundation openings to the exterior of the structure for each enclosed area. Each enclosure shall be a minimum of one square inch for each square foot of each enclosed area and shall not be less than three inches in diameter. The bottom of each required opening shall be not more than one foot above adjacent ground level; and

(8) BFE enclosure uses are limited to parking, building access and limited storage only.

(C) *Certification requirements.*

(1) An elevation certificate (FEMA Form 81-31) or flood-proofing certificate (FEMA Form 81-65) is required after the reference level is completed. Within 21 calendar days of establishment of the reference level elevation, or flood-proofing, by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, or flood-proofed elevation, whichever is applicable in relation to mean sea level. The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder’s risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by the review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the certification or failure to make the corrections required shall be cause to issue a stop-work order for the project.

(2) A final as-built elevation certificate (FEMA Form 81-31) or flood-proofing certificate (FEMA Form 81-65) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation or flood-proofed elevation of the reference level and all attendant utilities. The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized, the certification shall be prepared by or

under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by the review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make the corrections required shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(3) If a manufactured home is placed within an A, AO, AE or A1-30 zone and the elevation of the chassis is above 36 inches in height, an engineered foundation certification is required per § 152.41(C).

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

(5) The following structures, if located within A, AO, AE or A1-30 zones, are exempt from the elevation/flood-proofing certification requirements specified in divisions (C)(1) and (C)(2) above:

(a) Recreational vehicles meeting requirements of § 152.41(F)(1);

(b) Temporary structures meeting requirements of § 152.41(G); and

(c) Accessory structures less than 150 square feet meeting requirements of § 152.41(H).

(2006 Code, Ch. 29, Art. 4, § C)

§ 152.27 CORRECTIVE PROCEDURES.

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

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

(1) The building or property is in violation of this chapter;

(2) A hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled

to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) Following the hearing, the Floodplain Administrator may issue the order to alter, vacate or demolish the building; or to remove fill as appears appropriate.

(C) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of this chapter, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in a lesser period as may be feasible.

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

(E) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, he or she shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

(2006 Code, Ch. 29, Art. 4, § D) Penalty, see § 152.99

§ 152.28 VARIANCE PROCEDURES.

(A) The Town Planning Board/Board of Adjustments as established by the Town Board of Commissioners, hereinafter referred to as the "Appeal Board", shall hear and decide requests for variances from the requirements of this chapter.

(B) Any person aggrieved by the decision of the Appeal Board may appeal the decision to the court, as provided in G.S. Ch. 7A.

(C) Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(D) In passing upon variances, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

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

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

(5) The necessity to the facility of a waterfront location, where applicable;

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

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

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

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

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

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

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

(F) Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

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

(H) Conditions for variances.

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

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

(3) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

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

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

(4) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced reference level elevation. The notification shall be maintained with a record of all variance actions.

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

(2006 Code, Ch. 29, Art. 4, § E)

FLOOD HAZARD REDUCTION

§ 152.40 GENERAL STANDARDS.

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

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

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

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

(D) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator and the like), hot water heaters, electric outlets/switches.

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

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

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

(H) Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter.

(I) Non-conforming structures or other development may not be enlarged, replaced or rebuilt unless the enlargement or reconstruction is accomplished in conformance with the provisions of this chapter. Provided, however, nothing in this chapter shall prevent the repair, reconstruction or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area or stream setback; provided that, the bulk of the building or structure below the regulatory flood protection elevation in the floodway, non-encroachment area or stream setback is not increased; and, provided that, the repair, reconstruction or replacement meets all of the other requirements of this chapter.

(J) New solid waste disposal facilities, hazardous waste management facilities, salvage yards and chemical storage facilities shall not be permitted in special flood hazard areas. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or flood-proofed to at least the regulatory flood protection elevation and certified according to § 152.26(C).

(2006 Code, Ch. 29, Art. 5, § A)

§ 152.41 SPECIFIC STANDARDS.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in §§ 152.06 or 152.25(B)(11) and (12), the following provisions are required.

(A) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation.

(B) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation. Structures located in A, AO, AE and A1-30 Zones may be flood-proofed to the regulatory flood protection elevation in lieu of elevation; provided that, all areas of the structure below the required flood protection elevation are water-tight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this section are satisfied. The certification shall be provided to the official as set forth in § 152.26(C).

(C) *Manufactured homes.*

(1) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse and lateral movement in accordance with the *State Regulations for Manufactured/Mobile Homes*, most recent edition, and any revision thereto adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15 or a certified engineered foundation. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(3) All foundation enclosures or skirting shall be in accordance with division (D) below.

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood-prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(D) *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas that are below the regulatory flood protection elevation shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access or limited storage of maintenance equipment used in connection with the premises, be constructed entirely of flood resistant materials below the regulatory flood protection level in A, AO, AE and A1-30 zones and meet the following design criteria.

(1) Measures for complying with this requirement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. To meet this requirement, the foundation must either be certified by a professional engineer or architect or meet the following minimum design criteria:

(a) Provide a minimum of two openings on different sides of each enclosed area subject to flooding;

(b) The total net area of all openings must be at least one square inch for each square foot of each enclosed area subject to flooding;

(c) If a building has more than one enclosed area, each area must have openings on exterior walls to allow flood water to directly enter;

(d) The bottom of all required openings shall be no higher than one foot above the adjacent grade;

(e) Openings may be equipped with screens, louvers or other opening coverings or devices provided they permit the automatic flow of flood waters in both directions; and

(f) Foundation enclosures.

1. Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore, the skirting does not require hydrostatic openings as outlined.

2. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic openings as outlined above to comply with this chapter.

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

(E) *Additions/improvements.*

(1) Additions and/or improvements to pre-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure:

(a) Are not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure; or

(b) Are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(2) Additions to post-FIRM structures with no modifications to the existing structure shall require only the addition to comply with the standards for new construction.

(3) Additions and/or improvements to post-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure:

(a) Are not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction; or

(b) Are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(4) Where a fire wall or independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

(F) *Recreational vehicles.* Recreation vehicles placed on sites within a special flood hazard area shall either:

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

(2) Meet all the requirements for new construction, including anchoring and elevation requirements of §§ 152.26 and 152.40 and division (C) above.

(G) *Temporary structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the following requirements must be met.

(1) Applicants must submit to the Floodplain Administrator a plan for the removal of the structure(s) in the event of a hurricane or flash flood warning notification. The plan must include the following information:

(a) A specified time period for which the temporary use will be permitted;

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

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

(d) A copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and

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

(2) The above information shall be submitted in writing to the Floodplain Administrator for review and written approval.

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

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

(2) Accessory structures shall be designed to have low flood damage potential.

(3) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.

(4) Accessory structures shall be firmly anchored in accordance with § 152.40(A).

(5) All service facilities such as electrical and heating equipment shall be installed in accordance with § 152.40(D).

(6) Openings to relieve hydrostatic pressure during a flood shall be provided below regulatory flood protection elevation in conformance with division (D)(1) above.

(7) An accessory structure with a footprint less than 150 square feet does not require an elevation or flood-proofing certificate. Elevation or flood-proofing certifications are required for all other accessory structures in accordance with § 152.26(C).

(2006 Code, Ch. 29, Art. 5, § B)

§ 152.42 SUBDIVISIONS, MANUFACTURED HOME PARKS AND MAJOR DEVELOPMENTS.

All subdivision, manufactured home park and major development proposals located within special flood hazard areas shall:

(A) Be consistent with the need to minimize flood damage;

(B) Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(C) Have adequate drainage provided to reduce exposure to flood hazards; and

(D) Have base flood elevation (BFE) data provided if development is greater than the lesser of five acres or 50 lots/manufactured home sites. The base flood elevation (BFE) data shall be adopted by reference per § 152.06 to be utilized in implementing this code.

(2006 Code, Ch. 29, Art. 5, § C)

§ 152.43 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the special flood hazard areas established in § 152.06 where no base flood elevation (BFE) data has been provided, the following provisions shall apply.

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

(B) If § 152.42(A) is satisfied and base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within the areas shall also comply with all applicable provisions of this chapter and shall be elevated or flood-proofed in accordance with elevations established in accordance with § 152.25(B)(11) and (12). When base flood elevation (BFE) data is not available from a federal, state or other source, the reference level, including basement, shall be elevated at least two feet above the highest adjacent grade.

(2006 Code, Ch. 29, Art. 5, § D)

§ 152.44 STANDARDS FOR FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where base flood elevation (BFE) data is provided but neither floodway nor non-encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS, no encroachments, including fill, new construction, substantial improvements or

other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(2006 Code, Ch. 29, Art. 5, § E)

§ 152.45 FLOODWAYS AND NON-ENCROACHMENT AREAS.

(A) (1) Located within the special flood hazard areas established in § 152.06 are areas designated as floodways or non-encroachment areas.

(2) The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of flood waters that have erosion potential and carry debris and potential projectiles.

(B) The following provisions shall apply to all development within the areas.

(1) (a) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood.

(b) The certification and technical data shall be presented to the Floodplain Administrator prior to issuance of floodplain development permit.

(2) If division (B)(1) above is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.

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

(a) The anchoring and the elevation standards of § 152.41(C); and

(b) The no encroachment standards of division (A) above are met.

(2006 Code, Ch. 29, Art. 5, § F)

LEGAL STATUS PROVISIONS

§ 152.60 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This chapter in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted 3-23-1987 as amended, and it is not the intention to repeal, but rather to re-enact and continue to enforce without interruption of the existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the town enacted on 3-23-1987 as amended, which are not reenacted herein, are repealed.

(2006 Code, Ch. 29, Art. 6, § A)

§ 152.61 EFFECT UPON OUTSTANDING BUILDING PERMITS.

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

(2006 Code, Ch. 29, Art. 6, § B)

§ 152.62 EFFECTIVE DATE.

This chapter effective on adoption on 12-2-2003.

(2006 Code, Ch. 29, Art. 6, § C)

§ 152.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $50 or imprisoned for not more than 30 days, or both. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town from taking other lawful action as is necessary to prevent or remedy any violation.

(2006 Code, Ch. 29, Art. 3, § H)

CHAPTER 153: MANUFACTURED HOME PARKS

Section

General Provisions

153.001 Authority and responsibility

153.002 Purpose

153.003 Applicability and jurisdiction

153.004 Mobile homes prohibited

153.005 Relationship with other laws

153.006 Severability

153.007 Reenactment and repeal of existing ordinance

153.008 Effective date

153.009 Vested rights

153.010 Definitions

Review and Approval Procedures

153.025 Purpose

153.026 Approval required

153.027 General review and approval process

153.028 Preliminary plan review process

153.029 Space evaluations for on-site sewage disposal systems

153.030 Construction plan review process

153.031 Installation and certification of improvements

153.032 As-built plan review process

Design and Improvement Standards

153.045 Purpose

153.046 General objective

153.047 Specific standards

Plan Requirements

153.060 General map standards

153.061 Key to interpretation of table of map requirements

153.062 Table of map requirements

Administration

153.075 Amendments

153.076 Variances

153.077 Time extensions

153.078 Appeals

153.079 Burden of proof

153.080 Maintenance and supervision

153.081 Enforcement

153.082 Notification of change of ownership

153.083 Fees

153.999 Penalty

GENERAL PROVISIONS

§ 153.001 AUTHORITY AND RESPONSIBILITY.

This chapter is adopted under the authority of G.S. § 153A-121. The Town Planning Board and planning staff are responsible for the administration and enforcement of this chapter.

(2006 Code, Ch. 15, § 1.1) (Adopted 6-2-1998)

§ 153.002 PURPOSE.

It is the intent of this chapter to regulate and guide the establishment of manufactured home parks to promote the public health, safety and general welfare by:

(A) Establishing provisions and design standards designed to create functional, safe and attractive manufactured home parks, minimize adverse impacts to the development site and adjacent properties, and afford the town better quality development;

(B) Establishing a comprehensive and efficient review process for manufactured home park plans to ensure compliance with this chapter and other requirements;

(C) Ensuring the installation and maintenance of necessary improvements and services; and

(D) Establishing procedures for handling such administrative matters as amendments, appeals and variances.

(2006 Code, Ch. 15, § 1.2) (Adopted 6-2-1998)

§ 153.003 APPLICABILITY AND JURISDICTION.

(A) This chapter is intended to exclusively regulate the development of new manufactured home parks and the expansion of existing mobile and manufactured home parks. These provisions allow for the rental or lease of individual manufactured home park spaces, while prohibiting the subdivision and sale of spaces as lots.

(B) This chapter shall apply to manufactured home park developments within the town or in its extra-territorial jurisdiction

(2006 Code, Ch. 15, § 1.3) (Adopted 6-2-1998)

§ 153.004 MOBILE HOMES PROHIBITED.

Mobile homes which, at the time of construction, were not built to the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974, being 42 U.S.C. §§ 5401 et seq., (effective 1976) are prohibited within any manufactured home park approved under this chapter. Due to safety concerns over mobile homes which were not built to the minimum standards established by the Department of Housing and Urban Development (HUD) in 1976, this chapter, as is currently enforced, does not allow for the placement of manufactured homes constructed before 7-1-1976.

(2006 Code, Ch. 15, § 1.4) (Adopted 6-2-1998)

§ 153.005 RELATIONSHIP WITH OTHER LAWS.

Wherever the provisions of this chapter are more restrictive or less restrictive than comparable provisions of any other law, ordinance or regulation, the most restrictive provisions shall apply. It is not intended that these regulations interfere with or annul any easements, covenants, deed restrictions or other private agreements between parties.

(2006 Code, Ch. 15, § 1.5) (Adopted 6-2-1998)

§ 153.006 SEVERABILITY.

Should any section, division or provision of these regulations be held void or invalid by a court of law for any reason, all other sections, divisions or provisions shall be considered valid and enforceable.

(2006 Code, Ch. 15, § 1.6) (Adopted 6-2-1998)

§ 153.007 REENACTMENT AND REPEAL OF EXISTING ORDINANCE.

(A) Generally. This chapter is intended to reenact and continue in force some of the provisions of the existing Mobile Home Park Ordinance previously enacted and amended by town. All provisions which are not reenacted are hereby repealed.

(B) Effect on pending litigation. All suits at law or in equity and/or all prosecutions resulting from the violation of any ordinance heretofore in effect, which are now pending in any of the courts of the state or of the United States, shall not be abated or abandoned by reason of the adoption of this chapter, but shall be prosecuted to their finality the same as if this chapter had not been adopted; and any and all violations of the existing ordinance, prosecutions for which have not been instituted, may be hereafter filed and prosecuted; and nothing in this chapter shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

(C) Effect on pending mobile home park plans. Any preliminary or as-built mobile home park plan properly submitted for review prior to the effective date of this chapter shall continue to be reviewed under the regulations in existence at the time of submittal. Any addition, expansion or other new manufactured home park activity, however, shall follow the applicable procedures and requirements outlined in this chapter.

(2006 Code, Ch. 15, § 1.7) (Adopted 6-2-1998)

§ 153.008 EFFECTIVE DATE.

This chapter shall take full force and effect on 6-3-1998, as adopted by the Town Board of Commissioners on 6-2-1998.

(2006 Code, Ch. 15, § 1.8) (Adopted 6-2-1998)

§ 153.009 VESTED RIGHTS.

Any manufactured home park plan properly submitted for review prior to the effective date of this chapter shall continue to be reviewed under the ordinance procedures and requirements in existence at the time of submittal. Any addition, expansion or other new manufactured home park activity, however, shall follow the applicable procedures and requirements outlined in this chapter.

(2006 Code, Ch. 15, § 6.1)

§ 153.010 DEFINITIONS.

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

ACRE. A land area equal to 43,560 square feet.

APPEAL. A request for a review by the Planning Board of the Town Planner's interpretation of any provision of this chapter.

APPLICANT. Any person or entity that requests any administrative action or approval as allowed under this chapter.

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

BERM. A human-made mound of dirt with gently sloping sides and crown.

BEST MANAGEMENT PRACTICES (BMP). A structural or non-structural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

BUFFER, VEGETATIVE. An area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The BUFFER is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams and rivers.

BUILDING. See **STRUCTURE.**

CODE. See **ORDINANCE.**

COMMON AREA. A dedicated area, including structures, that is part of a development, and is accessible to, and usable by, all residents of a manufactured home park for recreational, social or meeting purposes.

COMMUNITY WATER SUPPLY SYSTEM. See **PUBLIC WATER SUPPLY SYSTEM.**

CUL-DE-SAC. See **STREET, CUL-DE-SAC.**

DEVELOPER. Any person who develops or proposes to develop land as permitted by this chapter.

DEVELOPMENT. Any human-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 and/or any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

DEVELOPMENT SITE. Entire land area devoted for the required improvements associated with the approval of a section or phase of a manufactured home park.

DRIVEWAY. A private travelway which provides access from a public or private road or street.

EASEMENT. The grant by a land owner to another person, the general public, a government agency, a corporation or any other entity to use or limit the use of public or private land for a specific purpose.

EROSION. The wearing away of the earth's surface by water, wind or other natural agents under natural environmental conditions undisturbed by humans.

EXTRA-TERRITORIAL JURISDICTION (ETJ). The portion of a city or town planning jurisdiction that lies outside the corporate limits of the city or town within which municipal land use regulations apply.

FENCE. Any artificially constructed barrier erected to enclose or screen areas of land used as a boundary or means of protection or confinement.

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation of runoff of surface waters from any source. Also includes the term FLOODING.

FLOOD HAZARD AREA. The land in the floodplain subject to a 1% or greater chance of flooding in any given year. Also known as the AREA OF SPECIAL FLOOD HAZARD.

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

FLOODPLAIN. See **FLOOD HAZARD AREA.**

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood (100-year flood event) without cumulatively increasing the water surface elevation more than one foot.

FRONTAGE. The side(s) of a lot abutting a legally accessible public or private street right-of-way.

LAKE. Any natural or impounded body of water, including, but not limited to, a reservoir or pond.

LAND DIVISION. See **SUBDIVISION.**

LANDOWNER. Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns and personal representative of the owner. Also includes a person holding a valid option to purchase land to act as an agent or representative.

LOT. A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

MANUFACTURED HOME. See also **MOBILE HOME**. A factory-built, single-family structure that is built to meet the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401), is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame.

MANUFACTURED HOME PARK. Any development where three or more manufactured homes, intended for occupancy as dwelling units, are placed in close proximity upon the same parcel or tract.

MANUFACTURED HOME SPACE. Any area of ground within a manufactured home park which has been planned, designed and approved for the exclusive use of one manufactured home.

MANUFACTURED HOME SPACE, FLAG. A space which has less than the required amount of frontage on a street and relies on a panhandle-shaped corridor for access to the bulk of the space.

MEAN SEA LEVEL. The average height of the sea for all stages of the tide used as a reference for establishing various elevations. For purposes of this code, this term is synonymous with **NATIONAL GEODETIC VERTICAL DATUM (NGVD).**

MOBILE HOME. See also **MANUFACTURED HOME.** A transportable, factory-built home, designed to be used as a residential dwelling and manufactured prior to the National Manufactured Housing Construction and Safety Standards Act of 1974, which became effective on 6-15-1976.

MODULAR HOME. A dwelling unit constructed in accordance with the standards set forth in the State Building Code applicable to site-built homes and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a **MODULAR HOME** may consist of two sections transported to the site in a manner similar to a manufactured home, or a series of panels or room sections transported on a truck and erected or joined together on the site.

NATIONAL GEODETIC VERTICAL DATUM (NGVD). A vertical control, as corrected in 1929, used as a reference for establishing varying elevations.

NON-CONFORMING SITUATION. A situation that occurs when, on the effective date of this chapter, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located.

OFF-SITE. Any area not contained within the boundaries of the site being developed, whether or not the developer owns the land.

OPEN SPACE. An area of land and/or water which is generally unimproved and is reserved for recreation, resource protection, amenity or buffer purposes.

ORDINANCE. Synonymous with **TOWN MANUFACTURED HOME PARK ORDINANCE** or **THIS CHAPTER.**

PARCEL. A continuous area of land in the possession of or owned by, or recorded as the property of, the same person or persons, and which is uniquely identified by the Town Tax Office.

PARKING SPACE. Specific site within a parking area designed to accommodate a single motor vehicle.

PERMIT, OPERATING. A permit issued by the Town Planner to the manufactured home park operator upon the approval of an as-built plan for a phase or entire portion of a manufactured home park. The permit certifies conformance with the provisions of this chapter.

PETITIONER. Any person or entity that requests any administrative action or approval as allowed under this chapter.

PLAN, CONSTRUCTION. The map and accompanying text, prepared and submitted under the prescribed conditions set forth in this chapter, which details required improvements such as streets, fire hydrants and street lighting.

PLAN, DRAINAGE. The portion of a construction plan that illustrates the proposed system designed to provide adequate surface and subsurface drainage for the proposed development.

PLAN, EROSION AND SEDIMENTATION CONTROL. A plan that outlines the procedure designed to control accelerated erosion and sedimentation resulting from certain land disturbing activities.

PLAN, PRELIMINARY. A tentative map of a proposed manufactured home park which shows the layout of the parcel or tract, including spaces, roads and other features, in sufficient detail to allow the proposed manufactured home park to be properly evaluated.

PLAN, SKETCH. A rough plan of a manufactured home park.

PLANNING AGENCY. The Town Planning Board and/or Town Planner responsible for carrying out the provisions of this chapter.

PLAT, AS-BUILT. A map of a portion of or of an entire manufactured park which shows all installed and completed improvements required by this chapter.

PUBLIC HEARING. A legally required, advertised meeting at which an appointed or elected board accepts public comment about matters relating to this chapter.

PUBLIC OR COMMUNITY SEWAGE SYSTEM. A single system of wastewater collection, treatment and disposal owned and operated and/or maintained by a sanitary district, a metropolitan sewage district, a water and sewer authority, a town or municipality, a public utility or a homeowners association.

PUBLIC WATER SUPPLY SYSTEM. A water supply system intended for the provision of potable water to the public as approved by the State Board of Health and/or the Town Health Director.

RIGHT-OF-WAY. A strip of land occupied, or intended to be occupied, by a street; crosswalk; railroad; road; utility transmission line or pipeline; water main; storm or public or community sewage system main; or other similar improvement.

SEPTIC TANK SYSTEM. A subsurface sanitary sewage system consisting of a septic tank and a subsurface disposal field.

SETBACK. The required minimum horizontal distance which must be reserved between the nearest vertical surface of a building and the applicable street right-of-way line, boundary line or other structure in which no other structure may be erected. Also referred to as the **MINIMUM BUILDING LINE.**

SIGHT DISTANCE TRIANGLE. The area at the intersection of two roads or streets that is designated as necessary for safe ingress and egress, and which must be kept clear of obstructions.

SIGN. Any object, display or structure, or portion thereof, which is located outdoors and is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location through the use of words, letters, figures, designs, symbols, colors or illumination.

SIGN FACE. The surface of a sign where copy, messages or advertisements are attached for display to the public, including any parts of the sign structure upon which the information is located.

STORM DRAINAGE FACILITIES. The system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.

STORM, TEN-YEAR. The surface runoff resulting from a rainfall of intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.

STORM WATER RUNOFF. The direct runoff of water resulting from precipitation in any form.

STREET. A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles.

STREET, CUL-DE-SAC. A permanent dead-end street which has one end open to traffic and terminates in a circular turnaround.

STREET, PRIVATE. A street right-of-way serving lots within a subdivision dedicated for the exclusive use of the property owners and their guests and maintained, or intended to be maintained, by a homeowners association.

STREET, PUBLIC. A street right-of-way dedicated for public use and maintained or intended to be maintained by the State Department of Transportation.

STREET JOG. Distance between the centerlines of two streets which intersect on opposite sides of the same road.

STRUCTURE. Anything constructed or erected, including a building; a manufactured or mobile home; a storage tank for gases or liquids; or any other permanent, human-made facilities, including swimming pools, walls and signs.

STRUCTURE, ACCESSORY. A minor structure that is located on the same lot as a principal structure and is used incidentally to a principal structure or contains an accessory use.

STRUCTURE, PRINCIPAL. The primary structure on a lot or a structure that contains a principal use.

SUBDIVISION. A subdivision shall include 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 shall include all division of land involving the dedication of a new street or change in existing streets; however, the following is not included within this definition and is not subject to the regulations prescribed by this chapter:

(a) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town as required in this chapter;

(b) The division of land into parcels greater than ten acres if no street right-of-way dedication is involved;

(c) The public acquisition by purchase of strips of land for widening or opening streets;

(d) The division of a tract in single ownership, the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards contained in this chapter; or

(e) The division of a tract among the heirs of a deceased person, where no person other than an heir receives any of the property at the time of the division.

TOWN PLANNER (TP).

(a) Representatives of local and state agencies who collectively review and evaluate preliminary plans and construction plans for compliance with all regulations. The TP recommends action to be taken by the Planning Board on preliminary plans and takes action on all construction plans.

(b) Except as otherwise specifically provided, this person, and his or her designee(s), who are primarily responsible for the administration and enforcement of this chapter.

TRACT. See **PARCEL.**

VARIANCE. A grant of relief by the Planning Board to a person from the requirements of this code where unusual or unique circumstances peculiar to the property exist, literal enforcement would result in unnecessary and undue hardship, and the relaxation of the regulations would not be contrary to the public interest objectives of this code.

VESTED RIGHTS. Those projects that are built or those projects that at a minimum have established a **VESTED RIGHT** under state law as of the effective date of this chapter based on at least one of the following criteria:

(a) Having an outstanding valid building permit as authorized by G.S. §§ 153A-344.1 and 160A-385.1); or

(b) Having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by G.S. §§ 153A-344.1 and 160A-385.1.

VIOLATION. Failure on the part of any person to comply with the provisions of this chapter.

WATER SUPPLY WATERSHED. The entire land area which drains to a surface water supply intake, including the critical and protected areas.

WATERCOURSE. Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary or lake.

WATERSHED. The entire land area that contributes surface drainage to a particular point withdrawn for drinking purposes.

WETLANDS. Transitional lands between terrestrial and aquatic systems where the land supports predominantly hydrophytes; where the substrate is predominantly undrained hydric soil; and where the substrate is non-soil and is saturated with water or covered by shallow water for a specified period of time during the growing season of each year.

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

(B) Word interpretation. For the purposes of this code, certain words shall be interpreted as follows.

(1) Words used in the present tense include the future tense.

(2) Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

(3) The word **PERSON** includes an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body or other legal entity.

(4) The words **USED FOR** shall include the meaning **DESIGNED FOR.**

(5) The word **SHALL** is always mandatory.

(C) References or citations. Whenever any provision or definition of this code refers to or cites a section of the state's general statutes or any other state or local law and that section is later amended or superseded, this chapter shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

(2006 Code, Ch. 15, § 7)

REVIEW AND APPROVAL PROCEDURES

§ 153.025 PURPOSE.

This section sets forth review and approval procedures for manufactured home parks plans to ensure compliance with the provisions of this chapter.

(2006 Code, Ch. 15, § 2.1)

§ 153.026 APPROVAL REQUIRED.

From the time these provisions become effective, no permits for manufactured home parks shall be issued, nor construction initiated, except as allowed in this section.

(2006 Code, Ch. 15, § 2.2)

§ 153.027 GENERAL REVIEW AND APPROVAL PROCESS.

All manufactured home parks proposed on or after the effective date of this chapter shall be reviewed as outlined. Manufactured home parks require review and approval by the Planning Board and Town Planner. The developer may submit a sketch plan for review to aid in the preparation of subsequent submittals. Generally, the review of these developments utilizes a three-step process of preliminary, construction and as-built plans. Preliminary and construction

plans must be submitted in accordance with their respective submittal deadline for consideration by the Planning Board and/or Town Planner. As-built plans may be submitted at any time.

(2006 Code, Ch. 15, § 2.3)

§ 153.028 PRELIMINARY PLAN REVIEW PROCESS.

The following review procedures shall be followed during the review of preliminary plans for major and minor manufactured home parks. Preliminary plans submitted for review under this section shall conform to §§ 153.060 through 153.062.

(A) The developer is encouraged to discuss the project and applicable regulations with the Town Planner and other review agency representatives to determine the procedures and requirements to be met when preparing submittals. In particular, the developer is advised to take into consideration those items specifically outlined in § 153.062. Further, the developer is encouraged to submit a preliminary plan for the entire development site to ensure all requirements of the chapter can be met.

(B) The developer may submit five copies of a sketch plan for the proposed development to the Planning Department. Within ten working days, the Town Planner shall review the draft plan and notify the developer of applicable regulations which may affect the preparation of the preliminary plan.

(C) The developer shall submit the appropriate number of copies of the preliminary plan to the Planning Department. Preliminary plans for major manufactured home parks must be submitted at least 20 working days prior to the next regularly-scheduled meeting of the Planning Board, if to be considered by the Board at that time. [The 20-working-day submittal deadline is to allow ample time for the Town Planner to review the plans prior to Planning Board consideration. The number of copies will be spelled out on a separate handout. The requirements do not belong within the chapter since unnecessary public hearings and delays would result if something as simple as the required number of map copies needed to be changed in the future.]

(D) (1) The Town Planner shall then transmit copies of the preliminary plan to the applicable reviewing and regulatory agencies, generally including, but not limited to, the following:

(a) State Department of Transportation, Division of Highways;

(b) County Health Department, Environmental Health Division;

(c) County Emergency Services Department;

(d) Town Planning Board;

(e) Town Utilities Department;

(f) County Board of Education;

(g) U.S. Army Corps of Engineers;

(h) U.S. Postal Service; and

(i) Any applicable utility company(ies) providing service to the proposed development.

(2) The agencies shall be given seven working days to provide the Town Planner with written development conditions, requirements and comments concerning the proposed development.

(E) Upon receipt and compilation of reviewing agency conditions, requirements and comments, the Town Planner shall follow the process outlined below regarding manufactured home park plans. Prior to the Planning Board meeting, the Town Planner shall forward the compiled conditions, requirements and comments to the Planning Board members. The Town Planner shall conduct a meeting, if necessary to review and discuss the preliminary plan, written conditions, requirements and comments, and to determine plan acceptability for presentation to the Planning Board. The preliminary plan; written conditions, requirements and comments; and a recommendation from the Town Planner shall then be forwarded to the Planning Board for consideration and action. The Planning Board may add reasonable conditions and requirements to the approval to promote public health, safety and welfare. Failure on the part of the Planning Board to act on the preliminary plan within 60 days of the first review at a regular meeting shall constitute approval, except where the developer voluntarily withdraws the plan from consideration or requests that review be continued. The requests shall be provided to the Town Planner in writing. [As is currently the practice for preliminary plats for major subdivisions, the Town Planner will review and offer a recommendation to the Planning Board on preliminary plans for all manufactured home parks.]

(F) The Planning Board shall take one of the following actions on preliminary manufactured home park plans.

(1) *Approval.* Approval of the preliminary plan is authorization for the developer to proceed with development of the park, or preparation of a construction plan if installation of major improvements is required.

(2) *Conditional approval.* Conditional approval of the preliminary plan is authorization for the developer to proceed with development of the park, as permitted or limited by conditions or requirements, or with preparation of a construction plan if installation of major improvements is required. Submittal of a revised preliminary plan may be included as a condition of approval. [Since the preliminary plan is only a tentative drawing, it should not be used for construction purposes. This chapter will not allow construction to begin until a construction plan based on more detailed information is approved.]

(3) *Disapproval.* Disapproval of the preliminary plan shall require submittal of a revised plan.

(G) Preliminary plan approval shall remain valid; provided that, a construction plan, if required, or an as-built plan for the entire development or first phase or section is submitted and approved within two years. [Preliminary plan approval will remain valid indefinitely as long as a construction plan, if required or an as-built plan is approved within 24 months.]

(H) A copy of the preliminary plan shall be stamped and dated with the action taken and shall be returned to the developer with any accompanying conditions, requirements and comments.

(2006 Code, Ch. 15, § 2.4)

§ 153.029 SPACE EVALUATIONS FOR ON-SITE SEWAGE DISPOSAL SYSTEMS.

(A) Before the design of a construction plan, if required, or installation of septic systems, the subdivider shall apply to and receive the results from the County Environmental Health Division for individual space evaluations for the entire manufactured home park or a phase of the park.

(B) Based upon more detailed information from the evaluations, a construction plan illustrating drainage improvements may be required, although not previously identified during preliminary plan review. The construction plan shall then be prepared, submitted and reviewed in accordance with § 153.030. [Where on-site sewage disposal is used - just about everywhere in the town's ETJ - it is necessary to receive the results of detailed soils analyses before proceeding with further design, engineering and development work. This section is intended to put this step in the proper order and notes that the field work may identify the need for a construction plan for drainage improvements, even if the construction plan was not identified as a requirement during preliminary plan review.]

(2006 Code, Ch. 15, § 2.5)

§ 153.030 CONSTRUCTION PLAN REVIEW PROCESS.

These procedures allow for review of construction plans by the Town Planner. Construction plans submitted for review under this section shall conform to §§ 153.060 through 153.062, and shall include all improvements and land-disturbing activities which are planned, but not necessarily required by this chapter. [The entire construction plan process is new, but reflects similar requirements as Ch. 155 of this code of ordinances. This will be an intermediate step between preliminary and as-built plan review. The town's Plan Review Committee, meeting twice monthly, will review and approve construction plans.]

(A) The developer shall submit to the Town Planner the appropriate number of copies of the construction plan for the entire manufactured home park or a phase or section of the park prepared in accordance with §§ 153.060 through 153.062. The construction plan shall be submitted at least 15 working days prior to the next regularly-scheduled meeting of the Town Plan Review Committee, if to be considered by the Committee at that time.

(B) The construction plan shall be transmitted to the Planning Board and affected service providers. The reviewers shall return conditions, requirements and technical comments to the Town Planner within seven working days.

(C) The Town Planner shall conduct a meeting to review and discuss the proposed construction plan and recommended conditions, requirements, and comments and to act upon the plan. The Town Planner may add reasonable conditions and requirements to the approval to promote public health, safety and welfare. Failure on the part of the Town Planner to act on the construction plan within 60 days of first review at a regular meeting shall constitute approval, except where the developer voluntarily withdraws the plan from consideration or requests that review be continued. The requests shall be provided to the Town Planner in writing.

(D) The Town Planner shall take one of the following actions on an acceptable plan.

(1) *Approval.* Approval of the construction plan is authorization for the developer to begin construction of the park. Before construction of improvements (e.g., water and sewer facilities) which are to be owned and maintained by the service provider(s), construction plan approval also must be obtained from the respective service provider(s).

(2) *Conditional approval.* Conditional approval of the construction plan is authorization for the developer to begin construction, as permitted or limited by the conditions. Before construction of improvements (e.g., water and sewer facilities) which are to be owned and maintained by the service provider(s), construction plan approval also must be obtained from the respective service provider(s). Submittal of a revised construction plan may be included as a condition of approval. As required by other provisions of this chapter, evidence that these conditions have been met shall be provided to town concurrent with submittal of the as-built plat. [Construction plan approval allows for the installation and/or construction of required improvements.]

(3) *Disapproval.* Disapproval of the construction plan shall require submittal of a revised plan and/or other supplemental materials pertinent to the proposed improvements.

(E) Construction plan approval shall remain valid provided that an as-built plan for the entire development or first phase or section is submitted and approved within two years. [Construction plan approval will remain valid indefinitely provided an as-built plan is approved within 24 months.]

(2006 Code, Ch. 15, § 2.6)

§ 153.031 INSTALLATION AND CERTIFICATION OF IMPROVEMENTS.

Once the preliminary plan or construction plan, if required, is approved, the necessary improvements for the manufactured home park may be installed. Installation shall be in compliance with any conditions placed on construction and/or preliminary plan approval. All improvements required by §§ 153.045 through 153.047, including septic and water supply systems, streets, and parking areas, shall be installed and functional prior to submittal of the as-

built plan. The developer's engineer or surveyor shall, as part of the as-built plan submittal, furnish a letter certifying that the manufactured home park improvements have been completed in accordance with the approved construction plan and any associated conditions and requirements. Any variation from the approved construction plan shall be indicated in the certification letter and on the as-built plan, and subject to additional review requirements cited herein. [As is currently the case, all required improvements, including septic systems, streets, parking pads and the like must be complete prior to as-built plan submittal. In addition, the project engineer or surveyor must certify that all required improvements conform with the approved plans.]

(2006 Code, Ch. 15, § 2.7)

§ 153.032 AS-BUILT PLAN REVIEW PROCESS.

The following review procedures shall be followed during the review of as-built manufactured home park plans.

(A) After approval of the preliminary plan or construction plan, if required, and completion of the required improvements, the developer shall submit an as-built plan for the entire development or the first phase or section of the development to the Planning Department. If an as-built plan is not submitted and approved within 24 months, preliminary plan and construction plan approval shall become null and void, and vested rights shall cease. [Improvements must be completed for the phase or section of the development site included on the as-built plan only.]

(B) The developer shall submit the appropriate number of copies of the as-built plan to the Planning Department. The as-built plan submittal shall also include the project engineer's or surveyor's certification that all improvements have been completed and are in conformance with approved plans, as well as all other required supplementary materials.

(C) Where any variation from the approved construction plan occurs, the Town Planner shall determine whether the extent of the change(s) warrants second review by review agencies as stipulated in § 153.030.

(D) The Town Planner shall review the as-built plan and other materials for completeness. The Town Planner may submit the as-built plan to any agency which reviewed the preliminary and construction plans to ensure compliance with applicable regulations.

(E) The Town Planner shall act on all as-built plans. Failure on the part of town to act within 30 days of as-built plan submittal shall constitute approval, except where the developer voluntarily withdraws the final plat from consideration. The requests shall be provided to the Planning Department in writing.

(F) Upon inspection of the site and review of comments by reviewing agencies, the Town Planner shall take one of the following actions. [The Town Planner is responsible for action on all as-built plans.]

(1) *Approval.* Approval of the as-built plan is authorization to issue an operating permit for all or the approved portion of a manufactured home park. The action of the Town Planner and the date shall be noted on the as-built plan and the Town Planner shall send a stamped copy of the plan to the developer. [Conditional approval of an as-built plan is not an option. All required improvements for as-built plans must be completed before approval.]

(2) *Disapproval.* Disapproval of the as-built plan shall require that the Town Planner state the reason(s) for disapproval and notify the developer of the action and reason(s) in writing.

(2006 Code, Ch. 15, § 2.8) (Adopted 6-2-1998)

DESIGN AND IMPROVEMENT STANDARDS

§ 153.045 PURPOSE.

The purpose of this subchapter is to set forth the minimum design and improvement standards for manufactured home parks to ensure that the provisions of this chapter are met.

(2006 Code, Ch. 15, § 3.1) (Adopted 6-2-1998)

§ 153.046 GENERAL OBJECTIVE.

These provisions and design standards are designed to create functional and attractive manufactured home parks, minimize adverse impacts and afford the town better quality development. The following are general objectives to be achieved through this chapter. [Each development is different. The use of conditional approval of preliminary plans acknowledges this fact. Hence, it must be understood that all plans will not be treated exactly the same under this system. The minimum requirements only provide a starting point for review, while the general objectives of the ordinance (listed below) may necessitate additional improvements.]

(A) Developments should be designed to avoid an adverse effect on ground water and aquifer recharge; to reduce site grading and cut and fill; to prevent accelerated erosion; to prevent flooding; to provide adequate access to spaces and building sites; and to mitigate adverse effects of noise, traffic and drainage on neighboring properties.

(B) (1) To the maximum extent practicable, developments should be located to preserve the natural features of the site, to address areas of environmental sensitivity and to minimize alteration of natural features, except as otherwise permitted by this chapter. In particular, the following areas or items should be considered for protection or preservation:

(a) Unique or fragile areas, such as regulated wetlands;

(b) Lands within flood hazard areas;

(c) Identified habitats of endangered wildlife; and

(d) Historically significant structures and sites, as listed on federal or state lists of historic places.

(2) [These items are standard design considerations. This language is not intended to enable absolute protection of the resources, but suggests that these issues be given proper consideration.]

(C) (1) An adequate surface and subsurface drainage system shall be designed, installed and maintained to meet the following objectives.

(a) Each building site shall have a suitable building area safe from flooding and erosion and shall conform to Ch. 152 of this code of ordinances.

(b) The drainage system shall be designed to minimize inundation of public and private land during the ten-year storm. It shall also prevent excess infiltration or inundation of surface water and/or ground water into septic tank nitrification fields.

(c) The system of drainage shall protect all roads, driveways, utilities and other improvements from damage that may be caused by improper storm water management.

(d) Drainage ditches, underground tile and swales shall be coordinated with the existing and proposed general drainage system.

(e) Drainage ditches and swales shall be designed and constructed to avoid excessive rates of flow, erosion or overflow into developed areas subject to potential damage. Underground tile shall be kept free from obstructions.

(f) The drainage system shall be designed so as not to impede the natural drainage of water.

(2) [Most of this is entirely new language which attempts to clearly spell out the issues rather than rely on unwritten assumptions that drainage will be properly handled. Drainage problems are a common complaint from park residents.]

(2006 Code, Ch. 15, § 3.2) (Adopted 6-2-1998)

§ 153.047 SPECIFIC STANDARDS.

This section sets forth the design and improvement standards to ensure properly planned, designed, constructed and maintained manufactured home parks.

(A) *Parking.* A parking pad shall be constructed on each manufactured home park space to allow for off-street parking for two vehicles. Each parking pad shall not be less than 20 feet by 20 feet, and shall be graded and surfaced with asphalt, concrete or other similar and impervious materials. Each parking pad shall be directly connected to a driveway or to the travelway of a

manufactured home park street. [Off-street parking for two vehicles is required. This section stipulates the minimum parking pad size and requires paving of the parking area.]

(B) *Driveways.*

(1) Each manufactured home park space shall have direct access onto an approved manufactured home park street or state road by way of a driveway, unless the parking pad is directly connected to the travelway of a manufactured home park street. Driveways shall be at least ten feet wide, and graded and surfaced with asphalt, concrete or similar and impervious materials. No more than two manufactured home park spaces may share a common driveway. Design options for connecting a driveway to a street are as follows: [Driveways are intended to provide access from the manufactured home park street to the parking pad. This section requires a minimum width of ten feet for driveways and requires the paving of these improvements. Driveways may serve no more than two manufactured home park spaces.]

(a) Valley gutter design. Concrete valley gutters must be designed so as not to impede surface water flow along road side ditches. Valley gutters may be installed in areas where the surface water flow is minimal and where a shallow ditch cross section can be effectively utilized. The design shall allow for safe and efficient vehicular movement onto the manufactured home park space. [This driveway design option may be utilized on development sites with limited surface water drainage along streets (e.g., sandy soils). The driveway is designed to allow surface water to flow across driveways when necessary.]

(b) Driveway tile installation. If driveway tile is to be installed, the tile must be a minimum of 15 inches in diameter and have one foot of cover material. Road side ditches should be a sufficient depth to allow the driveway to be installed over the tile and the necessary cover material. Driveway tile installation is required in areas where surface water flows or stands for extended periods of time or when required by the town Planning Department. In addition, State Department of Transportation driveway installation requirements must be met when driveways are installed along state maintained roads.

(2) This is the standard driveway design. A minimum driveway tile size (15 inches) has been stipulated since smaller tiles are easily obstructed with debris, causing surface water to pond for extended periods of time. State Department of Transportation requirements must be met when driveways are installed along state roads.

(C) *Streets.* All streets within manufactured home parks shall be designated as private and shall be paved. [All manufactured home park streets will remain private since the streets do not meet all State Department of Transportation requirements. Whereas the former regulations allowed unpaved streets for manufactured home parks, these provisions require paving of all manufactured home park streets.]

(1) *Street requirements.* Except as listed below, all streets must be constructed in accordance with the State Department of Transportation requirements for public streets. The exceptions from NCDOT standards are based upon the permitted driveway design for the individual spaces.

(a) *Valley gutter design.*

1. Right-of-way width: 45 feet;
2. Pavement width: 20 feet;
3. Minimum centerline radius: 150 feet; and
4. Swale section:
   a. Front slope: horizontal distance of five feet with a slope of five to one (5:1);
   b. Back slope: slope of five to one (5:1); and
   c. Longitudinal slope: 0.3%.

(b) *Driveway tile installation.*

1. Right-of-way width: 50 feet;
2. Pavement width: 20 feet; and
3. Minimum centerline radius: 150 feet.

(2) *Cul-de-sacs.* Every permanent dead-end street shall be developed as a cul-de-sac and shall not exceed 800 feet in length, except where the shape of the tract of land being developed makes this requirement impractical. The length of the cul-de-sac shall be measured from the centerline of the nearest intersecting through street to the center of the turnaround. All State Department of Transportation design options for cul-de-sacs are allowed within parks. [The present ordinance limits cul-de-sacs to 600 feet in length. This section suggests that cul-de-sacs can be longer and that this not be a "hard and fast" rule when the configuration of the original parcel would make this standard impractical.]

(3) *Temporary turnarounds.* In cases where streets are proposed to be extended, the Town Planner may permit a temporary turnaround for a period not to exceed two years. The turnarounds must be designed as a cul-de-sac bulb and constructed to State Department of Transportation base standards, but not necessarily paved. [Temporary cul-de-sacs may be required to aid emergency services providers.]

(4) *Street offsets.* Whenever possible, proposed intersections on one side of a street, road or highway shall coincide with existing or proposed intersections on the opposite side of the street, road or highway. In any event, however, street offsets, as measured between the centerlines of intersecting streets, shall meet the following requirements. [These standards acknowledge differences in traffic/speed limits for the two classes of roads.]

(a) *Internal streets.* Street offsets within developments shall be at least 125 feet apart.

(b) *Primary or secondary roads.* Street offsets created by manufactured home park streets intersecting with primary highways or secondary roads shall be at least 250 feet apart. [State

Department of Transportation has requested that intersecting streets along state roads to be constructed at least 250 feet apart.]

(D) *Access.* Each manufactured home park development, and each individual space located therein, shall have direct access to a public or private street. Private easements for providing ingress and egress to a manufactured home park or individual space are not acceptable. [Each manufactured home park development and individual space must "touch" a street. Easements are not an option for access.]

(E) *Space size and space width.* Each space shall meet the minimum area and lot width requirements outlined below. Notwithstanding these standards, the developer shall provide sufficient area on each space to ensure that all other requirements of this chapter and other applicable development regulations can be met. Space size shall not include street rights-of-way or designated screening areas, and space width shall be measured along the right-of-way. Space width for spaces on the bulb of a cul-de-sac and for flag-shaped spaces may be reduced to 40 feet. In addition, flag-shaped spaces shall provide sufficient width at the right-of-way line to allow driveway installation at least ten feet from any parcel line. The computed area of flag-shaped spaces shall exclude area provided for access or "panhandle". [For the first time, these regulations set forth minimum space sizes. This is a minimum standard and can not be realized in all developments due to natural characteristics of the site (e.g., soils, drainage features and the like) and the placement of required improvements (e.g., septic system, repair area, parking pad and the like). Flag-shaped spaces are now allowed, provided that the bulk of space meets the minimum space requirements.]

(1) With septic tank system:

(a) Minimum size: 21,780 square feet; and

(b) Minimum width: 80 feet, except 60 feet for flag-shaped space or space adjacent to bulb of cul-de-sac.

(2) With public or community sewage system:

(a) Minimum size: 17,500 square feet; and

(b) Minimum width: 80 feet, except 60 feet for flag-shaped space or space adjacent to bulb of cul-de-sac.

(F) *Setbacks.*

(1) *Principal structures.* [Setback requirements for principal structures remain unchanged.]

(a) Private road travel way: 30 feet;

(b) All other rights-of-way: 40 feet;

(c) Space boundary: ten feet; and

(d) Other structures: 20 feet.

(2) *Accessory structures.* All accessory structures shall comply with the setback requirements for principal buildings, except for the following: [This section allows for reduced setbacks for smaller structures, such as outdoor storage buildings.]

(a) Space boundary: five feet; and

(b) Other structures: five feet.

(G) *Drainage.*

(1) *Drainage aspects of construction plan.* The proposed plan for managing drainage for all areas of the development shall be shown on the preliminary plan. The plan shall show all pertinent information required to evaluate the proposed system, including the location, elevation, type and size of all existing and proposed drainage improvements, including existing drain tile used for agricultural purposes.

(2) *Off-site drainage easements.* Drainage easements of appropriate widths and lengths, as deemed reasonably necessary by the Environmental Health Division and/or the sedimentation plan, if required, to allow for future drainage maintenance and improvements to effectively control surface and/or subsurface water, shall be identified on construction and as-built plans. Off-site easements across property(ies) not being developed may be deemed necessary by the County Environmental Health Division when no natural drainage outlet exists to effectively control surface and/or subsurface water. Evidence of a recorded easement, and agreement if applicable, shall be provided to the Town Planner at the time of as-built plan submittal and may require review and approval by the Town Attorney. Any revisions to recorded drainage easements required by this chapter must be approved by the Town Planner. [Off-site drainage easements are not addressed by the existing ordinance. This language strives to ensure that an adequate drainage outlet can be provided.]

(H) *Utilities.*

(1) *Utility ownership and easements.* Where a developer installs or causes the installation of water, sewer, electrical power, telephone, natural gas, cable television or other similar facilities and intends that the facilities shall be owned, operated or maintained by a public utility or any entity other than the developer, the developer shall transfer the necessary ownership or easement rights to enable operation and maintenance of the facilities. Where practicable, the easements should be located adjacent to or centered on space lines, or adjacent to the street right-of-way, to avoid conflicts with the placement of other required improvements. It is not the intent of town to determine the terms or conditions of any easement negotiated between the developer and the utility company or service provider.

(2) *Necessary utilities.* The developer shall ensure that every space within a development is served with or designed to allow for adequate utilities, including water, sewage disposal, electric power and telephone service. [These are basic services to be provided within a manufactured home park.]

(a) *Water supply and sewage disposal.*

1. All new manufactured home parks shall be connected to an existing public water supply and, when practicable, a public or community sewage system. Fire protection provisions in division (K)(1) below must be met for development sites served with a six-inch or larger water line. An individual water meter is required for each space. During as-built plan review, the agency or entity which owns and operates a system shall certify that the new development is accepted for addition to the system. [This section requires that all new manufactured home parks be served by a public water supply instead of a private well(s).]

2. If a new sewer system (e.g., package sewage treatment plant and the like) is proposed to serve the development, certification that a site has been approved for the proposed system from the appropriate agency which has jurisdiction over the system shall be provided to the Town Planner as part of the construction plan submittal. [This language recognizes that such approval may not be given prior to preliminary plan approval, hence allows more time for the developer to gain necessary approval.]

(b) *Electrical power and telephone service.* Electrical distribution lines and telephone lines shall be placed underground within easements or rights-of-way. Extensions, relocations and upgrades of existing overhead lines along existing public rights-of-way shall be permitted. All such facilities, either overhead or underground, shall be installed in accordance with the prevailing standards and practices of the utility or service company.

(I) *Solid waste provisions.* The manufactured home park operator is responsible for the proper collection and disposal of all solid waste. The operator may contract with a solid waste collection contractor to provide the services. [The operator is ultimately responsible for solid waste collection and disposal, even if a private party is contracted with to provide the service.]

(J) *Screening.* Due to the nature and intensity of manufactured home parks, screening is required in all manufactured home parks to minimize potential adverse effects on adjacent properties and land uses, and to preserve the town's appearance and character. The screening area is to provide a medium density screen intended to partially block visual contact between manufactured home parks and adjacent properties along public roadways. [This section is new. It attempts to protect adjacent property values by requiring screening areas along the state road frontage of all new major manufactured home parks. The screening area must be maintained by the operator for the life of the development. Three screening area options are available to the developer.]

(1) *Screening area description.* The screening area shall contain at least one of the screening area options of berms, plantings or fences cited in division (J)(4) below, unless existing vegetation can be used to fulfill part or all of the screening requirements, as allowed in division (J)(2) below.

(2) *Existing vegetation.* Existing vegetation is encouraged to be retained and used to fulfill the purposes of this section. The Town Planner shall determine what additional screening, if any, shall be installed to meet the screening area requirements. If at any time the existing vegetation is

removed, altered, or no longer meets the screening area requirements of this section, the operator will be responsible for replacement with acceptable screening material within 90 days.

(3) *Location.* The required screening area shall be located adjacent to the rights-of-way of the entire public road frontage of the development site, except where permitted driveway openings and sight distance triangles are to be provided. Screening areas may be installed in drainage maintenance and utility easements with the approval of the Town Planner and the affected entity having jurisdiction over the easement.

(4) *Screening area specifications and design.* Specifications for the screening area options are listed below. Combinations of these options may be allowed in achieving compliance with the provisions of this section, upon approval by the Planning Board during preliminary plan review. provide graphic representations of screening area specifications.

(a) *Berms.*

1. Minimum height: five feet;
2. Minimum crown width: three feet; and
3. Side slope: three to one (3:1) or flatter.

(b) *Plantings.*

1. Minimum screening area width: five feet;
2. Number of plants per 100 linear feet:
   a. Shrub: 25;
   b. Understory tree: five; and
   c. Canopy tree: three.
3. Plant specifications.

a. *Shrubs.* All shrubs must be evergreen and shall reach a minimum height of 36 inches, and a minimum spread of 30 inches within three years of planting.

b. *Understory tree.* Understory trees shall be a minimum of four feet high and one inch in caliper, measured six inches above grade, when planted. When mature, an understory tree should be between 15 and 40 feet high.

c. *Canopy tree.* Canopy trees shall be a minimum of eight feet high and two inches in caliper, measured six inches above grade, when planted. When mature, a canopy tree should be at least 40 feet high and have a minimum crown width of 30 feet.

d. *Grouping shrubs.* Grouping shrubs and trees may be grouped or clustered, however no more than 50% of each required plant material may be grouped or clustered. The remainder of the materials shall be evenly distributed throughout the screening area.

(c) *Fences.*

1. Minimum height: five feet;

2. Maximum height: eight feet; and

3. Fence materials: masonry or stone walls, wood or similar opaque materials.

(5) *Maintenance.* The owner is responsible for maintaining berms to adequately control soil erosion and sedimentation. The owner is also responsible for maintaining any plantings and fences selected as screening materials. Plantings should be kept in good health and appearance. Any dead, unhealthy or missing plants shall be replaced within 90 days with vegetation which meets the approval of the Town Planner. All fences shall be maintained in a safe manner vertical to the ground. Fences no longer maintained in a safe manner through neglect, lack of repair, manner of construction, method of placement or otherwise shall be repaired or replaced with appropriate substitute materials which meets the approval of the Town Planner.

(K) *Public safety and service provisions.* The following provisions are required in all manufactured home parks to ensure the safety of park residents and the security of private property within the developments.

(1) *Fire protection.* Every manufactured home park shall be provided adequate fire protection according to the following standards if the site is served by a six-inch or larger water line. The Emergency Services Coordinator or Fire Chief may authorize or require deviations from the standards for this section if other arrangements are more satisfactory. [The current regulations do not require the installation of fire hydrants. This section sets forth requirements for fire hydrant installation within manufactured home parks, comparable to those required within subdivisions.]

(a) *Hydrant location.* Hydrants shall be located adjacent to the street right-of-way. If practicable, hydrants shall be located at street intersections, or on space lines if located other than at an intersection.

(b) *Hydrant spacing*. Each manufactured home park space located along an internal development street shall be located no further than 400 feet from a hydrant, as measured along the road right-of-way. Spaces developed along an existing state road external to the development, or along an existing private street, shall be no further than one mile from a hydrant.

(c) *Minimum line size.* All water lines serving hydrants shall be at least six inches in diameter.

(d) *Design and installation.* All hydrants shall have two two-inch and one four-inch hose connections which shall be located between 18 and 24 inches from finished grade. All hydrant threads shall be national standard threads.

(2) *Street lights.* All manufactured home park spaces and streets shall be sufficiently illuminated to ensure the security of property and the safety of persons using the streets. The distance between street lights shall not exceed 400 feet, as measured along street rights-of-way.

(3) *Manufactured home park name.* The name of the proposed manufactured home park shall not duplicate or be phonetically similar to the name of any other park or planned development in the town. [Duplication of development names can cause confusion to emergency services providers and the municipal staff, as well as the public.]

(4) *Street names.* Proposed street names, regardless of the prefix or suffix used, shall not duplicate or be phonetically similar to the name of any other street or road name anywhere in the town or its ETJ. Extensions of existing streets shall use the existing street name, except where a new road name can be used to avoid further duplication.

(5) *Street addresses.* Assigned street addresses shall be displayed for each manufactured home in accordance with town policy and regulations.

(6) *Street signs and traffic control signs*. Street name signs which meet town specifications, and traffic control signs which conform to the *Manual of Uniform Traffic Control Devices* and State Department of Transportation specifications shall be installed at the expense of the developer, or payment collected for installation by the town, prior to as-built plan approval.

(7) *Entryway identification signs.* The use of permanent entryway identification signs at major entrances to a manufactured home park is encouraged. The signs shall not be located in rights-of-way, sight distance triangles or any other location which would obstruct the view of motorists and lead to unsafe vehicular movements. If lighted, the signs shall be illuminated by internal or reflected lights which do not cause glare or otherwise annoy motorists or adjacent property owners. All signage shall comply with the town's Zoning Ordinance in regards to all signs. [The signs aid in locating manufactured home parks and are especially helpful in the early stages of development/operation.]

(8) *Mailboxes.* Prior to as-built plan submittal, the park operator shall install neighborhood delivery collection box units to allow for postal delivery service for each space taking access off a manufactured home park street. The location for the units shall be in close proximity to a park entrance and have direct access to the park street. Sufficient off-street parking for three vehicles per neighborhood delivery collection box unit shall be constructed adjacent to the units, in accordance with division (A) above. [The United States Postal Service has requested that these "grouped" mailboxes be installed near the entrance to manufactured home parks. Three off-street parking spaces are required for each unit.]

(2006 Code, Ch. 15, § 3.3) (Adopted 6-2-1998)

PLAN REQUIREMENTS

§ 153.060 GENERAL MAP STANDARDS.

All preliminary, construction and as-built plans for manufactured home parks submitted for review shall conform with the following map standards.

(A) *Boundary line.* The area proposed to be developed shall be clearly shown and identified by a heavier weight line than all other plat features. This line should not enclose any areas which are not to be improved or developed.

(B) *Non-buildable areas.* Areas within the development that are not reviewed and approved for use as manufactured home park spaces or required improvements (e.g., street right-of-way) during original review shall be labeled "non-buildable". In addition, a note shall be included on the plan which states that before the status of the areas can be changed and building permits issued, the owner must comply with applicable regulations.

(C) *Future streets.* Areas anticipated for future streets shall be appropriately designated and labeled, but need not be included within the boundary line of the proposed development. If not included, however, the developer is encouraged to reserve adequate land area for future right-of-way and sight distance triangles.

(D) *External features.* Required reference features outside the boundary line of the development, such as adjoining subdivisions of record, adjoining developments, easements and streets shall be shown with dashed lines.

(E) *Consecutive numbers.* All spaces within a park shall be consecutively numbered, regardless of the number of phases or sections. The addition of block letters or other references is permitted.

(F) *Section and phase numbering*. All development sections and phases shall be consecutively numbered using Arabic numbers only.

(G) *Multiple sheets*. When submittals include more than one sheet, appropriate match lines shall be shown.

(2006 Code, Ch. 15, § 4.1) (Adopted 6-2-1998)

§ 153.061 KEY TO INTERPRETATION OF TABLE OF MAP REQUIREMENTS.

The Table of Map Requirements in § 153.062 identifies the minimal information which must be shown for each type of submittal. The developer is encouraged to provide additional information which may aid in review. Except for sketch plans, submittals must be prepared by individuals qualified to do such in accordance with G.S. Ch. 89C. The following key indicates the abbreviation and specifications for each type of submittal.

(A) Sketch plans are an optional, initial step in the review process. When prepared, the draft plan shall be drawn at a suitable scale with sufficient detail to enable the Town Planner or other agency representatives to provide advice and information pertaining to the proposed development.

(B) Preliminary plats shall be prepared at a scale of one inch equals 200 feet or less with sheet sizes not larger than 36 inches by 48 inches. The boundary shown on the plat shall conform with a class C rural land survey.

(C) Construction plans shall be prepared at a scale of one inch equals 100 feet or less with sheet sizes no larger than 36 inches by 48 inches.

(D) As-built plans. The as-built plan shall be prepared using the criteria for preliminary plans. The as-built plan shall substantially conform to the approved preliminary plan and, if required, construction plan.

(2006 Code, Ch. 15, § 4.2) (Adopted 6-2-1998)

§ 153.062 TABLE OF MAP REQUIREMENTS.

As listed in the table in this section, the necessary information indicated for each sketch plan ("S"), preliminary plan ("P"), construction plan ("C"), or as-built plan ("A") map submittal shall be shown.

(A) *Information block.*

(1) Park name, including Arabic phase or section numbers and space numbers: S, P, C, A;

(2) Landowner's name(s), address(es) and phone number(s): S, P, C, A;

(3) Location (township, town, state): P, C, A;

(4) Date of preparation of map: S, P, C, A;

(5) Map scale, in written and graphic form: S, P, C, A;

(6) Name, address, telephone number, registration number and seal of surveyor or engineer: P, C, A;

(7) Type of map submittal (i.e., sketch, preliminary, construction, as-built): P, C, A; and

(8) Tax parcel number(s): P, C, A.

(B) *Locational information.*

(1) Vicinity map, with an appropriate scale and sufficient accuracy, to show the park's location in relation to the road network and existing developments: S, P, C, A;

(2) North arrow, oriented to top of map unless impractical: S, P, C, A;

(3) Adjoining property owners, land uses, streets, development sites: S, P, C, A;

(4) Fire district: S, P, C, A;

(5) Distance to nearest fire department from most distant space in park along existing/proposed road network: S, P, C, A; and

(6) Distance from nearest existing fire hydrant, whether within or outside the park boundaries, to the most distant park space: S, P.

(C) *Manufactured home park information.*

(1) Approximate boundary line of proposed park: S, P;

(2) Boundary lines of proposed park, with bearings and distances, referenced to the centerline of the nearest public street intersection: C, A;

(3) Existing and proposed space lines with scaled dimensions: S, P, C, A;

(4) Monuments and markers: C, A;

(5) Individual space numbers and approximate space areas (square feet or acres): S, P;

(6) Individual space numbers and calculated space areas (square feet or acres): C, A;

(7) Typical space layout, including driveway, parking area, building envelope, septic system and repair area: P, C, A;

(8) Location and design of screening area: P, C, A; and

(9) Location of solid waste collection facilities and identification of party responsible for collection and disposal: P, C, A.

(D) *Development information.*

(1) Building setback lines from all rights-of-way: S, P, C, A;

(2) Reserved, special or non-buildable areas and their intended use(s): S, P, C, A;

(3) Topographic contours at intervals of one foot or less, referenced to state or federal monuments if within 2,000 feet for major parks: P, C;

(4) Finished grading elevations: C, A;

(5) Erosion control measures: C, A;

(6) Names of proposed streets and “private” designation: P, C, A;

(7) Proposed street layout and right-of-way dimensions: S, P;

(8) Street right-of-way dimensions and centerline horizontal curve data: C, A;

(9) Typical street cross-section: P, C, A;

(10) Sight distance triangles at intersections: P, C, A;

(11) Proposed or existing driveway design, dimensions and method of surfacing: P, C, A;

(12) Proposed or existing parking area design, dimensions and method of surfacing: P, C, A;

(13) Natural and human-made features, including watercourses, drainageways, ditches, railroad lines, electric transmission lines, pipelines and bridges: S, P, C, A;

(14) Existing and proposed easements for features and major improvements in division (D)(13) above, as well as for drainage, utilities, signs, trails, recreation areas and the like with dimensions and ownership status: P, C, A;

(15) Existing and proposed utilities and services with sizes, including sewer, water, fire hydrants, street lights, mailboxes culverts, tile and ditches: P, C, A;

(16) Screening area location and design: P, C, A;

(17) Existing farm drain tile: S, P, C, A;

(18) Permanent buildings: S, P, C, A;

(19) One hundred year flood hazard areas and floodways: P, C, A;

(20) Existing and proposed lakes and ponds: P, C, A;

(21) Wooded areas: P, C, A;

(22) Tentative wetlands boundaries: P; and

(23) Identified wetlands boundaries: C, A.

(E) *Certifications, approvals, summary data and notes.*

(1) Notarized certificate of survey accuracy: P, C, A;

(2) Summary site data, including total acreage, number of spaces, linear feet of streets and acreage of reserved areas: S, P, C, A;

(3) Listing of utility or service providers: S, P, C, A; and

(4) Any special notes relating to such items as flood elevations, utilities, non-buildable areas and the like: P, C, A.

(2006 Code, Ch. 15, § 4.3) (Adopted 6-2-1998)

§ 153.075 AMENDMENTS.

The Town Board of Town Commissioners may amend the terms of this chapter in accordance with this section. Proposals to amend, supplement, modify or repeal any of the provisions of this chapter may be initiated by the Board of Town Commissioners, the Planning Board or Planning Department staff, or any other interested person. If the review or approval of any state or federal agency is needed, appropriate measures shall be taken to ensure that the agency has an opportunity to provide comments on the proposed amendment prior to action by the Board of Town Commissioners. [The amendment procedures have been updated and provide clearer steps for changing ordinance provisions.]

(A) *Planning Board action.* Any proposed text amendment shall be submitted to the Planning Department at least 20 working days prior to the next regular meeting of the Planning Board if to be considered at that time. The Planning Board shall provide a recommendation to the Board of Town Commissioners on all requests. The Planning Department shall assist with preparation of the text for the ordinance amendment, as necessary. The Planning Board may review the request and provide a recommendation during a regular meeting, or may schedule a public hearing prior to providing a recommendation. If a public hearing is scheduled, it shall be advertised in accordance with G.S. § 153A-323. Failure of the Planning Board to submit its recommendation within 120 days after first consideration of the proposed amendment shall constitute a favorable recommendation.

(B) *Board of Town Commissioners action.* The Board of Town Commissioners shall hold a public hearing to consider any ordinance amendment and the Planning Board recommendation in accordance with G.S. § 153A-323.

(C) *Record of amendments.* All approved text amendments shall be recorded in the town code of ordinances.

(2006 Code, Ch. 15, § 5.1) (Adopted 6-2-1998)

§ 153.076 VARIANCES.

[The current ordinance does not include provisions for granting variances. Language has been added to identify the criteria and procedures to be used by the Planning Board in considering deviations from the adopted requirements.]

(A) *Criteria.* A variance may be granted by the Planning Board if it concludes that strict enforcement of this chapter would result in practical difficulties or unnecessary hardships for the applicant. The Board , in granting a variance, shall ensure that the spirit of this chapter is maintained, public welfare and safety ensured, and substantial justice done. The Board may reach these conclusions if it makes the following findings:

(1) The hardship or difficulty is one suffered only by the applicant, not the neighbors or the general public;

(2) The hardship is caused by circumstances related to the applicant's land, not his or her personal or financial situation;

(3) The hardship is unique, or nearly so, and not one shared by many surrounding properties; and

(4) The hardship or difficulty is not the result of the applicant's own actions.

(B) *Procedure.*

(1) The petitioner shall submit a written variance request to the Planning Department at least 20 working days prior to the next regular meeting of the Planning Board if to be considered at that time. The request shall pertain to a preliminary, construction or as-built plan under consideration or review as required by this chapter, and not a hypothetical situation.

(2) The request and an accompanying staff recommendation shall be forwarded to the Planning Board.

(3) Reasonable conditions, including a limitation on the duration of the variance, may be imposed by the Planning Board to ensure that the objectives of this chapter are met. All conditions are enforceable as any other applicable requirement of this chapter.

(4) Planning Board findings regarding the criteria listed above, action and any supplemental conditions shall be recorded in the Board's official minutes.

(2006 Code, Ch. 15, § 5.2) (Adopted 6-2-1998)

§ 153.077 TIME EXTENSIONS.

A single time extension, for a period of time not to exceed six months, may be granted by the Planning Board to allow the petitioner additional reasonable time to meet the requirements of this chapter. Time extensions shall not be granted to allow for the continuation of illegal activities. The procedure for considering a time extension shall generally be the same as for a variance request outlined herein, except that the following shall apply. [Currently, no procedure for granting time extensions exists. Time extensions are not available for any illegal activities, such as non-compliance with erosion control requirements.]

(A) The petitioner must adequately demonstrate that a good faith effort has been made to comply with the original time allotment.

(B) The request shall be submitted within the last 90 days prior to the expiration of the original time period and in sufficient time to be scheduled for consideration by the Planning Board.

(C) Additional time granted by the Planning Board shall be added to the end of the original time period.

(2006 Code, Ch. 15, § 5.3) (Adopted 6-2-1998)

§ 153.078 APPEALS.

[No appeal process exists in the current ordinance. This section allows for the appeal of a staff decision to the Planning Board and the appeal of a Planning Board action to the Board of Town Commissioners.]

(A) *Notice of appeal.* Any aggrieved person may file an appeal to the Planning Board or Board of Commissioners relating to the interpretation or application of this chapter. In cases of an alleged misinterpretation or misapplication by the Town Planner or other town staff member, the appeal shall first be made to the Planning Board. In cases relating to a decision by the Planning Board, recourse shall be to the Board of Commissioners. The written notice of appeal must specify the grounds for the appeal and is considered filed when the notice is delivered to the Town Planner or the Town Manager, as appropriate.

(B) *Time to appeal.* An appeal must be initiated within 30 days after the date of the decision or order.

(C) *Stay of action.*

(1) An appeal stays all actions by the Town Planner seeking enforcement of or compliance with the order or decision, unless the Town Planner certifies to the Planning Board that, because of the facts surrounding the situation, a stay would cause imminent peril to life or property.

(2) In that case, proceedings shall not be stayed except by order of the Planning Board or a court, issued on application of the party seeking the stay, after notice to the Town Planner.

(D) Decision. The Planning Board or Board of Town Commissioners shall provide a written decision regarding the appeal which includes findings of fact, rationale for the decision and a summary of evidence or testimony presented.

(E) Final recourse. Appeal of a decision by the Board of Commissioners shall be to the Superior Court.

(2006 Code, Ch. 15, § 5.4) (Adopted 6-2-1998)

§ 153.079 BURDEN OF PROOF.

[This section identifies which party is responsible for presenting evidence during consideration of an administrative action.]

(A) *Appeals.* The Town Planner shall have the initial burden of presenting.

(B) *Variances.* The applicant seeking the variance shall bear the burden of presenting sufficient evidence to allow the Planning Board to reach the conclusions outlined herein and shall have the burden of persuasion on those issues.

(C) *All other situations.* Except as outlined herein, the burden of providing sufficient, accurate information necessary to ensure that the provisions of this chapter may be carried out, shall reside with the applicant.

(2006 Code, Ch. 15, § 5.5) (Adopted 6-2-1998)

§ 153.080 MAINTENANCE AND SUPERVISION.

The manufactured home park operator is responsible for the maintenance of all improvements, except for utilities which are owned and/or operated by the utility provider. The operator is also responsible for the supervision of all park operations and for maintaining the park in compliance with all requirements of this chapter. [As is required by the current regulations, the manufactured home park operator is responsible for the maintenance of all improvements required by this chapter.]

(2006 Code, Ch. 15, § 5.6) (Adopted 6-2-1998)

§ 153.081 ENFORCEMENT.

The Town Planner shall be responsible for the enforcement of this section and the investigation of all complaints of suspected violations. The Town Planner shall also notify the operator of any violations of this chapter, and the required corrective measures and resulting administrative action if the measures are not completed or installed within an identified reasonable time period.

(2006 Code, Ch. 15, § 5.7) (Adopted 6-2-1998)

§ 153.082 NOTIFICATION OF CHANGE IN OWNERSHIP.

The new manufactured home park operator shall inform the Town Planner of changes in park ownership.

(2006 Code, Ch. 15, § 5.8) (Adopted 6-2-1998)

§ 153.083 FEES.

Reasonable fees to cover the administrative costs of this chapter shall be charged in accordance with a separate fee schedule, as adopted by the Board of Town Commissioners. [Review fees are recommended for consideration with this chapter.]

(2006 Code, Ch. 15, § 5.9) (Adopted 6-2-1998)

§ 153.999 PENALTY.

(A) *Notice.* If the Town Planner finds that any of the provisions of this chapter are being or will be violated, notice of the violation(s) and specific corrective actions, including the time period to comply, shall be mailed to the property owner using certified mail. If corrective measures are not taken, or an appeal or variance request is not submitted by the property owner in accordance with §§ 153.075 through 153.083, legal action may be instituted by the town in accordance with the remainder of this section.

(B) *Civil penalties.*

(1) In addition to any other remedies cited in this section for the enforcement of the provisions of this chapter, the regulations and standards herein may be enforced through the issuance of citations by the Town Planner in accordance with G.S. § 153A-123. These citations are in the form of a civil penalty. The town may recover this penalty in a civil action in the nature of a debt if the offender does not pay the assessed penalty within 72 hours after being cited for a violation. In addition, no permits shall be released by the town until the violation is corrected and all assessed penalties are paid in full.

(2) The following civil penalties are established, and are in addition to any other penalties which may be imposed by a court, for violation of the provisions of this chapter.

(a) Warning citation: correct the violation within 30 days; and

(b) Penalty citation: up to $100 per day.

(3) [This section has been updated and allows 30 days for the operator to gain compliance before penalties are assessed. The 30-day period also coincides with the time period allotted for filing an appeal.]

(C) *Injunctive relief.* Wherever the Town Attorney has reasonable cause to believe that any person is violating or threatening to violate this chapter or any term, condition or provision of approval, the Town Attorney may, either before or after the institution of any other action or proceeding authorized by this code, 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. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter the 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 the proceedings from any civil penalty prescribed for violations of this section.

(2006 Code, Ch. 15, § 6.2) (Adopted 6-2-1998)

CHAPTER 154: SEDIMENTATION AND EROSION CONTROL

Section

General Provisions

154.01 Title

154.02 Purposes

154.03 Definitions

154.04 Scope and exclusions

154.05 General requirements

154.06 Basic control objectives

154.07 Effective date

154.08 Revisions

Standards and Conditions

154.20 Mandatory standards for land-disturbing activities

154.21 Design and performance standards

154.22 Storm water outlet protection

154.23 Borrow and waste areas

154.24 Access and haul roads

154.25 Operations in lakes or natural watercourses

154.26 Additional measures

154.27 Existing uncovered areas

Administration and Enforcement

154.40 Permits

154.41 Erosion and sedimentation control plans

154.42 Appeals

154.43 Inspections and investigations

154.99 Penalty

GENERAL PROVISIONS

§ 154.01 TITLE.

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

(2006 Code, Ch. 21, § 1)

§ 154.02 PURPOSES.

This chapter is adopted for the purposes of:

(A) Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses and other public and private property by sedimentation; and

(B) Establishing procedures through which these purposes can be fulfilled.

(2006 Code, Ch. 21, § 2)

§ 154.03 DEFINITIONS.

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

ACCELERATED EROSION. Any increase over the rate of natural erosion as a result of land-disturbing activity.

ACT. The State Sedimentation Pollution Control Act of 1973, being G.S. §§ 113A-50 et seq., and all rule and orders adopted pursuant to it.

ADEQUATE EROSION CONTROL MEASURE, STRUCTURE OR DEVICE. One which controls the soil materials within the land area under responsible control of the person conducting the land-disturbing activity.

BEING CONDUCTED. A land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.

BORROW. Fill material which is required for on-site construction and is obtained from other locations.

BUFFER ZONE. The strip of land adjacent to a lake or natural watercourse.

COASTAL COUNTIES. The following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell and Washington.

COMMISSION. The State Sedimentation Control Commission.

COMPLETION OF CONSTRUCTION OR DEVELOPMENT. No further land-disturbing activity is required on a phase of a project; except that, which is necessary for establishing a permanent ground cover.

DEPARTMENT. The State Department of Environment, Health and Natural Resources.

DIRECTOR. The Director of the Division of Land Resources of the Department of Environment, Health and Natural Resources.

DISCHARGE POINT. The point at which runoff leaves a tract of land.

DISTRICT. The County Soil and Water Conservation District created pursuant to G.S. Ch. 139.

ENERGY DISSIPATOR. A structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

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

GROUND COVER. Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

HIGH QUALITY WATERS. Those classified as such in 15A NCAC 2B.0101(e)(5) - General Procedures, which is incorporated herein by reference to include further amendments pursuant to G.S. § 150B-14(c).

HIGH QUALITY WATER (HQW) ZONES. Areas in the Coastal Counties that are within 575 feet of high quality waters and for the remainder of the state areas that are within one mile and rain to HQWs.

LAKE or ***NATURAL WATERCOURSE.*** Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

LAND-DISTURBING ACTIVITY. Any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

LOCAL GOVERNMENT. Any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns and cities, acting through a joint program pursuant to the provisions of the Act.

NATURAL EROSION. The wearing away of the earth's surface by water, wind or other natural agents under natural environmental conditions undisturbed by humans.

PERSON. Any individual, partnership, firm, association, join venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body or other legal entity.

PERSON RESPONSIBLE FOR THE VIOLATION. Used in this chapter, and G.S. § 113A-64, means:

(1) The developer or other person who has or holds himself or herself out as having financial or operational control over the land-disturbing activity; or

(2) The landowner or person in possession or control of the land when he or she has directly or indirectly allowed the land-disturbing activity or has benefitted from it or he or she has failed to comply with any provision of this chapter, the Act or any order adopted pursuant to this chapter or the Act as imposes a duty upon him or her.

PERSON CONDUCTING LAND-DISTURBING ACTIVITY. Any person who may be held responsible for a violation unless expressly provided otherwise by this chapter, the Act or any order adopted pursuant to this chapter or the Act.

PHASE OF GRADING. One of two types of grading, rough or fine.

PLAN. An erosion and sedimentation control plan.

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

SEDIMENTATION. The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

SILTATION. Sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

STORM DRAINAGE FACILITIES. The system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.

STORM WATER RUNOFF. The direct runoff of water resulting from precipitation in any form.

TEN-YEAR STORM. The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.

TRACT. All contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

TWENTY-FIVE YEAR STORM. The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.

UNCOVERED. The removal of ground cover from, on or above the soil surface.

UNDERTAKEN. The initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.

VELOCITY. The average ***VELOCITY OF FLOW*** through the cross section of the main channel at the peak flow of the storm of interest. The cross-section of the main channel shall be that area defined by the geometry of the channel, plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing ***VELOCITY OF FLOW***.

WASTE. Surplus materials resulting from on-site construction and disposed of at other locations.

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

(2006 Code, Ch. 21, § 3)

§ 154.04 SCOPE AND EXCLUSIONS.

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

(A) Those undertaken on agricultural land for the production of plants and animals useful to humans, including 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 beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all such animals; bees and apiary products; fur animals;

(B) Those undertaken on forestland for the production and harvesting of timber and timber products and which are conducted in accordance with *Forest Practice Guidelines Related to Water Quality* (best management practices) as adopted by the Department. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with *Forest Practice Guidelines Related to Water Quality*, the provisions of this chapter shall apply to the activity and any related land-disturbing activity on the tract;

(C) Activity undertaken by persons as defined in G.S. § 113A-52(8) who are otherwise regulated by the provisions of the Mining Act, G.S. §§ 74-46 through 74-68; and

(D) Land-disturbing activity over which the state has exclusive regulatory jurisdiction as provided in G.S. § 113A-56(a).

(2006 Code, Ch. 21, § 4)

§ 154.05 GENERAL REQUIREMENTS.

(A) *Plan required.* No person shall initiate any land-disturbing activity which uncovers more than one acre without having an erosion control plan approved by the town.

(B) *Protection of property.* Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by the activity.

(C) *More restrictive rules shall apply.* Whenever conflicts exist between federal, state or local laws, ordinances or rules, the more restrictive provision shall apply.

(2006 Code, Ch. 21, § 5)

§ 154.06 BASIC CONTROL OBJECTIVES.

An erosion and sedimentation control plan may be disapproved pursuant to § 154.41 if the plan fails to address the following control objectives:

(A) *Identify critical areas*. On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention;

(B) *Limit time of exposure.* All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time;

(C) *Limit exposed areas*. All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any time;

(D) *Control surface water.* Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure;

(E) *Control sedimentation*. All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage; and

(F) *Manage storm water runoff*. When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

(2006 Code, Ch. 21, § 6)

§ 154.07 EFFECTIVE DATE.

This chapter shall be effective upon its adoption.

(2006 Code, Ch. 21, § 22)

§ 154.08 REVISIONS.

The town shall incorporate revisions required by the Commission within eight months following receipt of the required revisions. If standards and provisions of this chapter currently meet or exceed the required revisions the Commission shall be so notified within 90 days of their receipt.

(2006 Code, Ch. 21, § 23)

STANDARDS AND CONDITIONS

§ 154.20 MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY.

(A) *General.* No land-disturbing activity subject to the control of this chapter shall be undertaken except in accordance with the following mandatory standards.

(B) *Buffer zone.*

(1) No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the 25% of the buffer zone nearest the land-disturbing activity. Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the 25% of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that, the town may approve plans which include land-disturbing activity along trout waters when the duration of the disturbance would be temporary and the extent of the disturbance would be minimal. This division (B)(1) 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.

(2) Unless otherwise provided, the width of a buffer zone is measured from the edge of the water to the nearest edge of the disturbed area, with the 25% of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

(3) The 25-foot minimum width for an undisturbed buffer zone adjacent to designated trout waters shall be measured horizontally from the top of the bank.

(4) Where a temporary and minimal disturbance is permitted as an exception by division (B)(1) above, land-disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of 10% of the total length of the buffer zone within the tract to be distributed so that there is not more than 100 linear feet of disturbance in each 1,000 linear feet of buffer zone. Larger areas may be disturbed with the written approval of the Director.

(5) No land-disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations, as set forth in 15 NCAC 2B.0211 - Fresh Surface Water Classification and Standards, in these waters.

(C) *Graded slopes and fills.* The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed, will, within 30 working days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices or structures sufficient to restrain erosion.

(D) *Ground cover.*

(1) Whenever land-disturbing activity is undertaken on a tract comprising more than one acre, if more than one acre is uncovered, the person conducting the land-disturbing activity shall install the sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of the tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development.

(2) Except as provided in division (B)(5) above, provisions for a ground cover sufficient to restrain erosion must be accomplished within 30 working days or 120 calendar days following completion of construction or development, whichever period is shorter.

(E) *Prior plan approval.* No person shall initiate any land-disturbing activity on a tract if more than one acre is to be uncovered unless, 30 or more days prior to initiating the activity, an erosion and sedimentation control plan for the activity is filed with and approved by the town.

(2006 Code, Ch. 21, § 7)

§ 154.21 DESIGN AND PERFORMANCE STANDARDS.

(A) (1) Except as provided in division (B) below, erosion and sedimentation control measures, structures and devices shall be so planned, designed and constructed as to provide protection from the calculated maximum peak of runoff from the ten-year storm.

(2) Runoff rates shall be calculated using the procedures in the USDA, Soil Conservation Service's *National Engineering Field Manual for Conservation Practices* or other acceptable calculation procedures.

(B) In high quality water (HQW) zones, the following design standards shall apply.

(1) Uncovered areas in HQW zones shall be limited at any time to a maximum total area within the boundaries of the tract of 20 acres. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director.

(2) Erosion and sedimentation control measures, structures and devices within HQW zones shall be so planned, designed and constructed to provide protection from the runoff of the 25-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the U.S. Department of Agriculture Soil Conservation Service's *National Engineering Field Manual for Conservation Practices* or according to procedures adopted by any other agency of the state or the United States or any generally recognized organization or association.

(3) Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least 70% for the 40 micron (0.04 mm) size soil particle transported into the basic by the runoff of that two-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the U.S. Department of Agriculture Soil Conservation Services *National Engineering Filed Manual for Conservation Practices* or according to procedures adopted by any other agency of the state or the United States or any generally recognized organization or association.

(4) Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

(5) Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within 15 working days or 60 calendar days following completion of construction or development, whichever period is shorter.

(2006 Code, Ch. 21, § 8)

§ 154.22 STORM WATER OUTLET PROTECTION.

(A) *General*. Persons shall conduct land-disturbing activity so that the post-construction velocity of the ten-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

(1) The velocity established by the table in division (D) below;

(2) The velocity of the ten-year storm runoff in the receiving watercourse prior to development; or

(3) If conditions in divisions (A)(1) or (A)(2) above cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by 10%.

(B) *Acceptable management measures*. Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Commission recognizes that the management of storm water runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives are to:

(1) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increase runoff from areas rendered impervious;

(2) Avoid increases in storm water discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections;

(3) Provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities to the point of discharge. These may range from simple rip-rapped sections to complex structures; and

(4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining.

(C) *Exceptions.* This rule shall not apply where it can be demonstrated that storm water discharge velocities will not create an erosion problem in the receiving watercourse.

(D) *Maximum permissible velocities.* The following is a table for maximum permissible velocity for storm water discharges:

Material	***Maximum Permissible Velocities***	
	F.P.S.	***M.P.S.***
Alluvial silts (colloidal)	5.0	1.5
Alluvial silts (non-colloidal)	3.5	1.1
Coarse gravel (non-colloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Fine gravel	5.0	1.5
Fine sand (non-colloidal)	2.5	0.8
Graded, loam to cobbles (non-colloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.7
Ordinary firm loam	3.5	1.1
Sandy loam (non-colloidal)	2.5	0.8
Shales and hard pans	6.0	1.8
Silt loam (non-colloidal)	3.0	0.9
Stiff clay (very colloidal)	5.0	1.5
Source - Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels and by 0.8 for highly sinuous channels.		

(2006 Code, Ch. 21, § 9)

§ 154.23 BORROW AND WASTE AREAS.

When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, being G.S. §§ 74-46 *et seq*., andwaste areas for surplus materials other than landfills regulated by the Department's Division of Solid Waste Management shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

(2006 Code, Ch. 21, § 10)

§ 154.24 ACCESS AND HAUL ROADS.

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of the activity.

(2006 Code, Ch. 21, § 11)

§ 154.25 OPERATIONS IN LAKES OR NATURAL WATERCOURSES.

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approval plan or any provision of this chapter, the Act or any order adopted pursuant to this chapter or the Act. After site development, the land owner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

(2006 Code, Ch. 21, § 12)

§ 154.26 ADDITIONAL MEASURES.

Whenever the town determines that significant sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action.

(2006 Code, Ch. 21, § 13)

§ 154.27 EXISTING UNCOVERED AREAS.

(A) All uncovered areas existing on the effective date of this chapter which resulted from land-disturbing activity, exceed one acre, are subject to continued accelerated erosion, and are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

(B) The town will serve upon the landowner or other person in possession or control of the land a written notice of violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice will set forth the measures needed to comply and will state the time within which the measures must be completed. In determining the measures required and the time allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology and quantity of work required and shall set reasonable and attainable time limits of compliance.

(C) The town reserves the right to require preparation and approval of an erosion control plan in any instance where extensive control measures are required.

(D) The town reserves the right to require preparation and approval of an erosion control plan in any instance where extensive control measures are required.

(2006 Code, Ch. 21, § 14)

ADMINISTRATION AND ENFORCEMENT

§ 154.40 PERMITS.

(A) 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 any land-disturbing activity:

(1) For the purpose of fighting fires;

(2) For the stock piling of raw or processed sand, stone or gravel in material processing plants and storage yards; provided that, sediment control measures have been utilized to protect against off-site damage; or

(3) Does not exceed 43,560 square feet in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated. (The Code Enforcement Director may require sediment control on any building lot less than one acre if warranted, but no permit will be required.)

(B) The town may establish a fee if considered necessary.

(2006 Code, Ch. 21, § 15) Penalty, see § 154.99

§ 154.41 EROSION AND SEDIMENTATION CONTROL PLANS.

(A) (1) An erosion control plan shall be prepared for all land-disturbing activities subject to this chapter whenever the proposed activity is to be undertaken on a tract comprising more than one acre, if more than one acre is to be uncovered.

(2) The plan shall be filed with the town, and the County Soil and Water Conservation District, at least 30 days prior to the commencement of the proposed activity.

(B) Persons conducting land-disturbing activity on a tract which covers one or more acres shall file two copies of the erosion control plan with the town at least 30 days prior to beginning the activity and shall keep another copy of the plan on file at the job site. After approving the plan, if the town, either upon review of the plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the town will require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority.

(C) Erosion control plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his or her attorney-in-fact. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and of the owner of the land or their registered agents. If the person financially responsible is not a resident of the state, a state agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the Act, this chapter or rules or orders adopted or issued pursuant to this chapter.

(D) The County Soil and Water Conservation District within 20 days of receipt of any plan, or within the additional time as may be prescribed by the town, shall review the plan and submit its comments and recommendations to the town. Failure of the Soil and Water Conservation District to submit its comments and recommendations within 20 days or within the prescribed additional time will not delay final action on the plan.

(E) The town will review each complete plan submitted to them and within 30 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations or disapproved. Failure to approve or disapprove a complete erosion and sedimentation control plan within 30 days of receipt shall be deemed approval. Denial of a plan must specifically state in writing the reasons for denial. The town must approve or deny a revised plan within 15 days of receipt, or it is deemed to be approved. if, following commencement of a land-disturbing activity pursuant to an approved plan, the town determines that the plan is inadequate to meet the requirements of this chapter, the town may require the revisions as are necessary to comply with this chapter.

(F) Any plan submitted for a land disturbing activity for which an environmental document is required by the State Environmental Policy Act (G.S. §§ 113A-1 *et seq*.) shall be deemed incomplete until a complete environmental document is available for review. The town shall promptly notify the person submitting the plan that the 30-day time limit for review of the plan

pursuant to § 154.42 shall not begin until a complete environmental document is available for review.

(G) The plan required by this section shall contain architectural and engineering drawings, maps, assumptions, calculations and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this chapter. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the town, on request.

(H) (1) An erosion control plan may be disapproved upon a finding that an applicant, or any parent or subsidiary corporation if the applicant is a corporation:

(a) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to the Act and has not complied with the notice within the time specified in the notice;

(b) Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act which is due and for which no appeal is pending;

(c) Has been convicted of a misdemeanor pursuant to G.S. § 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act; or

(d) Has failed to substantially comply with state rules or local ordinances and regulations adopted pursuant to the Act.

(2) For purposes of this division (H), an applicant's record may be considered for only the two years prior to the application date.

(I) Applications for amendment of an erosion control plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until the time as the amendment is approved by the town, the land-disturbing activity shall not proceed, except in accordance with the erosion control plan as originally approved.

(J) Any person engaged in land-disturbing activity who fails to file a plan in accordance with this chapter, or who conducts a land-disturbing activity, except in accordance with provisions of an approved plan shall be deemed in violation of this chapter.

(2006 Code, Ch. 21, § 16)

§ 154.42 APPEALS.

(A) Except as provided in § 154.43(B), the appeal of a disapproval or approval with modifications of a plan shall be governed by the following provisions.

(1) 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 the person submits written demand for a hearing within 15 days after receipt of written notice of disapproval or modifications.

(2) Hearings held pursuant to this section shall be conducted by the Town Board of Adjustments within 15 days after the date of the appeal or request for a hearing.

(3) The Planning Board shall make recommendations to the Board of Commissioners of the town within five days after the date of the hearing on any erosion control plan.

(4) The Board of Commissioners of the town will render its final decision on any erosion control plan upon which a hearing is requested on the first Tuesday of the month following the recommendation of the Planning Board.

(5) If the town upholds the disapproval or modification of a proposed soil erosion and sedimentation control plan following the hearing, the person submitting the plan shall then be entitled to appeal the Board of Commissioners' decision to the State Sedimentation Control Commission, as provided in G.S. § 113A-61(c) and 15 NCAC 4B.0118(b).

(B) In the event that an erosion control plan is disapproved pursuant hereto, the town shall notify the Director of the Division of Land Resources of the disapproval within ten days. The town shall advise the applicant and the Director in writing as to the specific reasons that the plan was disapproved. The applicant may appeal the town disapproval of the plan pursuant hereto directly to the Commission.

(2006 Code, Ch. 21, § 17)

§ 154.43 INSPECTIONS AND INVESTIGATIONS.

(A) Agents, officials or other qualified persons authorized by the town will periodically inspect the sites of land-disturbing activity to determine compliance with the Act, this chapter or rules or orders adopted or issued pursuant to this chapter, and to determine whether the activity is being conducted in accordance with an approved plan and whether the measures required in the plan are effective in controlling erosion and sediment resulting from land-disturbing activity. Notice of the right to inspect shall be included in the notification of plan approval.

(B) If, through inspection, it is determined that a person engaged in land-disturbing activity has failed to comply with the Act, this chapter or rules, or orders adopted or issued pursuant to this chapter, or has failed to comply with an approved plan, a notice of violation shall be served upon that person by registered or certified mail or other means reasonably calculated to give actual notice. The notice shall set forth the measures necessary to achieve compliance with the plan, specify a reasonable time period within which the measures must be completed, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. However, no time period for compliance need be given for failure to submit an erosion control plan for approval or for obstructing, hampering or interfering with authorized representative while in the process of carrying out his or her official duties. If the person engaged in land-disturbing activity fails to comply within the time specified, enforcement action shall be initiated.

(C) The town shall have the power to conduct investigations as it may reasonably deem necessary to carry out its duties as prescribed in this chapter, and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity. No person shall refuse entry or access to any authorized representative or agent of the town who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any representative while in the process of carrying out his or her official duties.

(D) The town shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

(2006 Code, Ch. 21, § 18) Penalty, see § 154.99

§ 154.99 PENALTY.

(A) *Generally.*

(1) *Civil penalties.*

(a) Any person who violates any of the provisions of this chapter, or rules or orders 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 $500, except that the penalty for failure to submit an erosion control plan shall be as provided in division (A)(1)(c) below. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice shall describe the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. If, after the allotted time period has expired, the violator has not completed corrective actions, a civil penalty may be assessed from the date of receipt of the notice of violation. However, no time period for compliance need be given for failure to submit an erosion control plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his or her official duties. Each day of continuing violation shall constitute a separate violation.

(b) The Board of Commissioners of the town shall determine the amount of the civil penalty to be assessed under this division (A)(1) and shall make written demand for payment upon the person in violation, and shall set forth in detail a description of the violation for which the penalty has been imposed. In determining the amount of the penalty, the governing body shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. Notice of the assessment shall be by registered or certified mail or other means reasonably calculated to give actual notice. If payment is not received or equitable settlement reached within 30 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 Courts of Justice for recovery of the penalty. The civil action must be filed within three years of the date the final decision was served on the violator.

(c) Any person who fails to submit an erosion control plan for approval as required by this chapter shall be subject to a single, non-continuing civil penalty of not more than $1,000. Any person who is subject to a civil penalty under this division (A)(1)(c) may be subject to additional civil penalties for violation of any other provision of this chapter, or rules or orders adopted or issued pursuant to this chapter.

(d) Civil penalties collected pursuant to this chapter shall be used or disbursed as directed by G.S. § 113A-64(a).

(2) *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 90 days, or by a fine not to exceed $5,000, or by both, in the discretion of the Court.

(2006 Code, Ch. 21, § 19)

(B) *Injunctive relief.*

(1) Whenever the governing body has reasonable 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.

(2) Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter 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 the proceedings from any civil or criminal penalty prescribed for violations of this chapter.

(2006 Code, Ch. 21, § 20)

CHAPTER 155: SUBDIVISIONS

Section

General Provisions

155.001 Authority, enactment, purpose

155.002 Effective date and jurisdiction

155.003 Definitions

Plat Preparation and Approval

155.015 Register of Deeds

155.016 Penalties for transferring lots in unapproved subdivisions

155.017 No service or permit until final plat approved

155.018 Sketch design plan

155.019 Preliminary plat

155.020 Final plat

155.021 Approval not to constitute acceptance

155.022 Minor subdivision approval

Design Standards and Improvements

155.035 General provisions

155.036 Subdivision names

155.037 Streets and roads

155.038 Lot requirements

155.039 Water and sewer

155.040 Blocks

155.041 Buffer strips

155.042 Easements

155.043 Monuments

Administration

155.055 Administrator

155.056 Exceptions

155.057 Variances

155.058 Amendment

155.059 Fees

155.060 Compliance with official plans

Public Facilities Financing

155.075 Purpose

155.076 Areas of benefit authorized

155.077 Definitions

155.078 Initiation of proceedings

155.079 Voluntary annexation

155.080 Designation of area of benefit

155.081 Payment of benefit assessments

155.082 Delinquency in payment, sale or foreclosure

155.083 Consideration in lieu of assessment

155.084 Termination of area of benefit

GENERAL PROVISIONS

§ 155.001 AUTHORITY, ENACTMENT, PURPOSE.

Pursuant to the provisions of G.S. Ch. 160A, Art. 19, part 142, §§ 160A-360 and et seq., the Board of Commissioners of the town do hereby enact this chapter in order to provide for the orderly development of the municipality and its environs; for the coordination of streets within proposed subdivisions with existing or planned streets or with other public facilities; for the dedication or reservations of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic which shall avoid congestion and over-crowding and which shall create conditions essential to public health, safety and the general welfare.

(2006 Code, Ch. 23, Art. I, § 1.1)

§ 155.002 EFFECTIVE DATE AND JURISDICTION.

(A) On and after 11-7-1972, this chapter shall regulate the platting and recording of every subdivision of land as defined in § 155.003, within the corporate limits of the town.

(B) This chapter shall apply to that extra-territorial area within one mile of the corporate limits of the town pursuant to the procedures and provisions of G.S. § 160A-360(A), (B) and (E).

(2006 Code, Ch. 23, Art. I, § 1.2)

§ 155.003 DEFINITIONS.

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

BLOCK. A parcel of land, which is bounded on all sides by public streets, highways, railroad rights-of-way, parks or green strips, rural land or drainage channels, or a combination thereof.

DEDICATION. A gift, by the owner, of a right to use land for stated purposes. Since a transfer of property is involved, the DEDICATION is made by written instrument and is completed with an acceptance.

EASEMENT. A grant by the property owner for use, by the public, a corporation or person(s) of a strip of land for specific purposes.

GROUP DEVELOPMENT. A group of two or more principal structures built on a single lot, tract or parcel of land and designed for occupancy by separate families, firms, businesses or other enterprises not subdivided into the customary streets or lots.

LOT. A portion of a subdivision, or any other parcel of land, intended as a unit for transfer of ownership or for development or both. The word ***LOT*** includes the words ***PLAT*** and ***PARCEL***.

(1) ***CORNER LOT***. A lot abutting upon two streets at their intersection.

(2) ***DOUBLE-FRONTAGE LOT***. A continuous (through) lot which is accessible from both of the parallel streets upon which it fronts.

MINIMUM BUILDING LINE. A line parallel to the front property line in front of which no structure shall be built.

MOBILE HOME. A residential dwelling unit, designed for transportation after fabrication on its own wheels or on flatbeds, or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor and incidental unpacking and assembly operations including, but not limited to, location on jacks or other temporary or permanent foundation, and connection to utilities. Travel trailers and campers shall not be considered ***MOBILE HOMES***.

MOBILE HOME SUBDIVISION. A subdivision designed and intended for residential use where residence is in mobile homes exclusively.

OFFICIAL PLANS. Any maps, plans, chart or text officially adopted by the Planning Board or the Town Commissioners as a guide for the development of the town.

RESERVATION. A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

SHALL. The act referred to is always mandatory.

STREET. A dedicated and accepted public right-of-way which affords the principal means of access to abutting properties for vehicular traffic, and are further defined as follows.

(1) ***CUL-DE-SAC***. A short minor street having one end open to traffic and the other permanently terminated by vehicular turnaround.

(2) ***LOCAL STREET***. A street whose principal function is to provide access to adjacent properties.

(3) ***MAJOR THOROUGHFARE***. A street which is used for moving heavy volumes of traffic or high speed traffic, or both, or which has been designated as a major thoroughfare on the thoroughfare

plan.

(4) ***MARGINAL ACCESS STREET***. A local street parallel and adjacent to a major thoroughfare or railroad, which provides access to abutting properties, protection from through traffic and control of access to the major thoroughfare.

(5) ***MINOR THOROUGHFARE***. A street which carries traffic from minor streets to the system of major thoroughfares or which has been designated as a minor thoroughfare on the thoroughfare plan.

SUBDIVIDER or ***DEVELOPER***. A person, firm or corporation who has applied for approval of or who has duly recorded a plat for the subdivision of a tract of land pursuant to the jurisdiction and requirements of this chapter.

(2006 Code, Ch. 23, Art. II)

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale, or building development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that, the following shall not be included within this definition nor be subject to the regulations authorized by this part:

(1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown in its subdivision regulations;

(2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for the widening or opening of streets; and

(4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in its subdivision regulations.

(2006 Code, Ch. 23, Art. I, § 1.3)

PLAT PREPARATION AND APPROVAL

§ 155.015 REGISTER OF DEEDS.

From and after the time that this chapter is filed with the Register of Deeds of the county, no subdivision plat shall be filed or recorded until it shall have been submitted to and approved by the Board of Commissioners of the town according to the procedure provided for in this chapter, and the approval entered in writing on the plat by the Town Clerk. The Register of Deeds shall not file or record a plat of a subdivision of land located within the jurisdiction of this chapter which has not been approved in accordance with these provisions. The owner of land shown on a subdivision plat submitted for recording, or his or her authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is subject to the jurisdiction of this chapter.

(2006 Code, Ch. 23, Art. III, § 3.1)

§ 155.016 PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS.

Any person who, being the owner or agent of the owner of any land located within the platting jurisdiction of this chapter who transfers or sells the land by reference to a plat showing a subdivision of the land before the plat has been approved by the legislative body and recorded in the office of the Register of Deeds, shall be guilty of a misdemeanor and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties. The municipality, through its Town Attorney or other official designated by the legislative body, may enjoin the transfer or sale by action for injunction.

(2006 Code, Ch. 23, Art. III, § 3.2) Penalty, see § 10.99

§ 155.017 NO SERVICE OR PERMIT UNTIL FINAL PLAT APPROVED.

(A) No street shall be accepted and maintained by the town, nor shall any street lighting, water or sewer be extended to or connected with any subdivision of land nor shall any permit be issued by any administrative agency or department of the town for the construction of any building or other improvements requiring a permit unless and until the requirements set forth in this chapter have been complied with and the same approved by the town.

(B) For the subdivision in the extra-territorial areas, permits for the construction of buildings or other improvements may be issued when the agencies providing utilities accept improvements by letter, and when the State Department of Transportation states by letter that streets and drainage systems meet their requirements for acceptance, except for population densities, and the letter from the State Department of Transportation shall meet the requirements in §§ 155.037 and 155.038 for lots to front on a public street.

(Amended 1-5-1988)

(C) Construction permits may be issued in subdivisions where final plats are approved with a performance guarantee for improvement as set forth in § 155.021(A) so long as the terms of the performance guarantee are being met.

(Added 5-2-1989)

(2006 Code, Ch. 23, Art. III, § 3.3)

§ 155.018 SKETCH DESIGN PLAN.

(A) Before an application for approval of the preliminary plat is filed, the subdivider is encouraged to submit to the Planning Board, through the administrator of this chapter, a sketch plan of the proposed subdivision.

(B) The sketch plan should be drawn at a scale of one inch to l00 feet and contain or be accompanied by the following information:

(1) The name and address of the owner and subdivider;

(2) A vicinity sketch showing the relationship of the subdivision to surrounding properties;

(3) Existing conditions on the site including streets, roads, water courses, rights-of-way, easements and structures where available;

(4) Total acreage in the tract; and

(5) The tentative arrangement of rights-of-way, easements, lots and sites to be dedicated for schools, churches, parks and the like, if any.

(C) The Planning Board will review the sketch plan for general compliance with the requirements of this chapter and advise the subdivider as to the regulations which pertain to the proposed development and the procedure the subdivider shall follow in preparing and submitting a subdivision plat. The subdivider or his or her representative should utilize this opportunity to informally discuss plans for development of the proposed subdivision with the Planning Board.

(2006 Code, Ch. 23, Art. III, § 3.4)

§ 155.019 PRELIMINARY PLAT.

(A) The subdivider shall submit five black or blue line prints of the preliminary plat and any supplementary material to the Planning Board through the administrator of this chapter at least 15 working days prior to the next regular meeting of the Planning Board at which the preliminary plat is to be considered.

(B) If the subdivision is outside the town limits, the subdivider shall also submit two copies of the preliminary plat to each of those agencies listed herein at least 30 days prior to the next regular meeting of the Planning Board.

(C) A sedimentation control plan for all subdivisions shall be submitted with the preliminary plan as required by Ch. 154 of the town code of ordinances.

(Amended 2-2-1988)

(1) *Preliminary plat requirements.* The scale of the preliminary plat shall be a minimum of one inch to 100 feet. The allowable error of closure shall be one to 5,000 (1:5,000). The plat shall contain or be accompanied by the following information:

(a) The name and address of the owner, the subdivider and the person preparing the plat, the scale, north point and date;

(b) A location map showing the relationship between the subdivision and the surrounding area inset on the plat sheet, the names and locations of adjoining subdivisions and streets, the

location and ownership of adjoining unsubdivided property, and the location of county and/or municipal boundaries if falling within or immediately adjoining the tract, the zoning classification of the tract, if applicable;

(c) The boundaries of the tract with all bearings and distances indicated, total acreage in the tract, the location of existing structures, water courses, rights-of-way and utility easements;

(d) The proposed name of the subdivision, street rights-of-way and surface widths, approximate grades, street names, water supply storm drainage and sewage disposal systems (except that, individual wells and septic tanks need not be shown), lot lines, lot and block numbers, approximate dimensions of lots, buildings setback lines, areas to be used for parks, churches and the like, if any;

(e) Topographical map of area; and

(f) Any other supplemental information considered by the subdivider or the Planning Board to be pertinent to the review of the preliminary plat, including any restrictive covenants which the developer intends to attach to parcels within the subdivision.

(2) *Additional site plan review*. For subdivisions outside the town limits, the developer shall submit two preliminary plats for review and approval to each of the following agencies at least 30 days prior to the next regular meeting of the Planning Board:

(a) County Health Department;

(b) District Engineer, State Department of Transportation; and

(c) County Soil and Water Conservation District.

(3) *Planning Board action.* The Planning Board shall review the preliminary plat at its next regular meeting after the preliminary plat has been properly submitted. The Planning Board shall have 45 days after its regular meeting in which to take action on the preliminary plat. Failure on the part of the Planning Board to act within the specified time shall be deemed as approval by the Planning Board. The Planning Board shall approve, approve conditionally or disapprove the plat.

(a) If the preliminary plat is approved, approval shall be noted on two prints of the plat by the Chairperson of the Planning Board. One print of the plat shall be transmitted to the subdivider and the second approved print shall be retained by the Planning Board.

(b) In the case of conditional approval, the reasons for conditional approval and the conditions to be met shall be specified in writing. One copy of the reasons and conditions, along with one print of the plat, shall be retained by the Planning Board and a print of the plat with the reasons for conditional approval shall be given to the subdivider. The Planning Board may require the subdivider to submit a revised preliminary plat including the recommended changes before approving the plat.

(c) Upon approval or conditional approval of the preliminary plat, the subdivider may proceed, with the installation or arrangement of the required improvements in accordance with

the preliminary plat as approved and the requirements of this chapter, and with the preparation of the final plat.

(d) When a preliminary plat is disapproved, the Planning Board shall specify the reasons for the action in writing. One copy of the reasons and one print shall be retained by the Planning Board, and a print of the plat with the reasons for disapproval shall be given to the subdivider. If the preliminary plat is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plat.

(4) *Development in stages*. When a subdivision is to be developed in stages, the preliminary plat shall be submitted for the entire development. A final plat may be submitted for each stage.

(2006 Code, Ch. 23, Art. III, § 3.5)

§ 155.020 FINAL PLAT.

(A) The subdivider shall submit a final plat, constituting that portion of the approved preliminary plat that he or she proposes to record and develop, within 12 months after approval of the preliminary plat. Otherwise, the approval of the preliminary plat shall become null and void unless an extension of time is applied for and granted by the Planning Board.

(B) The subdivider shall submit eight black or blue line copies of the final plat, and one reproducible drawing through the administrator of this chapter 15 working days prior to the regular meeting of the Planning Board at which the plat is to be considered.

(1) *Completion of improvements or performance guarantee required.*

(a) Except as hereinafter provided concerning performance guarantees, no final plat shall be approved until all required improvements are installed. The subdivider is responsible for the installation of all improvements as indicated on the approved preliminary plat and as further required by this chapter. These improvements must meet the standards set by the town.

(b) In lieu of completion of required improvements prior to approval of a final plat, the subdivider may post a performance guarantee in an amount sufficient to secure to the town the satisfactory installation of improvements. The performance guarantee may be in the form of one of the following methods:

1. Irrevocable letter of credit from an insured financial institution;

2. A first or second deed of trust;

3. Performance or surety bond executed by a company licensed to operate in the state; and

4. Escrow deposit by cash or certified check.

(c) Where performance guarantees are used in lieu of the completion of improvements, and prior to submission of a final plat to the Town Board of Commissioners, the subdivider must

provide specifications, quantities, unit costs and a total cost estimate, along with an estimated date for the completion of improvements. The Town Engineer, or other appropriate official, shall review the above information from the subdivider for reasonableness as to cost and time estimates.

(d) The Town Engineer may affirm or modify the subdivider's cost and time estimates and make a recommendation to the Town Manager as to the amount of the performance guarantee and the time limit for completion.

(e) Based on the Town Engineer's recommendation, the Town Manager shall set the amount and terms of the performance guarantee as necessary to ensure that the interests of the town are fully protected.

(f) When work required under the terms of the performance guarantee is not completed by the subdivider, the Town Manager shall inform the Town Board of Commissioners, at its next regularly scheduled meeting, and shall recommend to the Board of Commissioners the action, including call of the guarantee, as is appropriate in the circumstances of the case to procure the completion of the required improvements.

(Amended 9-2-1986)

(2) *Final plat requirements.* The final plat shall conform substantially to the preliminary plat as it was approved, and shall comply specifically with the provisions of G.S. § 47-30. The allowable error of closure shall be one to 5,000 (1:5,000). The final plat shall be prepared by a registered surveyor and/or engineer, and shall be drawn at a scale of not less than one inch to 100 feet, and shall contain or be accompanied by the following information:

(a) The name of the subdivision, the owner, the subdivider and the name of the surveyor or engineer preparing the final plat, the date, north point and graphic scale;

(b) The exact boundary lines of the tract fully dimensioned by bearings and distances, the names and locations of all adjoining subdivisions and unsubdivided property, the accurate location and descriptions of all monuments, markers and control points, sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street lines, lot line, right-of-way line, easement and building setback line including distances, bearings and radii, length and central angles of curved lines, the location areas to be used for parks, churches and the like, if any, blocks alphabetized consecutively and lots numbered consecutively throughout each block, any other information considered by the subdivider, Planning Board or Town Commissioners, to be pertinent to the review of the final plat;

(c) Certificate of ownership, dedication and jurisdiction, signed, certificate of accuracy of mapping, signed, certificate of Planning Board approval, unsigned, certificate of approval of Town Board of Commissioners, unsigned. A space of three by five inches shall be left for the signature and seal of the Register of Deeds of the county; and

(d) Must include an engineer's or surveyor's statement as to which lots, if any, are partially or completely located in an area of special flood hazard identified pursuant to the National Flood Insurance Act of 1968. This statement must include the BFE of the affected lot(s) and should list the lowest adjacent grade of each lot located within the flood zone.

(Amended 4-6-2004)

(3) *Planning Board action.*

(a) The Planning Board shall discuss the final plat at its next regular meeting after the final plat has been properly submitted. The Planning Board shall have 45 days after its regular meeting in which to take action on the final plat. Unless stipulation for additional time is agreed to by the subdivider and if the Planning Board fails to take action in the allotted time, the final plat shall be deemed approved by the Planning Board.

(b) The Planning Board shall review the final plat for compliance with the requirements of this chapter and any other specifications which were agreed upon at the time of the review of the preliminary plat.

(c) During its review of the final plat, the Planning Board may appoint a registered engineer or registered surveyor to check the accuracy of the subdivision layout and the final plat. If substantial errors are found, the costs shall be charged to the subdivider.

(d) The Planning Board shall approve or disapprove the final plat.

1. If the final plat is approved, approval shall be indicated on the appropriate certificate of the final plat, and the final plat shall be forwarded to the Town Board of Commissioners for final approval.

2. If the final plat is disapproved by the Planning Board, the reasons for the action shall be stated in writing. The reasons for disapproval shall refer specifically to those parts of this chapter, other statutes or practices with which the plat does not comply. One copy of the reasons with the original drawing and remaining prints of the proposed subdivision shall be transmitted to the subdivider. Before final approval is granted, the subdivider shall make the required changes and submit a revised final plat.

(4) *Action by Board of Town Commissioners.* The Board of Town Commissioners shall take action on the final plat at its first regular meeting following the approval of the final plat by the Planning Board. The Board of Commissioners shall approve or disapprove the final plat.

(a) If the final plat is approved, approval shall be indicated on the appropriate certificate on the final plat. The subdivider shall file the approved plat with the Register of Deeds within 90 days after the approval of the Board of Town Commissioners or the approval shall be void.

(b) If the final plat is disapproved by the Town Board of Commissioners, the reasons for such action shall be stated in writing. The reasons for disapproval shall refer specifically to those parts of this chapter, other statutes or practices with which the plat does not comply. One copy of the reasons with the original drawing remaining prints of the proposed subdivision shall be

transmitted to the subdivider. Before final approval is granted, the subdivider shall make the required changes and submit a revised final plat.

(2006 Code, Ch. 23, Art. III, § 3.6)

§ 155.021 APPROVAL NOT TO CONSTITUTE ACCEPTANCE.

(A) The approval of a final plat pursuant to regulations adopted under this chapter shall not be deemed to constitute or effect the acceptance by the town, a governmental unit or a public body of the dedication of any street or other ground, public utility line or other public facility shown on the plat.

(B) For subdivision in the extra-territorial areas, permits for the construction of buildings or other improvements may be issued when the agencies providing utilities accept improvements by letter, and when the State Department of Transportation states by letter that streets and drainage systems meet their requirements for acceptance, except for population densities, and the letter from the State Department of Transportation shall meet the requirements in §§ 155.037 and 155.038 for lots to front on a public street.

(2006 Code, Ch. 23, Art. III, § 3.7)

§ 155.022 MINOR SUBDIVISION APPROVAL.

(A) The Planning Director or his or her designee shall approve or disapprove minor subdivision final plats in accordance with the provisions of this section.

(B) The applicant for minor subdivision plat approval, before complying with division (C) below, shall submit a sketch plan to the Town Planner for a determination of whether the approval process authorized by this section may be and should be utilized. The Planning Director may require the applicant to submit whatever information is necessary to make this determination, including, but not limited to, a copy of the tax map showing the land being subdivided and all lots previously subdivided from the tract of land within the previous five years.

(C) Applicants for minor subdivision approval shall submit to the Town Planner a copy of the plat conforming to the requirements set forth in § 155.020(B) (as well as six prints of the plat); except that, a minor subdivision plat shall contain the following certificates in lieu of those required in § 155.020(B):

(1) *Certificate of ownership.*

I hereby certify that I am the owner of the property described hereon, which property is within the subdivision regulation jurisdiction of the town, and that I freely adopt this plan of subdivision.

_____ Owner

_____ Date

(2) *Certificate of approval.*

I hereby certify that the minor subdivision shown on this plat does not involve the creation of new public streets or any change in existing public streets, that the subdivision shown is in all respects in compliance with _____ of the town ordinances, and that therefore this plat has been approved by the Town Planner, subject to its being recorded in the Pitt County Registry within 60 days of the date below.

(D) The Town Planner shall take expeditious action on an application for minor subdivision plat approval. However, either the Town Planner or the applicant may at any time refer the application to the major subdivision approval process.

(E) Not more than a total of three lots may be created out of one tract using the minor subdivision plat approval process, regardless of whether the lots are created at one time or over an extended period of time.

(F) Subject to the criteria of this section, the Town Planner shall approve the proposed subdivision, unless the subdivision would be considered a major subdivision, or it is referred to the major subdivision approval process.

(G) If the subdivision is disapproved, the Town Planner shall promptly furnish the applicant with a written statement of the reason for disapproval.

(H) The Town Planner or his or her designee shall be responsible for recording the approved plat.

(2006 Code, Ch. 23, Art. III, § 3.8) (Added 1-6-1998)

DESIGN STANDARDS AND IMPROVEMENTS

§ 155.035 GENERAL PROVISIONS.

(A) Any land area within the jurisdiction of this chapter which is deemed unsuitable for residential occupancy by the Planning Board, shall be prohibitive for subdivision development, or for other use that may jeopardize life, health or property.

(B) Lands of this nature shall be used only for those uses that comply with official plans of the town and that will not be endangered by periodic or occasional flooding. The Planning Board, in making its determination, shall be guided by an analysis of available data on topography, soils, floodplains, drainage and ground and surface water.

(2006 Code, Ch. 23, Art. 4, § 4.1)

§ 155.036 SUBDIVISION NAMES.

In no case shall the name for a proposed subdivision duplicate or be phonetically similar to existing subdivisions in the town.

(2006 Code, Ch. 23, Art. 4, § 4.2)

§ 155.037 STREETS AND ROADS.

(A) In any new subdivision the street layout shall conform to the arrangement, width and location indicated on any official plans or maps for the town. In areas for which the town has not completed the plans, the plans of the county should be utilized. In areas where no plans have been completed, the streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to the natural features as streams and tree growth, to public convenience and safety and to the proposed use of land to be served by the streets.

(B) The proposed street layout shall be made according to good land planning practice for the type of development proposed, and shall be coordinated with the street system of the town. All streets must provide for the continuation or appropriate projection of principal streets in surrounding areas and provide reasonable means of ingress and egress for surrounding acreage tracts.

(1) Minimum street right-of-way width shall be as shown in the thoroughfare plan for the community and not less than the following:

(a) Major thoroughfare: see thoroughfare plan;

(b) Minor thoroughfare: see thoroughfare plan;

(c) Local streets: 50 feet;

(d) Marginal access streets: 50 feet;

(e) Cul-de-sac: 50 feet; and

(f) Street right-of-way outside of any municipal limits: 50 feet.

(Amended 9-5-1989)

(2) Curbs and gutters are required inside the corporate limits, and the paving widths back to back of curbs shall be as shown in the thoroughfare plan and not be less than the following:

(a) Major thoroughfare: see thoroughfare plan;

(b) Minor thoroughfare: see thoroughfare plan;

(c) Local streets: 32 feet;

(d) Marginal access streets: 32 feet; and

(e) Cul-de-sac: 32 feet.

(Amended 9-5-1989)

(3) (a) Curbs and gutters are not required in the extra-territorial jurisdiction, and if not installed, paving widths shall not be less than the following:

1. Collector streets: 24 feet; and

2. Minor (residential) streets: 22 feet.

(b) If curbs and gutters are installed in the extra-territorial jurisdiction, the paving widths set forth in division (B)(2) above shall be met.

(Amended 9-2-1986)

(4) Unless necessitated by exceptional topography and subject to the approval of the Planning Board, the grades shall not be more than 10%, nor less than 0.25% on any street.

(a) Grades approaching intersections shall not exceed 5% for a distance of not less than 100 feet from the centerlines of the intersection.

(b) Street grades shall be established wherever practicable in a manner as to avoid excessive grading, the promiscuous removal of ground cover and tree growth and general leveling of the topography.

(c) All changes in street grades shall be connected by vertical curves of a minimum length equivalent in feet to 15 times the algebraic difference in the rates of grade for major and collector streets, and one-half this minimum for all other streets.

(5) When a continuous street centerline deflects at any point by more than ten degrees a circular curve shall be introduced, having a radius of curvature on the centerline of not less than the following:

(a) Major streets: 30 feet;

(b) Collector streets: 200 feet; and

(c) Minor streets: 100 feet.

(6) A tangent at least 50 feet long shall be provided between reverse curves on all streets.

(7) Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 60 degrees.

(a) Street jogs with centerline offsets of less than 125 feet shall be avoided.

(b) Intersections with a major street or highway shall be at least 800 feet apart.

(c) Property lines at street intersections shall be rounded with a minimum radius of 15 feet or of a greater radius when required by the Planning Board.

(8) Every permanent dead-end street shall be developed as a cul-de-sac and shall not exceed 1,800 feet in length, measured from the centerline of the nearest intersecting street to the turn-around, except where the shape of the tract of land being subdivided makes this requirement impractical. Permanent dead-end streets or cul-de-sacs shall be provided at the closed end with a turn around having an outside roadway diameter of at least 80 feet, and a street property line diameter of at least 100 feet.

(Amended 10-6-1998)

(9) Street names for all subdivision plats shall be subject to approval of the Planning Board. New street names shall not duplicate or be similar to existing street names and existing street names shall be projected wherever possible.

(C) (1) *No private streets.* There will be no private streets platted in any subdivision. All subdivided property shall be served from publicly dedicated streets.

(2) Alignment. The street pattern shall be such as to cause no hardship in the subdividing of adjacent properties. All streets shall provide for the continuation or appropriate projection of principal streets in surrounding areas and provide reasonable means of ingress for surrounding acreage tracts. Streets shall align as nearly as possible with existing adjacent streets or roads.

(3) Street names. Proposed streets which are obviously in alignment with other existing and named streets shall bear the assigned names of the existing streets. In no case shall the name for proposed streets duplicate or be phonetically similar to existing street names in the town or its planning area.

(2006 Code, Ch. 23, Art. 4, § 4.3)

§ 155.038 LOT REQUIREMENTS.

(A) Lot sizes, shapes and location shall be made with due regard to topographic conditions, contemplated use and the surrounding area. Land subject to flooding and land deemed by the Planning Board to be uninhabitable for other reasons shall not be platted for residential occupancy, nor for other uses as may increase danger to health, life or property, or aggravate the flood hazard, but the land may be set aside for the uses as will not be endangered by periodic or occasional inundation, or will not produce unsatisfactory living conditions.

(B) Each lot shall front on a public street, double frontage lots shall be permitted only under unusual or exceptional circumstances, and side lot lines shall be substantially at right angles to street lines.

(C) The size of all lots shall conform with the Town Zoning Ordinance. Whenever there is a discrepancy between the minimum standards or dimensions noted herein and those contained in the Zoning Ordinance, Building Codes or other official regulations, the more stringent requirements shall apply.

(D) Lots for residential use within the corporate limits of the town shall not be less in width, depth or area than required by the Zoning Ordinance for the district in which the proposed subdivision is located. All residential lots shall be 80 feet wide at the building line.

(E) Subject to the approval of the County Health Department, lots located outside the corporate limits of the town and served by a public water and sewer system shall have a minimum of 10,000 square feet; lots served by either a public water or public sewer system shall have a minimum of 15,000 square feet; and lots served by neither a public water nor a public sewer system shall have a minimum of 20,000 square feet.

(F) Corner lots shall have width sufficient to permit building setback from side streets equivalent to the building setback of the front streets.

(2006 Code, Ch. 23, Art. 4, § 4.4)

§ 155.039 WATER AND SEWER.

The developer of any subdivision located within the corporate limits which has either public water or public sewer systems, or both, available at the boundary of the subdivision, shall, with prior approval of utility plans and specifications by the Town Board, Planning Board and Town Engineer, connect with available systems in accordance with applicable ordinances and policies of the town before the plat shall be eligible for final approval. A final plat, complying with the provisions of this chapter, shall be submitted before improvements can begin. Owners of subdivision located beyond the corporate limits are encouraged to consider provision of public water and sewer services to each lot in order to take advantage of the lot size permitted where the services are available. The town will consider furnishing public water and sewer services on a shared cost basis to any plat that complies with all the requirements of this chapter. Mere

consideration by the town does not imply obligation on the part of the town to furnish the services.

(2006 Code, Ch. 23, Art. 4, § 4.5)

§ 155.040 BLOCKS.

(A) (1) Blocks shall be laid out with special attention given to the type of land use proposed within the block.

(2) Blocks shall not exceed 1,400 feet in length nor shall they be less than 400 feet in length and have sufficient width to provide for two tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic.

(B) Pedestrian crosswalks, not less than ten feet in width, may be required near the center and entirely across any block 900 feet or more in length where deemed essential by the Planning Board to provide adequate access to schools, shopping centers, churches or transportation facilities.

(2006 Code, Ch. 23, Art. 4, § 4.6)

§ 155.041 BUFFER STRIPS.

In residential districts a buffer strip of at least ten feet in depth, in addition to the normal lot depth required, shall be provided adjacent to all railroads, limited access highways and commercial developments. This strip shall be part of the platted lots, but shall have the following restrictions lettered on the face of the plat:

"This strip reserved for the planting of trees or shrubs by the owner; the building of residential structures hereon is prohibited."

(2006 Code, Ch. 23, Art. 4, § 4.7)

§ 155.042 EASEMENTS.

(A) Utility easements should be agreed upon by the subdivider and the utility company; however, utility easements shall be a minimum of 20 feet. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a drainage easement or storm water right-of-way, conforming substantially to the lines of the water course at least 20 feet wide and ten feet on either side.

(B) Lakes, ponds, creeks and similar areas may be accepted for maintenance only if sufficient land is dedicated as a public recreation area or park or if the area constitutes a necessary part of

the drainage control system. The areas must be approved by the Planning Board and Town Board before approval of the final plat.

(2006 Code, Ch. 23, Art. 4, § 4.8)

§ 155.043 MONUMENTS.

Permanent monuments shall be installed and control corners designated in conformance with the letter and intent of G.S. §§ 39-32.1 through 39-32.4 and other points established according to the provisions of the Manual of Practice for Land Surveyors of the State Board for the Registration for Professional Engineers and Land Surveyors.

(2006 Code, Ch. 23, Art. 4, § 4.9)

ADMINISTRATION

§ 155.055 ADMINISTRATOR.

The Board of Town Commissioners shall designate the agent or offices of the town as administrator of this chapter as shall be determined appropriate.

(2006 Code, Ch. 23, Art. V, § 5.1)

§ 155.056 EXCEPTIONS.

The town recognizes the need to encourage innovations in residential development and more efficient use of land and public services. The purpose of this section is to provide greater flexibility in residential design through the allowance of variations in lot size and design requirements while preserving the open spaces and natural features of the subdivided area.

(A) *General.* A preliminary plat of the proposed condominium, townhouse or clustered development and a final plat of the development shall be submitted pursuant to the provision of this chapter and in conformity with the following.

(1) *Common areas.* All condominium, townhouse and clustered development shall contain commonly owned land other than parking lots greater than or equal in area to 20% of the entire development and shall be held in non-profit corporate ownership by the owners of lots within the development. In consideration of the purpose served by condominium, townhouse and clustered development, the title to the common areas or property shall be preserved for the perpetual benefit of the private properties in the development and shall be restricted against private ownership for any other purpose.

(2) *Density*. Individual lot size may be varied, but the overall density of a condominium, townhouse or clustered development shall not exceed that permitted by the applicable zoning requirements. All remaining land not shown as lots shall be designated as common areas.

(3) *Public access, easements and private party walls*. Building lots may abut or be provided with frontage on common areas if provisions are made to allow adequate community services. Easements over the common areas for access, ingress and egress from and to public streets and walkways and easements for enjoyment of the common areas, as well as for parking shall be granted to each owner of a residential site. All common walls between individual residences shall be party walls, and provisions for the maintenance thereof and restoration in the event of damage or destruction shall be established.

(4) *Utilities and improvements*. All condominium, townhouse, and clustered development shall include town water and sewer utilities or approved alternate systems, sidewalks, paved streets and parking areas with curb and gutter, underground electric, CATV and telephone service, landscaping and any other improvements considered necessary by the Planning Board.

(5) *Group housing*. The development standards for group housing shall apply.

(6) *Site plan.* Site plans shall be required in addition to preliminary and final plats for all condominium, townhouse and clustered development, and shall be prepared by a registered architect or a licensed professional engineer drawn to a scale no smaller than one inch equals 50 feet and shall include the following additional particulars:

(a) The site plan shall number and show the dimensions of all building sites;

(b) The location of buildings, streets, alleys, walks and parking areas;

(c) Descriptions of all garages, balconies, patios and the like, which form a part of each unit;

(d) Setback dimensions of buildings;

(e) Location of existing and proposed walls and fences, all street and utility easements to be dedicated to the public;

(f) Drainage system;

(g) All areas on the site plan other than public streets, easements or private building sites shown as common areas;

(h) Recreation areas and facilities;

(i) Provisions for community services (trash pickup and the like);

(j) The type of existing plant material and the size and type of plants to be planted; and

(k) The number and location of handicapped parking places.

(B) *Covenants and restrictions.* The developer shall file with the final plat a declaration of covenants and restrictions governing the common areas, homeowners association and residential sites. The declaration shall be a complete legal document prepared in substantial accordance with the State Unit Ownership Act, being G.S. §§ 47A-1 et seq., containing (but not be limited to) provisions for the following.

(1) The homeowners' association shall be organized and in legal existence prior to the date of any residences in the development.

(2) Membership in the homeowners' association shall be mandatory for each original purchaser and each successive purchaser of a residential site.

(C) *Requirements for unit ownership*.

(1) Before a declaration and plat establishing a condominium or unit ownership development may be recorded in the office of County Register of Deeds, the declaration and plat shall be approved by the Planning Board and Board of Commissioners. The declaration and plat shall conform to applicable subdivision and zoning requirements as set forth in the code of ordinances of the town.

(2) No unit shall be conveyed until the declaration and plat have been approved by the Planning Board and Board of Commissioners and recorded in the office of the County Register of Deeds.

(2006 Code, Ch. 23, Art. V, § 5.2) (Amended 5-7-1985)

§ 155.057 VARIANCES.

The Planning Board and Board of Town Commissioners may approve subdivision plats which vary from the design standards and improvements required by this chapter where topographic or other conditions are such that compliance with the requirements of this chapter would cause an unusual and unnecessary hardship on the subdivider above and beyond what other subdividers would be required to meet; provided that, the variations will not have the effect of nullifying the intent and purpose of these regulations. No variance shall be granted which conflicts with local, state or federal statute, ordinance or regulation. The subdivider shall submit a written request and justification for any variance and the Planning Board or Board of Commissioners may attach to the granting of a variance any conditions necessary to ensure that the purpose and intent of this chapter is not compromised.

(2006 Code, Ch. 23, Art. V, § 5.3)

§ 155.058 AMENDMENT.

(A) Unless initiated by the Planning Board, the Board of Commissioners shall submit all proposed amendments to the subdivision regulations to the Planning Board for review and

recommendation. The Planning Board shall have 45 days within which to submit its report. If the Planning Board fails to submit a report within the above period, it shall be deemed to have approved the proposed amendment.

(B) A public hearing shall be held by the Board of Commissioners before the adoption of any proposed amendment to the subdivision regulations. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper of general circulation in the town, the notice to be published the first time not less than 15 days, nor more than 25 days, prior to the date established for the public hearing.

(2006 Code, Ch. 23, Art. V, § 5.4)

§ 155.059 FEES.

A fee of $0.50 per lot shall be paid when the preliminary plat is submitted for consideration. There shall be a $5 minimum charge for all subdivisions.

(2006 Code, Ch. 23, Art. V, § 5.7)

§ 155.060 COMPLIANCE WITH OFFICIAL PLANS.

(A) Whenever a tract to be subdivided embraces any part of a road or thoroughfare designated in the official maps and plans for the town, the part of that proposed public way shall be platted and dedicated by the subdivider in the location and dimensions specified.

(B) (1) Subdivision and sale of land creates additional responsibilities for the town as well as the county; primarily in the provision of town and county services to new residents. To ensure that orderly growth and development of the town and the county in accordance with general principles set forth in the town's and county's policies and ordinances, it is recommended that the subdivider dedicate or reserve open space for parks, schools, fire stations and playgrounds to serve the people that will in part, be living in a newly developing area.

(2) If the subdivider chooses to dedicate land to the town or to the county, the respective Board of Commissioners, upon acceptance, must agree to accept the responsibility of maintaining the site; the final plant must show the dedication.

(2006 Code, Ch. 23, Art. V, § 5.8)

PUBLIC FACILITIES FINANCING

§ 155.075 PURPOSE.

(A) (1) The purpose of this subchapter is to implement procedures for financing of public facilities in new designated housing areas.

(2) These procedures are intended to enhance the infill policy for the town which will result in stimulating residential growth in a cost effective manner utilizing as much as possible existing town utility facilities.

(B) The new designated housing areas are to be those areas identified by the Town Planning Board and other areas as applied for by developers consistent with the town land use plan or identified by a resolution of the Town Board of Commissioners.

(C) This subchapter is intended to establish the procedures for the implementation of a policy providing for special benefits of construction and improvement on certain public facilities and the establishment of special assessments on land related to the benefits received with this construction for improvements.

(2006 Code, Ch. 23, Art. V, § 6.1)

§ 155.076 AREAS OF BENEFIT AUTHORIZED.

In order that the burdens of cost of construction of public facilities may be borne by all of the lands benefitted thereby, areas of benefit may be designated to which charges against the lands may be imposed in accordance with procedures set forth in this subchapter.

(2006 Code, Ch. 23, Art. V, § 6.2)

§ 155.077 DEFINITIONS.

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

ADVANCE. The amounts expended by the town towards the cost of public facilities project within or for the benefit of an area of benefit and for which the town shall be reimbursed.

AREA(S) OF BENEFIT. Land which is designated as receiving special benefits from the construction, acquisition and/or improvements of public facility projects as established by resolution of designation adopted by the Town Board of Commissioners as defined in this subchapter.

CAPITAL IMPROVEMENT PROGRAM. A plan for which the implementation and financing of public facilities projects including, but not limited to, a schedule for the commencement of construction, the estimated cost of construction and the payment of facilities benefit assessments.

CONSTRUCTION. Design acquisition of property, administration of construction and incidental cost related thereto.

COST. Amounts spent or authorized to be spent in connection with the planning, financing, acquisition and development of a public facilities project including, without limitation, the cost of land, construction, engineering, administration and legal and financing consulting fees.

FACILITIES BENEFIT ASSESSMENT(S). The amounts collected under the terms of this subchapter to provide funds for public facilities projects which will benefit designated areas of benefit.

INFILL POLICY. The policy of the town to enhance development within the city limits and those areas where public utility facilities currently exist.

PUBLIC FACILITIES PROJECT. Any and all public improvements that need for which is directly or indirectly generated by development including, but not limited to, the following:

(1) Water mains, pipes, tunnels, hydrants, taps and other necessary appurtenances for providing water service;

(2) Lines, conduits and other necessary works and appliances for providing electrical power service;

(3) Poles, posts, wires, pipes, conduits, lamps and other necessary works and appliances for lighting purposes; and

(4) Sanitary sewers or instruments of sanitation together with the necessary outlets, manholes, connecting sewers, taps, ditches, drains, tunnels, channels or other appurtenances.

(2006 Code, Ch. 23, Art. V, § 6.3)

§ 155.078 INITIATION OF PROCEEDINGS.

(A) Upon receipt of a preliminary plat of the proposed development and application to provide financial assistance for the purpose of providing public facilities, the Planning Board shall review the plat pursuant to the provisions of this chapter. Upon approval of the preliminary plat, the Planning Board and staff shall prepare a report in writing which shall contain:

(1) An approved preliminary plat of the proposed development, and a staged development plan describing direction of development in the designated area of benefit with an anticipated time schedule for the development; and

(2) A description of the public facilities project.

(B) The town staff shall then prepare a report as an addendum to the Planning Board report which shall include:

(1) An estimated total cost of the project based on the development plan;

(2) A plan for distributing cost of the project among benefitting parcels according to the facilities benefits received by each parcel; and

(3) The amount of contribution or advance which the city will make toward total cost.

(2006 Code, Ch. 23, Art. V, § 6.4)

§ 155.079 VOLUNTARY ANNEXATION.

An area of benefit outside the town limits must be voluntarily annexed into the town limits prior to becoming designated.

(2006 Code, Ch. 23, Art. V, § 6.4a)

§ 155.080 DESIGNATION OF AREA OF BENEFIT.

Upon receipt of the report described in § 155.078 from the Town Planning Board and town staff, the Board of Commissioners shall designate the area of benefit if public facility financing funds are available by adoption of a resolution which shall include the following:

(A) Definitive description of the specific public facilities project, the cost of which is proposed to be charged to the properties within the area of benefit;

(B) A capital improvement program with respect to the public facilities project;

(C) The proposed boundaries of the area of benefit;

(D) Information concerning the method by which the cost are proposed to be apportioned among the parcels within the area of benefit and an estimate of the amount of the facilities benefit assessment which shall be charged to each parcel;

(E) The basis and methodology by which the facilities benefit assessment will be computed, assessed and levied against the identified parcels; and

(F) The amount of advance, if any, which the town will make towards the total cost. Full payment of the facility assessment is due five years from the date a lien is established on the property.

(2006 Code, Ch. 23, Art. V, § 6.5)

§ 155.081 PAYMENT OF BENEFIT ASSESSMENTS.

(A) Liens shall be placed by the town against the property or properties within the designated area of benefit for the amount of contribution or advance on behalf of the town for the public facilities project. If the area of benefit is subdivided into smaller parcels, the lien for contributions will be prorated to these subdivided parcels. Prorated amounts as identified by the facilities benefit assessment amounts will remain in effect until they have been paid. The facilities benefit assessment shall be paid by the landowner upon transfer of the property.

(B) The total cost and/or contributions made by the town shall be paid by the final date shown in the resolution.

(C) Money received by the town as payment of the facilities benefit assessment for a specific area of benefit shall be deposited in a special fund established for that area of benefit and upon payment of the facilities benefit assessment as provided in this subchapter, the lien shall be discharged. In the event of a partial payment within an area of benefit, the town shall release that portion of property from the liens which have been issued.

(2006 Code, Ch. 23, Art. V, § 6.6)

§ 155.082 DELINQUENCY IN PAYMENT, SALE OR FORECLOSURE.

Where there is a delinquency in payment of the facilities benefit assessments as required hereby, the town shall initiate foreclosing procedures in accordance with applicable state and local laws.

(2006 Code, Ch. 23, Art. V, § 6.7)

§ 155.083 CONSIDERATION IN LIEU OF ASSESSMENT.

Upon application by the landowner or his or her authorized agent, the Town Board of Commissioners may accept consideration in lieu of facilities benefit assessment required by this subchapter; provided that, the Board of Commissioners upon recommendation of the Town Manager finds that a substitute consideration proposed has:

(A) A value equal to or greater than the facilities benefit assessment; and

(B) Is in a form acceptable to the Board of Commissioners.

(2006 Code, Ch. 23, Art. V, § 6.8)

§ 155.084 TERMINATION OF AREA OF BENEFIT.

Upon the receipt of an application by a landowner or his or her designated agent or its own motion, the Town Board of Commissioners may initiate proceedings for the termination of an area of benefit by adopting a resolution stating its intention. The resolution of intention shall state the time and place at which the Board of Commissioners will hold a hearing to determine the termination. If, at the conclusion of the hearing, the Town Board of Commissioners finds and determines that the public facilities project for which the area was originally formed will not be required in the reasonable foreseeable future or that installation of the public facilities project may be financed more effectively by another method, the Board of Commissioners may adopt a resolution declaring an area of benefit terminated.

(2006 Code, Ch. 23, Art. V, § 6.9)

CHAPTER 156: LANDSCAPING

Section

General Provisions

156.01 Purpose

156.02 Plan required

156.03 Definitions

Standards and Regulations

156.15 Streetscape landscaping

156.16 Vehicular use area (VUA) landscaping

156.17 Utility service area (USA) landscaping

156.18 Screening

156.19 Existing trees

156.20 Protection of planting areas

156.21 Planting standards

156.22 Information to be submitted

156.23 Tree placement

156.24 Schedule of trees and screening plants

Administration and Enforcement

156.35 Amoritzation of non-conforming properties

156.36 Modifications

156.37 Inspection of sites

156.38 Emergencies

156.99 Penalty

Cross-reference:

Subdivisions, see Ch. 155

Zoning, see Ch. 157

GENERAL PROVISIONS

§ 156.01 PURPOSE.

The purpose of this chapter is to control and regulate the planting of trees and shrubs; to encourage the protection of existing trees; to provide attractive views from roads and adjacent properties; to screen from view visually undesirable uses; to moderate temperatures of impervious surfaces; to reduce glare from vehicular use area; to filter vehicle exhaust; and to establish procedures for fulfilling these purposes. This chapter is not intended to apply to single-family or duplex residential units. It does apply to multi-family and commercial occupancies.

(2006 Code, Ch. 33, § A) (Adopted 8-7-2002)

§ 156.02 PLAN REQUIRED.

Any site plan pursuant to this section shall include a landscape plan.

(2006 Code, Ch. 33, § B) (Adopted 8-7-2002)

§ 156.03 DEFINITIONS.

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

CALIPER. Diameter measurement of tree trunk taken at six inches above ground level for trees up to and including trees four inches in caliper. For larger trees, measurement of ***CALIPER*** shall be taken at 12 inches above ground level.

LARGE SHADE TREE. A tree whose height will exceed 35 feet at maturity.

LOADING AND SERVICE AREA. Area which is used for trash or garbage collection, vehicular loading and unloading, outdoor storage or repair, or for covered storage where the structure has no walls to screen views.

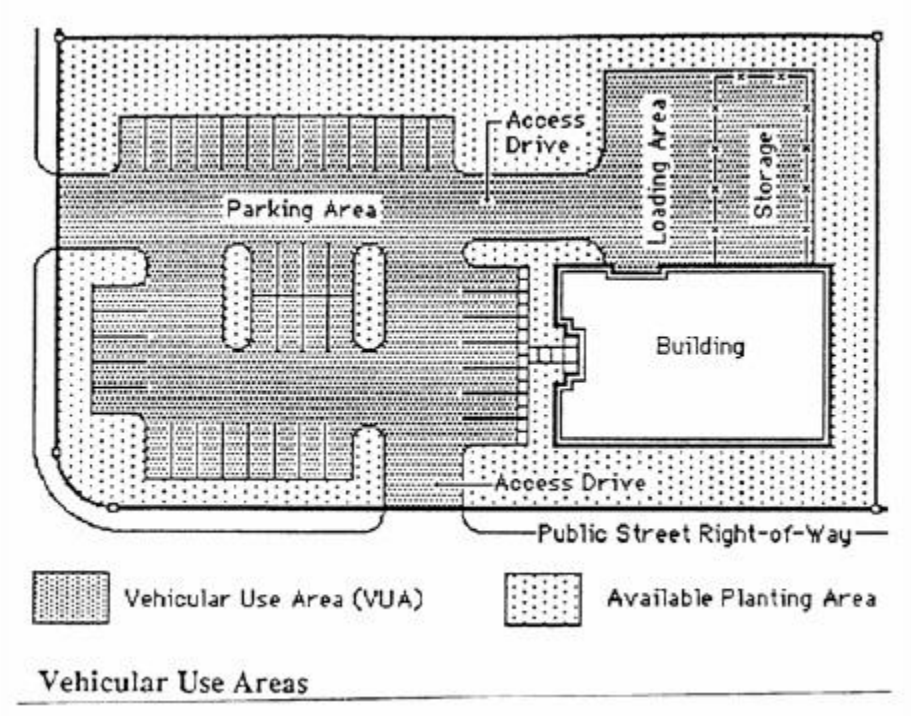
PLANTING AREAS. Landscape area reserved for the sole purpose of providing growth area for required plant material.

PLANTING STRIP. Planting area along public right-of-way which is reserved for landscaping purposes.

SMALL ORNAMENTAL TREE. A tree whose height will be below 35 feet at maturity.

UTILITY SERVICE AREA (USA). Area extending ten feet on either side of any overhead or underground utility service line, being either electric, water or sewer.

VEHICULAR USE AREA (VUA). Areas accessible to vehicular traffic on a regular established basis. These areas have an improved surface such as gravel, asphalt, brick or concrete pavement. Examples include, but are not limited to, driveway and parking lots.



(2006 Code, Ch. 33, § C) (Adopted 8-7-2002)

STANDARDS AND REGULATIONS

§ 156.15 STREETSCAPE LANDSCAPING.

For property abutting a public right-of-way, the following shall be required.

(A) A perimeter planting strip, exclusive of access drives, adjacent to the public right-of-way with a minimum width of nine feet; provided, each streetscape tree shall have minimum four and one-half foot radius planting area. The strip's total length shall be equal to the total length of the property line adjacent to the public right-of-way. The streetscape landscaping shall not interfere with the sight distance triangle for intersections.

(1) When developing large tracts of land where large amounts of vacant space remain undeveloped, landscaping shall only be required in front of areas actually being developed. Undeveloped areas must still be maintained.

(2) When developing large tracts of land where large amounts of vacant space remain undeveloped, landscaping shall only be required in front of areas actually being developed. Undeveloped areas must still be maintained.

(B) Trees shall be planted within the planting strip according to one of the following requirements.

(1) One large shade tree for every 100 linear feet of planting strip or fraction thereof equal to or greater than 50 feet. Each tree shall be a minimum of two-inch caliper and have a minimum height of ten feet from the ground surface. Multi-stem trees shall be a minimum ten feet in height from the ground surface. See § 156.24 for a schedule of recommended large shade trees. When large trees are planted, the minimum spacing required shall not be less than 50 feet.

(2) One small size ornamental tree for every 50 linear feet of planting strip or fraction thereof equal to or greater than 25 feet. Each tree shall be a minimum of one-inch caliper and have a minimum height of six feet from the ground surface. Multi-stem trees shall be a minimum six feet in height from the ground surface. See § 156.24 for a schedule of recommended small ornamental trees. When planting small trees, the minimum required spacing shall not be less than 20 feet.

(3) A combination of both large shade and small ornamental trees, such that the total number of linear feet of planting strip credited for all trees according to the ratios described in divisions (B)(1) and (B)(2) above equals the total linear feet of planting strip required. (For example, a 200 foot frontage would be required to have one of the following: division (B)(1) above: two large shade trees; under division (B)(2) above: four small ornamental trees; or under this division: one large shade tree and two small ornamental trees.)

(2006 Code, Ch. 33, § D) (Adopted 8-7-2002)

§ 156.16 VEHICULAR USE AREA (VUA) LANDSCAPING.

(A) Trees shall be planted according to one of the following requirements:

(1) One large shade tree for every 5,000 square feet of VUA or fraction thereof greater than or equal to 2,500 square feet. Each tree shall be a minimum of two-inch caliper and have a minimum height of ten feet from the ground surface. Multi-stem trees shall be a minimum ten feet in height from the ground surface;

(2) One small shade tree for every 2,500 square feet of VUA or fraction thereof greater than or equal to 1,250 square feet. Each tree shall be a minimum of one-inch caliper and have a minimum height of six feet from the ground surface. Multi-stem trees shall be a minimum of or equal to six feet in height from the ground surface; and

(3) A combination of both large and small ornamental trees, such that the total number of square feet of VUA credited for all the trees as required in divisions (A)(1) and (A)(2) above equals the total square feet of VUA on the property.

(B) A minimum planting area for each required tree shall be provided as follows: large shade tree: 230 square feet; small ornamental tree: 150 square feet.

(C) Planting areas provided for VUA planting must meet the following requirements:

(1) Demonstrate that adequate soil preparation and mulching have been provided for all planting areas. Soil preparation must be verified by the town's Arborist or his or her representative; and

(2) Planting areas shall have a minimum dimension in accordance with § 156.15. Each tree must have a minimum of four and one-half foot radius planting area.

(D) No portion of the VUA shall be further than 120 feet from the trunk of a required VUA tree.

(E) No credit for streetscape trees. Trees required by § 156.15 shall not be used to meet the VUA requirement. However, VUA required trees may be planted in the planting strip if all other requirements of the landscape standards are met.

(2006 Code, Ch. 33, § E) (Adopted 8-7-2002)

§ 156.17 UTILITY SERVICE AREA (USA) LANDSCAPING.

Ten feet on either side of overhead or underground utility lines:

(A) No trees that will exceed 20 feet in height shall be planted within the utility service area serviced by an overhead primary electrical line; and

(B) No trees or shrubs shall be planted within the area USA that includes an under ground electric, water or sewer line.

(2006 Code, Ch. 33, § F) (Adopted 8-7-2002)

§ 156.18 SCREENING.

(A) Loading and service areas shall be screened from public view from both residentially zoned property and public rights-of-way.

(B) Screening shall be accomplished by one of the following methods:

(1) A continuous row of large evergreen shrubs. Shrubs shall have a minimum height of 30 inches at planting and shall attain a minimum height of six feet at maturity. Shrubs shall be planted a maximum of six feet apart. Minimum planting area width for the shrubs shall be five feet. The use of shrubs of different species is acceptable. The selection of shrubs species shall be subject to the approval of the Planning Director or his or her designee;

(2) An opaque fence or wall with a minimum height of six feet and a maximum height of eight feet. The design and materials of any fence or wall must be presented as part of the site plan approval. The Board of Commissioners reserves the right to deny any materials, which would create a maintenance problem to the detriment of adjacent property owners. The side of the fence or wall facing the affected property owner shall be the finished or better appearing side;

(3) An earth berm to the minimum of six feet. The berm shall be vegetated with grass, shrubs or trees. Other surfacing treatments shall be subject to the approval of the Board of Commissioners; and

(4) A combination of the above such that an effective screen to a minimum of a height of six feet is obtained. Small evergreen shrubs may be substituted for larger shrubs when planted on berms in excess of two feet in height. Smaller shrubs shall have a minimum height of 18 inches at initial planting and shall attain a minimum height of four feet at maturity. The use of shrubs of different species is acceptable. The selection of shrubs species shall be subject to the approval of the Planning Director or his or her designee.

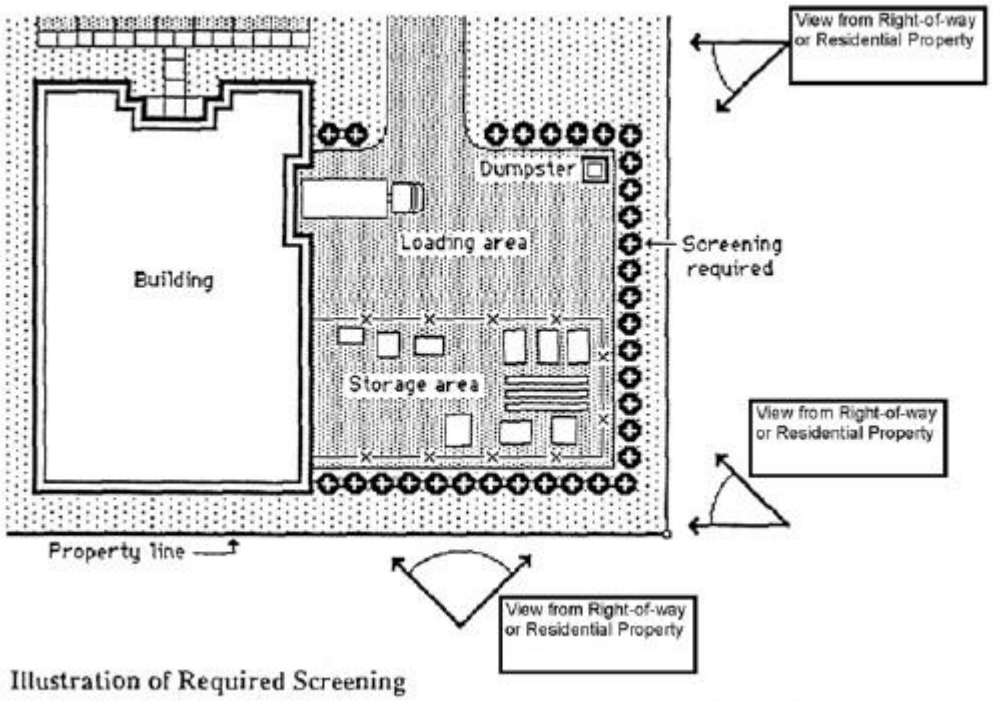


Illustration of Required Screening

(2006 Code, Ch. 33, § G) (Adopted 8-7-2002)

§ 156.19 EXISTING TREES.

(A) Existing trees may be used to satisfy all or part of the required tree plantings for §§ 156.15 and 156.16, if there are existing trees within the property or adjacent public rights-of-way which are to be saved as part of the development of the property. Provisions for ensuring the livability of the trees to be saved must be demonstrated by the owner.

(B) These provisions shall include, but are not limited to:

(1) Adequate planting area required for each existing tree to be saved to be an area on the property that is within a circle whose center is the trunk of the tree and whose radius in feet is equal to the trunk's diameter in inches. However, no radius shall be less than two and one-half feet; and

(2) Adequate protection of trees during and after construction as provided for in this section.

(2006 Code, Ch. 33, § H) (Adopted 8-7-2002)

§ 156.20 PROTECTION OF PLANTING AREAS.

(A) *Permanent protection*. Planting areas shall be protected from damage by vehicular traffic with barriers, including, but not limited to, curbs, wheel stops, walls or fences. These measures shall be maintained for protection of the planting areas for as long as the planting areas are required by this chapter.

(B) *Temporary protection.* During construction adequate protection measures shall be provided for all planting areas of existing trees to be saved under the requirements of this chapter to ensure the exclusion of construction activity and storage of materials in them. This area includes the area up to the drip line. The entire area should be fenced in, and mulch applied to protect the tree and its root system. Trash and debris shall not be buried in planting areas of either existing or proposed trees required by this chapter.

(2006 Code, Ch. 33, § I) (Adopted 8-7-2002)

§ 156.21 PLANTING STANDARDS.

The minimum spacing between trees required by this chapter or between trees required by this chapter and others trees on the property shall be as follows:

(A) Large shade tree to large shade or small ornamental tree: 35 feet; and

(B) Small ornamental tree to small ornamental tree: 20 feet.

(2006 Code, Ch. 33, § J) (Adopted 8-7-2002)

§ 156.22 INFORMATION TO BE SUBMITTED.

(A) A plan of the property at a scale of one inch equals 50 feet or larger shall be submitted as a part of and in accordance with this section.

(B) The plan shall be labeled “landscape plan” and shall include the following:

(1) All proposed structures, drives, walks, parking areas and other features pertinent to the location and planting of trees;

(2) All existing structures and site features to remain which are pertinent to the location and planting of trees;

(3) All existing and proposed, above or below ground utility lines;

(4) All proposed trees required by this chapter, and all existing trees proposed to be saved under the requirements of this chapter. Proposed trees shall be identified by genus, species and installation size. Existing trees to be saved shall be identified by genus, species, size and general condition;

(5) The required planting areas for all trees including the planting strip along public right-of-ways. Critical dimensions for these areas shall be noted; and

(6) Permanent and temporary protection measures.

(2006 Code, Ch. 33, § K) (Adopted 8-7-2002)

§ 156.23 TREE REPLACEMENT.

Owner(s) and their agent(s), heirs or assigns shall be responsible for the installation, reservation and maintenance of all planting and physical features required to satisfy the conditions of this section. Any dead or missing vegetation shall be replaced (with like or similar plants) within one calendar year.

(2006 Code, Ch. 33, § L) (Adopted 8-7-2002)

§ 156.24 SCHEDULE OF TREES AND SCREENING PLANTS.

The following are trees to be utilized in fulfilling the requirements of this chapter. Use of trees not on this list to fulfill the requirements of this chapter shall be subject to the approval of the Planning Director or his or her designee.

(A) *Large shade trees.*

Common Name	***Botanical Name***
Ash, Green	Fraxinus pennsylvanica
Birch, River	Betula nigra
Common Name	***Botanical Name***
Blackgum	Nyssa sylvatica
Cedar, Deodar	Cedrus deodara
Cedar, Eastern Red	Juniperus virginiana
Cypress, Bald	Taxodium distichum
Elm, Chinese	Ulmus parvifolia
Ginkgo, male only	Gingko biloba
Holly, American	Ilex opaca
Honeylocust, Thornless	Gleditsia triacanthos
Linden, Littleleaf	Tilia cordata
Magnolia,, Southern	Magnolia grandiflora
Maple, Red	Acer rubrum
Maple, Sugar	Acer saccharum
Oak, Eastern Red	Quercus rubra maxima
Oak, Laurel	Quercus laurifolia
Oak, Pin	Quercus palustris
Oak, Sawtooth	Quercus acutissima
Oak, Scarlet	Quercus coccinea
Oak, Southern Red	Quercus falcata
Oak, Water	Quercus nigra
Oak, White	Quercus alba
Oak, Willow	Quercus phellos
Pine, Loblolly	Pinus taeda
Pine, Shortleaf	Pinus echinata
Poplar, Tulip	Lirodendron tulipifera
Fruitless Sweetgum	Liquidambar styraciflua
Sycamore	Platanus occidentalis
Zelkova, Japanese	Zelkova serrata

(B) Small ornamental trees.

Common Name	***Botanical Name***
Apricot, Flowering	Prunus mume
Buckeye, Ohio	Aesculus glabra
Carolina Silverbell	Halesia carolina
Cherry, Japanese	Prunus serrulata
Common Name	***Botanical Name***
Cherry, Yoshino	Prunus yedoensis
Crabapple	Malus spp.
Crapemyrtle	Lagerstroemia indica
Dogwood, Kousa	Cornus kousa
Fringe Tree	Chionanthus virginicus
Golden-Rain-Tree	Koelreuteria paniculata
Hawthorne	Cratageus spp.
Hornbeam, American	Carpinus caroliniana
Laurel, Carolina Cherry	Prunus caroliniana
Magnolia, Saucer	Magnolia soulangeana
Maple, Japanese	Acer palmatum
Myrtle, Wax	Myrica cerifera
Pistach	Pistacia chinesis
Redbud, Eastern	Cercis canadensis
Sourwood	Oxydendrum arboreum
Yellowwood	Cladrastis lutea

(C) Screenings.

Common Name	***Botanical Name***
Yaupon Holly	Ilex vomitoira
Duarf Borford Holly	Ilex cornita
Wax Myrtle	Myrica cerifora
Japanese Privet	Ligustrum japonicum
Chinese Privet	Ligustrum chinense
Nellie R. Stevens Holly	Ilex x ‘Nellie R. Stevens’
Foster Holly	Ilex x atlenvatta ‘Foster #2’

(2006 Code, Ch. 33, § R) (Adopted 8-7-2002)

ADMINISTRATION AND ENFORCEMENT

§ 156.35 AMORTIZATION OF NON-CONFORMING PROPERTIES.

(A) *General.* When non-conforming properties make renovations equal to or exceeding 50% of the value of the structure, the site must be brought in to compliance with the provisions of this chapter as follows:

(1) Streetscapes: 100% compliance with § 156.15 is required;

(2) Vehicular use areas: 25% compliance with § 156.16 is required for all properties having more than 12 parking spaces. Properties having 12 or fewer parking spaces are exempt from VUA landscaping requirements; and

(3) Screening: 100% compliance with § 156.18 is required for all properties having trash receptacles or dumpsters, loading or service areas visible from a public right-of-way or from adjacent property which is zoned more restrictively than the subject property.

(B) *Exceptions.*

(1) No expenditures made for removing asphalt, constructing planting areas, adding topsoil or plant materials to comply with this section, shall be required in excess of 2% of the assessed real property tax value of the property on which improvements are made.

(2) Compliance with this section shall be required only to the extent that the compliance does not result in more than a 10% net loss in parking spaces or reduces the total number of spaces below the minimum required by Ch. 157 of this code of ordinances at time of compliance.

(2006 Code, Ch. 33, § M) (Adopted 8-7-2002)

§ 156.36 MODIFICATIONS.

Where unusual circumstances exist, the Appearance Commission may recommend the Planning Board authorize a modification from the requirements of this chapter provided that the overall objectives of the chapter are met.

(2006 Code, Ch. 33, § N) (Adopted 8-7-2002)

§ 156.37 INSPECTION OF SITES.

Agents and authorized representatives of the town may periodically inspect sites subject to the provision of this chapter.

(A) If, through inspection, it is determined that a person has failed to comply with the provisions of this chapter, a notice to comply shall be served upon the person by registered mail from the town. The notice shall set forth that which will be necessary to comply with the chapter.

(B) The town shall have the power to conduct investigations as it may reasonably deem necessary to carry out its duties as prescribed in this subchapter, and for this purpose may enter at reasonable times upon any property, public or private, for the purpose of inspecting the sites subject to the provisions of this chapter. Submission of a site plan shall allow for entry or access to any authorized representative or agent of the town who requests entry for the purpose of inspection. No person shall obstruct, hamper or interfere with the representative while in the process of carrying out his or her official duties.

(2006 Code, Ch. 33, § O) (Adopted 8-7-2002)

§ 156.38 EMERGENCIES.

In case of emergencies such as windstorms, ice storms, fire or other disasters, the requirements of this chapter may be waived by the Planning Director or his or her designee during the emergency period, so that the requirements of this chapter would in no way hamper private or public work to restore order in the town. This shall not be interpreted to be license to circumvent the intent of this chapter.

(2006 Code, Ch. 33, § Q) (Adopted 8-7-2002)

§ 156.99 PENALTY.

(A) Violations of this chapter shall constitute a misdemeanor, punishable as provided in G. S.§ 14-4.

(B) Any act constituting a violation of this chapter shall also subject the offender to a civil penalty of $25. If the offender fails to pay the penalty within ten days of receiving final written notice of a violation, the penalty may be recovered by the town in a civil action in the nature of a debt. A civil penalty may not be appealed to the Board of Adjustments, if the offender received a final written notice of violation and did not appeal to the Board of Adjustments within a reasonable time as provided by the rules of the Board.

(C) Each day that any violation continues after receipt of the final written notice of the violation shall constitute a separate violation and a separate offense for purposes of the penalties and remedies specified herein.

(D) In addition to the penalties and remedies above, the Town Manager may institute any appropriate action of proceedings to prevent, restrain, correct or abate a violation of this chapter.

(2006 Code, Ch. 33, § P) (Adopted 8-7-2002)

CHAPTER 157: ZONING

Section

General Provisions

157.001 Authority

157.002 Purposes

157.003 Enactment

157.004 Conflicting ordinances

157.005 Definitions

District Regulations

157.020 Establishment of districts

157.021 Boundary interpretation

157.022 RA-20 Residential-Agricultural District

157.023 R-15 Residential District

157.025 R-8 Residential District

157.026 R-5 Residential District

157.027 R-M.H. Residential Manufactured Housing District

157.028 R-MF Residential Multi-Family District

157.031 CBD Central Business District

157.032 GB General Business District

157.033 HB Highway Business District

157.034 Industrial District

157.035 O & I Office and Institutional District

157.036 Added requirements

157.037 LID Light Industrial District

157.038 Solar Power Overlay District

Standards and Requirements

157.050 Interpretation and other requirements

157.051 Land and structures affected

157.052 One principal building per lot; exceptions

157.053 Changes in lot sizes and yard spaces

157.054 Double counting not permitted

157.055 Structures to have access

157.056 Yard space encroachments

157.057 Corner lot setback

157.058 Intersection visibility

157.059 Lot coverage

157.060 Residential accessory buildings

157.061 Construction in progress

157.062 Height regulation exceptions

157.063 Illumination facing thoroughfares

157.064 Transit shelters

157.065 Home occupations

157.066 Buffer areas

157.067 Classification of new jurisdiction

157.068 Family care homes

157.069 Stream buffer areas required

157.070 Minimum parking requirements

157.071 Area and bulk regulations

157.072 Group housing development standards

157.073 Cluster developments

157.074 Site plans

157.075 Front and corner side yard parking

Signs

157.085 Purposes

157.086 Applicability

157.087 General requirements

157.088 Prohibited signs

157.089 Signs allowed in all districts

157.090 Non-conforming, obsolete and unpermitted signs

157.091 Permitted uses by zoning district

Screening

157.105 Purpose

157.106 Options

157.107 Existing vegetation

157.108 Location

157.109 Screening area specifications and design

157.110 Plant specifications

157.111 Grouping

157.112 Fences

157.113 Flexibility in enforcement of standards

157.114 Maintenance

Non-Conformities

157.125 Intent

157.126 Non-conforming lots of record

157.127 Non-conforming structures

157.128 Non-conforming uses

157.129 Cessation or destruction of non-conforming uses or structures

157.130 Non-conforming signs

Board of Adjustments

157.145 Establishment and members

157.146 Board procedures generally

157.147 Administrative review procedures

157.148 Special exceptions/special use permits

157.149 Special exception procedures

157.150 Variance procedures

157.151 Administrative powers

157.152 Amendment recommendations

157.153 Appeals from Planning and Zoning Board

Administration and Enforcement

157.165 Zoning Administrator; powers

157.166 Zoning permits

157.167 Certificates of compliance

Amendments

157.180 Principles

157.181 Limitations

157.182 Amendment procedures

157.183 Formal protests

157.184 Changes in official zoning map

157.185 Posting of property

157.999 Penalty

GENERAL PROVISIONS

§ 157.001 AUTHORITY.

This chapter is adopted pursuant to authority granted to North Carolina municipalities by G.S. Ch. 160A, Art. 19, part 3 (principal sections G.S. §§ 160A-381 through 160A-392).

(2006 Code, Ch. 27, § 1.1)

§ 157.002 PURPOSES.

(A) It is the intent of this chapter to encourage well-planned growth for the town, and its environs, to help ensure wise, productive and harmonious uses of land, to guide the use of land in a manner which gives appropriate consideration to the economic, social, cultural, aesthetic and environmental values of citizens of the community, to preserve and enhance the quality of life for community residents and to assist in implementing the elements of the town's comprehensive plan.

(B) To these ends, this chapter seeks to regulate land and structures in a manner that will secure safety from fire, flooding, panic and other dangers, provide adequate light, air and sanitation, prevent population and traffic congestion and the overcrowding of land, facilitate the adequate provision of public facilities and utilities, conserve the value of land, buildings and natural resources, and preserve and protect the community's natural resources and its sensitive natural areas.

(2006 Code, Ch. 27, § 1.2)

§ 157.003 ENACTMENT.

For the purposes cited above and for the general purposes of promoting the health, safety, and general welfare of the citizens of the town, all in accordance with a comprehensive plan, the Board of Commissioners of the town hereby ordain, adopt and enact this chapter in its entirety, including text, map and all regulations, all of which shall be known as the "Farmville Zoning Ordinance". This chapter shall apply to all land within the corporate and extra-territorial limits of the town, as shown on the official zoning map or described by ordinance.

(2006 Code, Ch. 27, § 1.3)

§ 157.004 CONFLICTING ORDINANCES.

All ordinances or parts of ordinances in conflict with this chapter or inconsistent with its provisions, specifically including previous zoning ordinances of the town or amendments thereto, are hereby repealed or superseded to the extent necessary to give this chapter full force

and effect. The intent of this chapter is not to affect any bona fide farms in the extra-territorial area, but any use of the property for non-farm purposes shall be subject to the regulations.

(2006 Code, Ch. 27, § 1.4)

§ 157.005 DEFINITIONS.

(A) *Tense and number.*

(1) Words used in the present tense include the future tense, and words used in the future tense include the past tense.

(2) Words used in the singular number include the plural, and words used in the plural number include the singular.

(B) *Word interpretation.*

(1) The word **PERSON** includes **FIRM, ASSOCIATION, ORGANIZATION, PARTNERSHIP, CORPORATION, TRUST, FAMILY** and **COMPANY**, as well as an **INDIVIDUAL**.

(2) The word **LOT** includes the words plot and **PARCEL**.

(3) The word **BUILDING** includes the word **STRUCTURE.**

(4) The word **SHALL** is always mandatory and not merely directory.

(5) The word **MAY** is permissive and not mandatory.

(6) The words **USED** or **OCCUPIED** include "intended, arranged or designated to be" used or occupied.

(7) The word **TOWN** shall mean the Town of Farmville, a municipal corporation in the state.

(8) The words **ORDINANCE, REGULATIONS** and **REQUIREMENTS** shall, unless otherwise explained, mean this official Zoning Ordinance of the town.

(9) The words **MAP, ZONING MAP** and **OFFICIAL ZONING MAP** shall mean the official zoning map of the town and its extra-territorial area, an element of this chapter.

(10) Reference to **TOWN BOARD, PLANNING BOARD, BOARD OF ADJUSTMENTS** or similar official boards shall mean the corresponding public body of municipal government in the town.

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

ACCESSORY BUILDING OR USE. A non-attached building or use clearly incidental to a principal building or use, serving or contributing to the principal building or use, subordinate in

area, extent and/or purpose to the principal building or use, and located on the same lot as the principal building or use. ACCESSORY BUILDINGS OR USES include garages, storage sheds, play houses and swimming pools.

ACCESSORY BUILDING OR USE ON A BONA FIDE FARM IN THE RA-20 DISTRICT. Manufactured homes subject to the following conditions being met:

(a) Water, sewer and electric services, meeting current health and code requirements, must have previously been used and be currently available on the site for exclusive use by the manufactured home;

(b) Structures previously or currently using services cited in division (a) above must be removed;

(c) A minimum area of 20,000 square feet must be designated for the manufactured home site; and

(d) Residents of the manufactured home must be employed on the farm where the home is located.

AUTOMOBILE.

(a) **AUTOMOBILE SERVICE STATION.** A business providing motor vehicle fuel, oil, greases, tires, accessories and related services.

(b) **DEALERSHIP**. A business engaged in selling or renting new or used automobiles and trucks and their related services.

BED AND BREAKFAST INN. A dwelling where, for compensation, lodging with meals for transient persons is provided. **BED AND BREAKFAST INN** includes **TOURIST HOMES**.

BOARDING HOUSE. A dwelling where, for compensation, lodging with or without meals for non-transient persons is provided.

BONA FIDE FARM. A place from which $1,000 or more of agricultural products are grown or raised and sold annually.

BUILDING. Any structure having a roof supported by columns or by walls designed for shelter, housing, enclosure of persons, animals, property or business activity.

BUILDING HEIGHT. The vertical distance from the highest point of the building, excluding spires, antennas and any other specific exceptions herein.

BULK STORAGE OF LIQUEFIED PETROLEUM: Any tank exceeding 4000 gallons or an aggregate of tanks exceeding 4000 gallons of Liquid Petroleum.

CLUSTER DEVELOPMENT. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments.

CONVENIENCE STORE. Any retail establishment offering for sale prepackaged food products, household items and/or other goods commonly associated with the same and have a floor area of less than 5,000 square feet, but not including auto service stations or vehicle repair shops.

(Added 9-2-1997)

DISTRICT. A zoning district is an area within the town or its extra-territorial areas within which the zoning regulations are uniform.

DUPLEX. A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each.

DWELLING, MULTI-FAMILY. A dwelling containing three or more units, including apartment houses, townhouses and condominiums.

DWELLING UNIT. An enclosure containing sleeping, kitchen and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.

(Amended 6-6-1995)

EXTRA-TERRITORIAL AREA. Land under the jurisdiction of this chapter and lying beyond the corporate limits within one mile of the town, as delineated on the official zoning map.

FAMILY. One or more persons occupying a single dwelling unit; provided that, unless all members are related by blood or marriage, no FAMILY shall contain over five persons; but, further provided that, domestic servants employed on the premises may be housed on the premises without being counted as a FAMILY or FAMILIES.

FAMILY CARE HOME. A home with support and supervisory personnel that provides room, personal care and habilitation services in a family environment for not more than six resident disabled persons.

FARM. An activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber and customarily producing same in sufficient quantity to contribute significantly the operators' livelihood.

FENCE. A hedge, structure or partition erected for the purpose of enclosing an area.

FENCE, WALL, HEDGE - OPEN. A fence that is 50% or more open on its vertical surface to permit the transmission of light, air and vision through a horizontal plane.

FENCE, WALL, HEDGE - SOLID. A fence that is less than 50% open on its vertical surface to permit the transmission of light, air and vision through a horizontal plane.

FRONTAGE. All property abutting one side of a street, measured along the street line.

GARAGES.

(a) **GARAGES, PRIVATE**. An accessory structure to a dwelling designed for the storage of family motor vehicles and in which no business occupation or service is conducted.

(b) **GARAGES, SERVICE**. A business providing motor vehicle mechanical and body repairs and related services.

HOME OCCUPATION. Work for compensation conducted within a dwelling by a person or family residing therein. **HOME OCCUPATIONS** are extensions of traditional home-making activities and crafts or professions, which are generally only headquartered in the home and do not customarily have regular hours for the public. Customary **HOME OCCUPATIONS** include, but are not limited to, dressmaking, seamstressing, cooking and baking, quilting, hairdressing, music instructing, renting (but not more than one room to boarders), insurance salesperson, accountants, bookkeepers, consultants and manufacturers' sales representatives.

HOTEL. A commercial structure and business in which sleeping accommodations are provided, including customary accessory use, if they are a physical and integrated part of the principal use. **HOTEL** includes **MOTEL**.

JUNKYARD. A place of business or establishment which is maintained, operated or used for storing, keeping, buying or selling junk, as defined by G.S. § 136-143(3), including auto graveyard.

LOT. A parcel of land intended as a unit for transfer of ownership or for development or both.

LOT, CORNER. A lot abutting a street on two intersecting sides of the lot.

LOT DEPTH. The average distance between front and rear lot lines.

LOT FRONTAGE. The distance between the two side lot lines as measured along the street right-of-way.

LOT OF RECORD. A lot which is part of a subdivision or plat which has been recorded in the office of the Register of Deeds of the county, after any appropriate approvals under town regulations, or a lot described by metes and bounds, the description of which has been so recorded.

LOT WIDTH. The distance between side lot lines measured at the front building line.

LOWER FACADE. The first-story, outer, exposed front surface of a building, or the lower 12 feet of the building front above grade if there is not a clear distinction between grades.

MANUFACTURED HOME. A dwelling unit that:

(a) Is not constructed in accordance with the standards set forth in the State Building Code;

(b) Is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis; and

(c) Exceeds 40 feet in length and eight feet in width.

(Amended 6-6-1995)

MANUFACTURED HOME, CLASS A. A manufactured home constructed after 7-1-1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:

(a) The manufactured home has a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis;

(b) The manufactured home has a minimum of 1,000 square feet of enclosed living area;

(c) The pitch of the roof of the manufactured home has a minimum vertical rise of two and two tenths feet for each 12 feet of horizontal run (2.2 feet and 12 feet) and the roof is finished with a type of shingle that is commonly used in standard residential construction;

(d) All roof structures shall provide an eave projection of no less than six inches, which may include a gutter;

(e) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;

(f) The manufactured home is set up in accordance with the standards set by the State Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced, except for required ventilation and access, is installed under the perimeter of the manufactured home;

(g) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the State Department of Insurance, attached firmly to the primary structure and anchored securely to the ground; and

(h) The moving hitch, wheels and axles, and transporting lights have been removed. It is the intent of these criteria to ensure that a class A manufactured home, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling.

(Amended 6-6-1995)

MANUFACTURED HOME, CLASS B. A manufactured home constructed after 7-1-1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, and meet or exceed the criteria in divisions (f), (g) and (h) for class A homes above.

(Amended 6-6-1995)

MANUFACTURED HOME, CLASS C. Any manufactured home that does not meet the definition criteria of a class A or class B manufactured home.

(Amended 6-6-1995)

MOBILE HOME. A factory assembled, movable dwelling designed and constructed to be towed on its own chassis, comprised of frame and wheels, to be used without a permanent foundation and distinguishable from the other types of dwellings in that the standards to which it is built include provisions for its mobility on that chassis as a vehicle.

MODULAR HOME. A dwelling unit constructed in accordance with the standards set forth in the State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a MODULAR HOME may consist of two or more sections transported to the site in a manner similar to a manufactured home (except that, the modular home meets the State Building Code), or a series of panels or room sections transported on a truck and erected or jointed together on the site.

(Added 6-6-1995)

NIGHTCLUB. A cocktail lounge, tavern, beer hall, dance hall, coffee house, private club or similar establishment offering primarily beverages and music, usually open during the late afternoon, evening and/or early morning hours and typically, but not necessarily, offering alcoholic beverages for sale and consumption.

NON-BULK STORAGE OF LIQUEFIED PETROLEUM: Any tank less than 4000 gallons or an aggregate of tanks less than 4000 gallons of Liquid Petroleum

NON-CONFORMING LOT. A lot which does not conform to the district regulations in which it is located.

NON-CONFORMING STRUCTURE. A building, mobile home, wall, fence, sign or other structure which does not conform to the regulations of this chapter.

NON-CONFORMING USE. A use of land and/or structure which was a conforming use prior to chapter enactment.

PARK MODEL HOME. A dwelling unit that:

(a) Is not constructed in accordance with the standards set forth in the State Building Code;

(b) Is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported on its own chassis; and

(c) Does not exceed 40 feet in length and eight feet in width.

(Added 6-6-1995)

PERMITTED USE. A use permitted by right in a district, not subject to approval as a special exception nor prohibited in the district.

PRINCIPAL BUILDING OR USE. The principal purpose for which the lot or the main structure thereon is designed, arranged, intended or used.

RESTAURANT, DRIVE-IN. A food service establishment whereby food is dispensed directly over the counter and consumed in the vehicle or served directly to customers in vehicles.

RIGHT-OF-WAY. An area dedicated to and/or maintained by the town, chartered public utilities or the state for the placement of roads and/or utilities.

SETBACK; FRONT, SIDE AND REAR. The minimum required distance between the front, side and rear lot line and the building line.

SHOPPING CENTER. Two or more commercial establishments planned and constructed as a single unit with off-street parking and loading facilities provided on the property.

SIGN. Any device designed to inform, or attract the attention of persons not on the premises on which the sign is located.

SIGN AREA. The total display surface of a sign.

SIGN, GROUND. Signs that extend upward out of the ground.

SIGN, MARQUEE. Signs that appear on extended roofs, such as theater signs.

SIGN, PRINCIPAL USE. A sign which directs attention to a business or other activity conducted exclusively on the premises upon which the sign is located.

SIGN, PROJECTING. Signs that extend outward from the building walls.

SIGN, TEMPORARY. A sign permitted for a period not exceeding 12 months.

SIGNS, OUTDOOR ADVERTISING. Any sign which directs attention to a business, commodity, service, entertainment or other activity conducted, sold or offered elsewhere than on the premises on which the sign is located.

SIGNS, TOTAL AGGREGATE AREA. The total surface of all signs on premises or in a specific area.

SOLAR COLLECTOR, ACCESSORY: A device or structure for which the primary purpose is to convert solar radiant energy into another source for direct power consumption and/or interconnection with the power grid to offset energy consumption of a principal use. The device may be roof-mounted or ground-mounted as an accessory use.

SOLAR FARM. An entire tract or portion of a tract that contains a solar energy power generating system that includes a collection of ground-mounted solar panels and related equipment designed to convert sunlight into electrical power interconnection with the power grid system for off-site consumption.

SPECIAL EXCEPTION. A proposed special use in which the Board of Adjustments must review to determine if that use is compatible with authorized uses.

STREAM BUFFER. An area of natural or planted perennial vegetation through which storm

water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering pollutants. The BUFFER is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams and rivers.

STREET. A dedicated and accepted public right-of-way for vehicular traffic which provides the principal means of access to abutting properties.

STRUCTURE. Anything constructed or erected, the use of which requires more or less permanent location on the ground, or which is attached to something more or less permanently located on the ground. Among other things, STRUCTURES include buildings, manufactured housing, walls, fences and signs.

TRAVEL TRAILER. A structure that is:

(a) Intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle); and

(b) Is designed for temporary use as sleeping quarters, but does not satisfy one or more of the definitional criteria of a manufactured home.

(Added 6-6-1995)

UPPER FACADE. The upper story, outer wall of a building, or where there is not a clear distinction between stories, the wall above 12 feet in height.

VARIANCE. A device which grants a property owner relief from certain provisions of this chapter to relieve him or her from a particular hardship, in particular, relief from dimensional requirements.

YARD. A required open space on the same lot with a building or structure(s) unoccupied and unobstructed from the ground upward, except by trees, shrubbery, landscaping features or other exceptions specified in this chapter.

YARD, FRONT. A yard from the front line of the principal building to the street right-of-way or front property line extending across the full width of the lot.

YARD, REAR. A yard from the rear line of the principal building to the rear lot line and extending across the full width of the lot.

YARD, SIDE. A yard from the side line of the principal building to side lot line(s) and extending from the front yard to the rear yard.

(2006 Code, Ch. 27, § 3)

DISTRICT REGULATIONS

§ 157.020 ESTABLISHMENT OF DISTRICTS.

(A) District regulations setting forth permissible uses and establishing area and bulk requirements for the use of land and buildings are hereby enacted.

(B) (1) These regulations are adopted as requirements for the entire zoning jurisdiction of the town, each part of which shall be classified according to one of the districts set forth below and regulated according to the uniform requirements of that district.

(2) These districts (classifications) shall be delineated on the official zoning map and be designated by their abbreviated name as well as their full titles.

(2006 Code, Ch. 27, § 4.1)

§ 157.021 BOUNDARY INTERPRETATION.

When uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply.

(A) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or railroad right-of-way lines or the lines extended, the centerlines, street lines or railroad right-of-way lines shall be construed to be the boundaries.

(B) Where district boundaries are so indicated that they approximately follow lot lines, the lot lines shall be construed to be the boundaries.

(C) Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways or railroads, or rights-of-way of same, the district boundaries shall be construed as being parallel thereto and at the distance therefrom as indicated, and shall be determined by the use of the scale shown on the zoning map.

(D) Where a district boundary line divides a lot in single ownership the district requirements for the least restricted portion of the lot shall be deemed to apply to the whole thereof; provided that, the extensions shall not include any part of a lot more than 35 feet beyond the district boundary line.

(2006 Code, Ch. 27, § 4.2)

§ 157.022 RA-20 RESIDENTIAL-AGRICULTURAL DISTRICT.

(A) *Purpose*. This district is designed for residential and agricultural purposes, in a rural or near-rural setting, and is intended to ensure that residential development with or without access to public water and/or sewers may take place in manner which provides a healthful environment. This district is designed to primarily govern land use in areas of the zoning jurisdiction least

developed for urban purposes. This district also permits certain service and public uses which are common to a more rural setting, or have large land area requirements, or benefit from a low-density setting.

(B) *Permitted uses.*

(1) Single-family dwellings;

(2) Agricultural and horticultural operations, including the sale of produce at roadside stands;

(3) Churches and their customary accessory uses;

(4) Public and private cemeteries;

(5) Public and private parks, playgrounds, community centers, golf courses, swimming pools and similar recreation uses;

(6) Home occupations specifically listed in the definition thereof;

(7) Accessory uses and structures;

(8) Manufactured home overlay areas.

(a) *Purpose*. In accordance with the comprehensive plan and based on local housing needs, and as authorized by G.S. § 160A-383.1(e), manufactured home, class A overlay areas, manufactured home, class B overlay areas may be established. The overlay areas may not consist of an individual lot or scattered lots, but shall consist of a defined area within which additional requirements or standards are placed upon manufactured homes. The intent of this approach is to allow manufactured homes in parts of a zoning jurisdiction where they would not otherwise be allowed, subject to appropriate conditions. The Town Commissioners will give close consideration to whether manufactured homes would be compatible with surrounding land uses.

(b) *Designation.*

1. Manufactured home class A (MH class A) and manufactured home class B (MH class B) overlay areas are authorized as areas which overlay or overlap existing zoning districts, the extent and boundaries of which are or may be indicated on the zoning map by adoption of a separate ordinance by the Town Commissioners, usually upon later request.

2. These provisions create the mechanism, which may from time to time be used by the Town Commissioners in designating the areas.

3. In addition to other permitted uses, class A manufactured homes shall be permitted in the MH class A overlay area. Class A and class B manufactured homes shall be permitted in the MH class B overlay area. All other applicable requirements, including, but not limited to, setback and accessory structure requirements, also shall apply to manufactured homes allowed in overlay areas.

(c) *Zoning compliance documents.*

1. After Town Commissioners approval of a designated overlay zone, a zoning compliance permit must be secured from the Code Enforcement Officer before a class A or class B manufactured home may be placed on a lot. A building permit must also be secured. The building permit shall state all applicable conditions and requirements and state that any violations will be subject to appropriate enforcement action. Once installation and construction is complete and necessary inspections have been performed, and before occupancy and use, a certificate of occupancy must be secured. The certificate shall state that the property owner is responsible for assuring that all applicable conditions and requirements continue to be satisfied, and that appropriate enforcement actions will be taken if violations occur.

2. These permits shall be in addition to all other necessary permits.

(9) Animal hospitals; provided, divisions (B)(10)(a) through (B)(10)(e) below are met:

(Added 2-2-1999)

(a) Indoor runs (inside animal storage);

(Added 2-2-1999)

(b) Minimum lot size of 65,340 square feet;

(Added 2-2-1999)

(c) A six-foot high planted buffer shall be provided along the perimeter of the rear and side of the site;

(Added 2-2-1999)

(d) Setbacks shall not be less than 50 feet on side yard and year yards. Front yard setbacks shall not be less than that of the zoning classification of the property; and

(Added 2-2-1999)

(e) A solid fence shall surround all areas used for outdoor walk areas.

(Added 2-2-1999)

(10) Town owned well sites, above ground water storage tanks, lift stations, pump stations and electrical substations;

(Added 7-11-2000; Amended 10-2-2007)

(11) Demolition landfill overlay area (RA-20 LF).

(Added 7-11-2000)

(a) In accordance with the comprehensive plan and local needs, demolition landfill overlay may be established. Demolition debris landfills shall be used only for the purpose of storing demolition debris (i.e., wood, brick, block, sheet rock, plaster and shingles);

(b) Shall be buffered on all sides not less than 200 feet from adjacent properties, and not less than 500 feet from residential property; and

(c) Shall not be located within the 100-year flood zone.

(12) Dog kennels.

(13) Solar Collector, Accessory

(a) Must be located on same parcel as principal structure

(b) Must be located in the rear or side yard of a property

(c) Solar Collectors may be:
   a. Roof-Mounted on a code-compliant structure, provided panels are on
      i. Rear-Facing Sloped Roofs
      ii. Flat Roofs
      iii. Other Roof Locations may be allowed by a Special Exception Permit by the Board of Adjustment, subject to meeting all additional requirements of 157.022 (B) (13).
   b. Ground-Mounted on an area of up to 25% of the footprint of the principal structure on the parcel, but no more than 1 acre

(d) Must meet Setbacks as established in § 157.071

(e) Height Limitations
   a. Roof Mounted – Panels must be flush mounted (1'or less from roof plane).
   b. Ground-Mounted – 10' Maximum Height

(f) *System Mounting Building Materials*. All System Mounting equipment must be constructed of either metal or steel.

(g) *Buffer Screening.* Except where natural vegetation already exists, vegetated buffers sufficient to fully screen the solar collectors shall be planted along all sides adjoining properties zoned or developed for residential use.

(C) *Special exceptions.*

(1) (a) Mobile home parks, upon findings that:

1. Their placement and use will not have a substantial adverse effect upon the value or enjoyment of adjoining residential area; and

2. This form of housing appears necessary to adequately meet the demand for sound housing in the community.

(b) Permission for this use shall be conditional upon continuing compliance with the Ch. 153 of this code of ordinances or other town code provisions relating thereto.

(2) Day care centers, upon a finding that the activities at the location will not have adverse effect upon the enjoyment of adjoining properties, and upon the condition that the play and fenced area comply with state day care center requirements;

(3) Schools, upon a finding that adequate thoroughfare access exists to prevent undue traffic congestion and upon the condition that site plans be submitted;

(4) Airports, upon findings that they will not create substantial noise or other significant adverse environmental conditions affecting nearby residents, schools and businesses;

(5) Governmental and public utilities buildings and uses, such as sewage lift stations, pump stations, electrical substations, water wells, fire stations, maintenance or operations center, and community centers upon a finding that they will not create excessive noise, odor, smoke, dust or other adverse impacts which might prove detrimental to surrounding developed property and uses, and including plans for buffering adjacent properties;

(6) Backyard workshops, for craftsmen and skilled technicians or repairers, upon finding that the business will not adversely affect enjoyment and use of nearby properties by creating excessive traffic, noise or other noxious impacts, and upon the condition that there be no outside storage of materials, and including plans for buffering adjacent properties;

(7) Hospitals, homes for the elderly, convalescent homes, orphanages upon findings that low density setting is necessary to the purpose or operation of the facility and that adequate thoroughfare access exists to prevent undue traffic congestion. Permission for these uses shall be conditional upon submission of site plans. Lot sizes shall be no less than two acres and structures shall be conditional: observance of yard space requirements at least 25 feet greater than required for single-family residences within the district, or as required by statute;

(8) Assembly buildings and lodges of civic clubs, fraternal organizations, professional associations, service organizations and private membership clubs, upon findings that the use will not detrimentally affect the use and enjoyment of nearby properties and that a low density setting significantly enhances the purpose of the facility. Examples of such uses, are: Ruritan Clubs, scout huts, wildlife clubs, country clubs and veterans' clubs; and

(9) Class B manufactured homes during construction of a new single-family residence under the following conditions:

(Added 2-5-2002)

(a) Permissible only after issuance of building permit for a period not to exceed 360 days (no extensions permitted);

(b) Manufactured homes can only be setup after permit for new construction is obtained, footings inspected and poured;

(c) The property owner must provide a financial assurance in an amount sufficient to cover the removal costs of the manufactured home in one of the following methods:

1. Irrevocable letter of credit from a FDIC-insured lending institution;

2. Performance bond;

3. Setup a joint escrow account with the town; and

4. Town be listed as the first lien holder on the home.

(d) No certificate of occupancy will be issued for the new home until removal of the manufactured home; and

(e) Property owner must sign agreement detailing the aforementioned requirements.

(D) *Existing manufactured homes.* Existing manufactured homes in the RA-20 zoning district as of 6-6-1995 that are not included in the MH class A overlay district shall remain conforming uses until the time as they remain vacant for a period of 180 days. These existing manufactured homes can be replaced if damaged, destroyed or become obsolete, but must be replaced with a manufactured home of the same designated class (A or B) and class C shall be replaced with class A or B.

(Amended 6-6-1995)

(E) *Tattoo parlors.*

(1) Tattoo parlors, upon a finding that the activities at the location will not have an adverse effect upon the enjoyment of adjoining properties.

(2) Tattoo parlors must not be located closer than 2,000 feet from another such business.

(3) No exterior sign larger than two square feet and not more than one sign shall be located on the property.

(Added 7-3-2007)

(F) Duplex.

(Added 5-7-18)

(2006 Code, Ch. 27, § 5.0) (Ord. passed 11-6-2012) (Amended 11-2-2020)

157.023 R-15 RESIDENTIAL DISTRICT.

(A) *Purpose.* R-15 residential district is intended to be a quiet low density neighborhood of single-family residences along with limited private and public community uses. This district is designed for areas with access to public water or sewer.

(B) *Permitted uses.*

(1) Single-family dwellings;

(2) Churches and related uses;

(3) Accessory use and structures; and

(4) Town owned well sites, above ground water storage tanks, lift stations, pump stations and electrical substations.

(5) Solar Collector, Accessory

(Added 7-11-2000; Amended 10-2-2007, 11-2-2020)

(C) *Special exceptions.*

(1) Schools, upon a finding that adequate thoroughfare access exists to prevent undue traffic congestion and upon the condition that site plans be submitted; and

(2) Bingo fundraising.

(3) Day Care Centers

(2006 Code, Ch. 27, § 6.0) (Amended 6-6-2006)

§ 157.025 R-8 RESIDENTIAL DISTRICT.

(A) *Purpose*. This district is designed for medium to high-density single-family and multi-family development.

(B) *Permitted uses.*

(1) Single-family;

(2) Churches and related uses;

(3) Parks, playgrounds and community centers operated on a non-commercial or non-profit basis for recreational purposes only;

(4) Accessory uses and structures;

(5) Home occupations; and

(6) Town owned well sites, above ground water storage tanks, lift stations, pump stations and electrical substations.

(7) Solar Collector, Accessory

(Added 7-11-2000; Amended 5-7-2018; 11-2-2020)

(C) *Special exceptions.*

(1) (a) Public works and public utilities facilities such as distribution lines, transformer stations, transmission lines and towers, electric substations, water tanks and towers, and telephone stations; provided, the facilities are essential for the service of the immediate area; and, further provided that, no vehicles or other non-essential equipment are located on the premises and that no offices shall be permitted. The entire lot so used shall be properly landscaped and furnished with a densely planted buffer of at least six feet in height.

(b) Day care centers, upon a finding that the activities at the location will not have adverse effect upon the enjoyment of adjoining properties and upon the condition that the play and fenced areas comply with state day care center requirements.

(2) Fire stations and related emergency facilities;

(3) Schools, upon a finding that adequate thoroughfare access exists to prevent undue traffic congestion and upon the condition that site plans be submitted; and

(4) Multi-family residences may be allowed by a special-use permit by the Planning Board subject to the following regulations. For Planning Board review, the owner must provide a site plan of the property showing the location and dimensions of the residences, accessory buildings, buffers, parking areas and proposed signs.

(a) Multi-family structures will only be allowed on properties that meet § 157.071.

(b) Off-street parking required: Off-street automobile parking or storage space shall be provided for every dwelling. Parking spaces may be provided in a parking garage or in a properly graded and improved open space. Remote parking lots are not permitted in residential districts. Each automobile parking space shall not be less than 200 square feet (ten feet wide and 20 feet deep) in an area exclusive of adequate access drives and maneuvering space. Required parking areas must have vehicular access to a street or alley; the access shall not be thereafter encroached upon or altered.

(c) When a multi-family residence is next to a single-family residence, a densely planted buffer strip at least eight feet in height shall be planted and maintained along the shared property line. A fence of at least six feet in height may be allowed upon Planning Board approval.

(d) There shall be no exterior display, no exterior sign larger than two square feet and not more than one sign.

(e) No exterior storage of materials and no other exterior indication or variation from the residential character of the neighborhood.

(f) Prior to leasing dwellings, the owner shall obtain an appropriate certificate of occupancy from the Code Official. To apply for the certificate, the owner shall provide a floor plan of the residence showing the location and dimensions of the residences and also showing the location of fire exits, fire alarms, fire extinguishers and any other safety features as required by state or local code.

(g) The multi-family structure shall meet all applicable local and state inspections, licensing and permit requirements.

(5) Public and private cemeteries, upon approval of site plans and a finding that thoroughfare access and off-street parking are adequate to prevent traffic congestion.

(6) Bed and Breakfast

(7) Greenhouses and truck gardens which are incidental to the residential use and conducted on a non-commercial basis only

(8) Governmental and public utilities buildings and uses, such as sewage lift stations, pump stations, electrical substations, water wells, fire stations, maintenance or operations centers, and community centers, upon a finding that they will not create excessive noise, odor, smoke, dust, or other adverse impacts which might prove detrimental to surrounding developed properties and uses, and including plans for buffering of adjacent properties.

(2006 Code, Ch. 27, § 8.0) (Amended 7-11-2006)

§ 157.026 R-5 RESIDENTIAL DISTRICT.

(A) *Purpose.* This district is designed for high-density residential purpose, including small lot single-family dwellings and multi-family dwellings.

(B) *Permitted uses.*

(1) Single-family dwellings;

(2) Churches and customary related uses;

(3) Parks, playgrounds, community centers, swimming pools and similar recreational uses, except athletic fields and courts larger than 15,000 square feet;

(4) Libraries;

(5) Home occupations;

(6) Accessory uses and structures; and

(7) Town owned well sites, above ground water storage tanks, lift stations, pump stations and electrical substations.

(8) Solar Collector, Accessory

(Added 7-11-2000; Amended 10-2-2007; 11-2-2020)

(C) *Special exceptions.*

(1) Duplex

(2) Day care center, upon a finding that the activities at the location will not have adverse effect upon the enjoyment of adjoining properties and upon the conditions that the play and fenced area comply with state day care center requirements;

(3) Schools, upon a finding that adequate thoroughfare access exists to prevent undue traffic congestion and upon the condition that site plans be submitted;

(4) Governmental and public utilities buildings and uses, such as sewage lift stations, pump stations, electrical substations, water wells, fire stations, maintenance or operations centers, and community centers, upon a finding that they will not create excessive noise, odor, smoke, dust or other adverse impacts which might prove detrimental to surrounding developed property and uses, and including plans for buffering of adjacent properties;

(5) Public and private cemeteries, upon approval of site plans and a finding that thoroughfare access and off-street parking are adequate to prevent traffic congestion;

(6) Athletic fields and courts occupying more than 15,000 square feet, upon a finding that noise, illumination and/or traffic are not likely to result to an extent which would materially affect quiet enjoyment of residential properties;

(7) Schools of art, dance, drama and music, upon a finding that noise and other factors will not adversely affect enjoyment of residential properties; and, adequate off-street parking and passenger loading space has been provided to prevent congestion of the streets;

(8) Rooming and boarding houses;

(9) Bed and breakfast inn, tourist homes;

(10) Multi-family residences may be allowed by a special-use permit by the Planning Board subject to the following regulations. For Planning Board review, the owner must provide a site plan of the property showing the location and dimensions of the residences, accessory buildings, buffers, parking areas and proposed signs.

(a) Multi-family structures will only be allowed on properties that meet § 157.071.

(b) Off-street parking required: off-street automobile parking or storage space shall be provided for every dwelling. Parking spaces may be provided in a parking garage or in a properly graded and improved open space. Remote parking lots are not permitted in residential districts. Each automobile parking space shall not be less than 200 square feet (ten feet wide and 20 feet deep) in an area exclusive of adequate access drives and maneuvering space. Required parking areas must have vehicular access to a street or alley; the access shall not be thereafter encroached upon or altered.

(c) When a multi-family residence is next to a single family residence, a densely planted buffer strip at least eight feet in height shall be planted and maintained along the shared property line. A fence of at least six feet in height may be allowed upon Planning Board approval.

(d) There shall be no exterior display, no exterior sign larger than two square feet and not more than one sign.

(e) No exterior storage of materials and no other exterior indication or variation from the residential character of the neighborhood.

(f) Prior to leasing dwellings, the owner shall obtain an appropriate certificate of occupancy from the Code Official. To apply for the certificate, the owner shall provide a floor plan of the residence showing the location and dimensions of the residences and also showing

the location of fire exits, fire alarms, fire extinguishers and any other safety features as required by state or local code.

(g) The multi-family structure shall meet all applicable local and state inspections, licensing and permit requirements.

(Ord. 542, passed 7-11-2006)

(11) Funeral homes.

(12) Accounting/Tax Preparation Office may be allowed by a Special Exception Permit by the Board of Adjustment subject to the following regulations:

(a) Structure can't be used for residential purpose

(Added 6-2-2009)

(2006 Code, Ch. 27, § 9.0)

§ 157.027 R-M.H. RESIDENTIAL MANUFACTURED HOUSING DISTRICT.

(A) *Purpose.* This district is designed for high-density residential purposes for manufactured housing located on individual lots and in manufactured home parks and other uses which would not be detrimental to the residential nature of the district.

(B) *Permitted uses.*

(1) Single-family manufactured housing on individual lots;

(2) Single-family manufactured housing in manufactured home parks developed in accordance with Ch. 153 of the town code;

(3) Churches and customary related uses;

(4) Home occupation;

(5) Parks, playgrounds, community centers, swimming pools and similar recreation uses, except athletic fields and courts larger than 15,000 square feet;

(6) Accessory uses and structures; and

(7) Town owned well sites, above ground water storage tanks, lift stations, pump stations and electrical substations.

(8) Solar Collector, Accessory

(Added 7-11-2000; Amended 10-2-2007; 11-2-2020)

(C) *Special uses.*

(1) Day care centers, upon a finding that the activities at the location will not have adverse effect upon the enjoyment of adjoining properties and upon the condition that the play and fenced area comply with state day care center requirements;

(2) Convenience commercial uses located within manufactured home parks in accordance with Ch. 153 of the town code;

(3) Athletic fields and courts occupying more than 15,000 square feet, upon a finding that noise, illumination and/or traffic would not materially affect quiet enjoyment of residential properties;

(4) Governmental and public utilities buildings and uses such as sewage lift stations, pump stations, electrical substations, pump stations, electrical substations, water wells, fire stations, maintenance or operations centers, and community centers upon a finding that they will not create excessive noise, odor, smoke, dust or other adverse impacts which might prove detrimental to surrounding developed property and uses, and including plans for buffering adjacent properties; and

(5) Schools, upon a finding that adequate thoroughfare access exists to prevent undue traffic congestion and upon the condition that site plans be submitted.

(2006 Code, Ch. 27, §§ 9.4—9.7)

§ 157.028 R-MF RESIDENTIAL MULTI-FAMILY DISTRICT.

(A) *Purpose.* This district is designed for high density, multi-family residential uses and such other uses which would not be detrimental to the residential nature of the district.

(B) *Permitted uses.*

(1) Multi-family units;

(2) Churches and customary related uses;

(3) Home occupation;

(4) Parks, playgrounds, community centers, swimming pools and similar recreation uses, except athletic fields and courts larger than 15,000 square feet;

(5) Accessory uses and structures; and

(6) Town owned well sites, above ground water storage tanks, lift stations, pump stations and electrical substations.

(Added 7-11-2000; Amended 10-2-2007)

(C) *Special uses.*

(1) Day care centers, upon a finding that the activities at the location will not have adverse effect upon the enjoyment of adjoining properties, and upon the condition that the play and fenced area comply with state day care center requirements;

(2) Athletic fields and courts occupying more than 1,500 square feet, upon a finding that noise, illumination, and/or traffic would not materially affect quiet enjoyment of residential properties;

(3) Governmental and public utilities buildings and uses, such as sewage lift stations, pump stations, electrical substations, water wells, fire stations, maintenance or operations centers, and community centers, upon a finding that they will not create excessive noise, odor, smoke, dust or other adverse impacts which might prove detrimental to surrounding developed property and uses, and including plans for buffering adjacent properties; and

(4) Schools, upon a finding that adequate thoroughfare access exists to prevent undue traffic congestion and upon the condition that site plans be submitted.

(2006 Code, Ch. 27, §§ 9.9, 9.10)

§ 157.031 CBD CENTRAL BUSINESS DISTRICT.

(A) *Intent.* This district is designed to provide for a central, pedestrian-oriented concentration of retailing, personal services, public uses and office uses. The district provides for compact development of a wide variety of medium intensity, public-oriented uses to create a convenient and varied shopping area for citizens and a focal point of activity for the community. The regulations of the district are also designed to protect the historic character of the central business area and protect its historic value. There shall be no non-commercial operations located in this zoning district if the buildings are connected by a common wall.

(Amended 4-1-2008)

(B) *Permitted uses.*

(1) Alcoholic beverage (ABC) stores;

(2) Amusement arcades and game rooms;

(3) Antique shops;

(4) Appliance sales and repairs;

(5) Art and school supply stores;

(6) Art galleries and studios;

(7) Auto parts and accessories sales;

(8) Bakeries;

(9) Banks and other financial institutions;

(10) Barber and beauty shops;

(11) Bicycle sales and repairs;

(12) Book and stationery stores;

(13) Camera and photography supplies stores;

(14) Candy and ice cream shops;

(15) Carpet, rug and linoleum stores;

(16) Catalog sales stores;

(17) Churches and customary related uses;

(18) Craft and novelty stores;

(19) Delicatessens;

(20) Department stores;

(21) Fish and meat markets;

(22) Florists;

(23) Funeral homes;

(24) Furniture stores;

(25) Garden supplies stores;

(26) Gift shops;

(27) Government offices, assembly halls, services and amenities;

(28) Grocery stores;

(29) Gunsmiths;

(30) Hardware stores;

(31) Hobby shops;

(32) Hotels;

(33) Jewelry stores;

(34) Libraries;

(35) Locksmiths;

(36) Lodges and offices of fraternal, civic, professional, service organizations;

(37) Medical and dental offices;

(38) Music and musical instrument shops;

(39) Newspaper publishing;

(40) Newsstands;

(41) Nightclubs;

(42) Offices - business, financial, government, professional;

(43) Office equipment and supplies sales;

(44) Opticians and optometrists;

(45) Paint and wallpaper stores;

(46) Parking lots and garages;

(47) Pawnshops;

(48) Pet shops (indoor only);

(49) Pharmacies;

(50) Photographic studios;

(51) Physical fitness and health services establishments;

(52) Picture framing shops;

(53) Printers;

(54) Private clubs;

(55) Radio and television broadcasting;

(56) Restaurants;

(57) Retail and service businesses similar to other permitted uses and enclosed in a building;

(58) Second hand stores and swap shops;

(59) Schools of art, dance and music;

(60) Seed and feed stores;

(61) Sewing machine stores;

(62) Shoe sales and repair shops;

(63) Sporting goods stores;

(64) Tailors and seamstresses;

(65) Taxi stands;

(66) Theaters (indoor);

(67) Ticket agencies and travel bureaus;

(68) Tobacco groups;

(69) Toy stores;

(70) Trade schools;

(71) Variety stores;

(72) Wearing apparel shops;

(73) Customary accessory uses;

(74) Multi- and single-family dwellings, subject to the following requirements:

(a) Minimum non-ground level building floor area of 1,000 square feet per residential unit;

(b) All residential usage shall be on second floor or higher levels of buildings;

(c) All ground floor space shall be developed for commercial, non-residential uses, as permitted in the central business district;

(d) If a building permit is obtained for exterior renovation, no renovation shall proceed until any plastic, aluminum or other metal system covering the original exterior of the building is removed;

(e) The building exterior shall be restored to its original appearance as closely as reasonably possible;

(f) Existing door or window openings shall not be closed, nor shall unique architectural features (as defined by the Secretary of the Interior's Standards for Rehabilitating Historic Buildings) such as cornices, mid-cornices and window surroundings be removed, except to be replaced with elements of like design; and

(g) If metal canopies are retained, at least the visible edges must be covered with canvas; new canopies or awnings shall be made of canvas or plans for projects which qualify for and have been certified eligible for an investment tax credit, as defined by § 251 of the Tax Reform Act of 1986 (IRC §§ 46 and 48).

(Added 10-4-1994)

(75) Convenience stores with gasoline sales;

(Added 9-2-1997)

(76) Town owned well sites, above ground water storage tanks, lift stations, pump stations and electrical substations; and

(77) Micro-Distillery/Micro-Brewery/Micro-Winery:

(a) Except for loading, all activities must occur within a building;

(b) Maximum floor area may not exceed 20,000 square feet;

(c) Must obtain all applicable ABC permits;

(d) Shall not produce odors, gas, dust, or any other atmospheric pollutant detrimental to the health, safety or general welfare of persons living or working in the surrounding area;

(e) The facility must include a tasting room, restaurant, or incorporate tours;

(Added 7-11-2000; Amended 10-2-2017)

(C) *Special exceptions.*

(1) Dwellings, upon findings by the Board of Adjustments that:

(a) Residential use of the property will not adversely affect the district by occupying commercial land needed for the district's economic vitality; and

(b) Residential use of the property will either assist the economic health of the district by providing consumer support or will help maintain a significant historical or architectural resource.

(2) Automobile service stations and tire services, upon findings that this use of the land will not adversely dilute the concentration of shopping opportunities, and that adequate safeguards and space will be provided for safe ingress, egress and temporary storage of vehicles. All repairs must be performed within a building;

(3) Drive-in banks, upon a finding that adequate off-street movement and standing space will be provided for vehicles being served and waiting to be served;

(4) Governmental and public utilities buildings and uses, such as sewage lift stations, pump stations, electrical substations, water wells, maintenance or operations centers, and community centers, upon a finding that they will not create excessive noise, odor, smoke, dust or other adverse impacts which might prove detrimental to surrounding developed property and uses, and including plans for buffering of adjacent properties; and

(5) Shopping centers, upon a finding that the center will complement and contribute to the economic vitality of the district.

(D) *Buffer strips*. A densely planted buffer strip at least eight feet in height shall be planted and maintained along the rear and side yards of any residential district, but shall not extend beyond the front building line of adjacent residential lots.

(E) *Service areas.* All uses shall provide adequate areas for bulk storage of solid waste and for placement of heating, cooling and similar facilities on the premises.

(2006 Code, Ch. 27, § 12.0)

§ 157.032 GB GENERAL BUSINESS DISTRICT.

(A) *Purpose.* This district provides an area for conduct of a wide range of commercial activities, most of which are normally enclosed within a building, but some of which are more intense than central business uses and involve some outdoor sales or storage. The general business district shall normally be used for shopping areas and shopping centers subordinate to the central business district or incorporating a more vehicle-oriented range of services. There shall be no non-commercial operations located in this zoning district if the buildings are connected by a common wall.

(Amended 4-1-2008)

(B) *Permitted uses.*

(1) All uses permitted by right in the central business district.;

(2) Assembly halls, coliseums, gymnasiums and similar facilities;

(3) Auction sales (not livestock);

(4) Automobile service stations;

(5) Garages;

(6) Automobile and truck rentals;

(7) Automobile washing facilities;

(8) Bowling alleys;

(9) Drive-in banks;

(10) Dry cleaning stores and plants;

(11) Garden supplies sales, including outdoor;

(12) Motels;

(13) Shopping centers, upon approval of the site plan by the Planning Board;

(14) Skating rinks;

(15) Tire recapping and retreading;

(16) Transit terminals for passengers and light freight;

(17) Vocational trade schools;

(18) Glass shops;

(19) Other retail business or service facilities conducted primarily within a building;

(20) Customary accessory uses;

(21) Dealerships;

(22) Convenience stores with gasoline sales; and

(Added 9-2-1997)

(23) Town owned well sites, above ground water storage tanks, lift stations, pump stations and electrical substations.

(24) Micro-Distillery/Micro-Brewery/Micro-Winery:

(a) Except for loading, all activities must occur within a building;

(b) Must have an off-street or alley loading area;

(c) Maximum floor area may not exceed 20,000 square feet;

(d) Must obtain all applicable ABC permits;

(e) Shall not produce odors, gas, dust, or any other atmospheric pollutant detrimental to the health, safety or general welfare of persons living or working in the surrounding area;

(f) The facility must include a tasting room, restaurant, or incorporate tours;

(25) Non-Bulk Storage of Liquefied Petroleum – Accessory Use

(Added 7-11-2000; Amended 10-2-2017)

(C) *Special exceptions.*

(1) Governmental and public utilities buildings and uses, such as sewage lift stations, pump stations, electrical substations, water wells, fire stations, maintenance or operations centers, and community centers, upon a finding that they will not create excessive noise, odor, smoke, dust or other adverse impacts which might prove detrimental to surrounding developed property and uses, and including plans for buffering of adjacent properties; and

(2) Residential uses.

(3) Kindergartens and Child Day Care Centers, upon the finding that the activities at the location will not have adverse effect upon the enjoyment of adjoining properties and upon the condition that the play area and fenced area comply with state day care center requirements.

(Added 1-7-2003)

(4) Non-Bulk Storage of Liquefied Petroleum – Primary Use

(D) *Buffer strips.* A densely planted buffer strip at least eight feet in height shall be planted and maintained along the rear and side yards of any residential district, but shall not extend beyond the front building line of adjacent residential lots.

(E) *Service areas.* All uses shall provide adequate areas for bulk storage of solid waste and for placement of heating, cooling and similar facilities on the premises.

(Added 5-7-18)

(2006 Code, Ch. 27, § 13.0)

§ 157.033 HB HIGHWAY BUSINESS DISTRICT.

(A) *Intent.* This district is intended to provide for commercial areas to be located on highways and major thoroughfares in the community. The uses allowed in this district are primarily retail trade or service establishments dependent on the traffic volume or transportation access characteristics of highways and major thoroughfares or high intensity commercial uses located on high traffic routes to avoid conflict with less intense land uses. Although this district is expressly designed for location along major thoroughfares it is intended that these uses should be clustered in nodes as much as possible to limit the number of highway access points and prevent undesirable strip development.

(B) *Permitted uses.*

(1) Alcoholic beverage (ABC) stores;

(2) Animal hospitals and kennels;

(3) Antique sales;

(4) Appliance stores;

(5) Assembly halls, coliseums, gymnasiums and similar facilities;

(6) Athletic facilities, such as stadiums and ballparks;

(7) Dealerships;

(8) Automobile service stations and garages;

(9) Auto parts and accessories sales;

(10) Auto upholstery shop;

(11) Automobile washing facilities;

(12) Bakeries and food products, wholesale;

(13) Bicycle and motorcycle sales and repair;

(14) Boat sales and repair;

(15) Building supply and home improvement stores;

(16) Cabinetmaking, woodworking and upholstery shops;

(17) Circuses, carnivals and revivals;

(18) Commercial amusements;

(19) Contractors' offices and storage yards, provided requirements of division (G) below are met;

(20) Customary accessory uses;

(21) Dairy bars and pastry shops;

(22) Drive-in theaters;

(23) Electrical supplies and equipment sales and repairs, provided requirements of division (G) below are met;

(24) Farm and garden supplies stores;

(25) Farm implement and equipment sales and repair;

(26) Farmers markets and produce stands;

(27) Freezer storage lockers;

(28) Funeral homes;

(29) Industrial supplies and equipment sales;

(30) Machine and welding shops;

(31) Mobile home sales lots;

(32) Monument works and sales;

(33) Motels;

(34) Plant nurseries and greenhouses;

(35) Plumbing and heating supplies and equipment sales, provided requirements of division (G) below are met;

(36) Radio and television stations;

(37) Real estate sales and rentals;

(38) Restaurants, including drive-in and fast food;

(39) Second hand stores and flea markets;

(40) Sheet metal shop;

(41) Sign painters;

(42) Tire service, recapping, retreading;

(43) Transportation terminals;

(44) Wholesale and warehousing facilities provided requirements of division (G) below are met;

(45) Nursing homes, adult day care facilities, rest homes and similar uses;

(46) Shopping centers;

(47) Churches and customary related uses;

(48) Barber and beauty shops;

(49) Convenience stores with gasoline sales;

(Added 9-2-1997)

(50) Town owned well sites, above ground water storage tanks, lift stations, pump stations and electrical substations;

(51) Micro-Distillery/Micro-Brewery/Micro-Winery:

(a) Maximum floor area may not exceed 20,000 square feet;

(b) Must have an off-street or alley loading area;

(c) Must obtain all applicable ABC permits;

(d) Shall not produce odors, gas, dust, or any other atmospheric pollutant detrimental to the health, safety or general welfare of persons living or working in the surrounding area;

(52) Garages, Implement repairs and dealerships; and

(53) dairy products processing and distributing facilities

(54) Non-Bulk Storage of Liquefied Petroleum – Accessory Use

(Added 7-11-2000; Amended 5-7-2018)

(C) *Special exceptions.*

(1) Governmental and public utilities buildings and uses, such as sewage lift stations, pump stations, electrical substations, water wells, fire stations, maintenance or operations centers, and community centers, upon a finding that they will not create excessive noise, odor, smoke, dust or other adverse impacts which might prove detrimental to surrounding developed property and uses, and including plans for buffering of adjacent properties;

(2) Existing single-family dwellings may be approved to be re-occupied as single-family housing once the property has been conforming or vacant for more than 180 days; provided:

(a) Housing stock in the town is not meeting demand; and

(b) No major renovations have been done to land or structure due to commercial use.

(3) Mobile recycling businesses;

(Added 5-7-1996)

(4) Day care centers; and

(Added 6-22-1999)

(5) Pool halls and bars

(Added 2-3-2009)

(6) Internet Cafes: It is the intent of this provision to establish regulations to prevent a concentration of internet cafes within the town/ETJ and to provide a buffer between internet cafes and the uses specified below. Internet café is defined as a physical location which may also operate as a conventional café serving food and drink where one can use a computer with internet access usually for a fee on a monthly, daily, hourly or per minute basis. Also used as gaming center and/or locations to operate sweepstakes. Internet cafes are permitted in the HBD (Highway Business District) subject to the following standards:

(a) Separation from other internet café uses. Any structure in which an internet café is operating shall be separated by a distance of at least 250 feet (determined by a straight line and not street distance, without regard to intervening structures or objects) from any other internet café use.

(b) Separation from other uses. Any structure in which an internet café is operating shall be separated by a distance of at least 250 feet (determined by a straight line and not street distance, without regard to intervening structures or objects) from any residential zoning district, OI (office and institutional) zoning district, any school, church, childcare center, public park or playground.

(c) The distance for the separation from residential zoning and other protected uses shall be measured from the closest edge of the building occupied by the internet café to the nearest property line of the residential zoning district or OI (office and institutional) zoning district, or to the property line of a protected use.

(d) No more than one internet café may be located within the same structure.

(e) No alcohol shall be consumed inside the premises.

(f) No one under the age of 18 years old may enter premises.

(7) Non-Bulk Storage of Liquefied Petroleum – Primary Use

(8) Beach Bingo, upon a finding that the standards are met:

(a) Separation from other internet café uses. Any structure in which a beach bingo is operating shall be separated by a distance of 250 feet (determined by a straight line and not street distance, without regard to intervening structures or objects) from any other beach bingo operations.

(b) Separation from other uses. Any structure in which a beach bingo is operating shall be separated by a distance of at least 250 feet (determined by a straight line and not street distance, without regard to intervening structures or objects) from any residential zoning district, OI (office and institutional) zoning district, any school, church, daycare center, public park or playground and Internet Cafes.

(c) The distance for the separation from residential zoning and other protected uses shall be measured from the closest edge of the building occupied by the beach bingo to the nearest property line of the residential zoning district or OI (office and institutional) zoning district, or to the property line of a protected use.

(d) No more than one beach bingo will be located within the same structure

(e) No alcohol shall be consumed inside the premises

(f) Beach Bingo operations shall close at 12:00 A.M.

(Added 5-5-2015)

(D) *Buffer strips.* A densely planted buffer strip at least eight feet in height shall be planted and maintained along the rear and side yards of any residential district, but shall not extend beyond the front building line of adjacent residential lots.

(E) *Service area.* All uses shall provide adequate areas for bulk storage of solid waste.

(F) *Animal storage*. No outdoor animal storage shall be allowed within 150 feet of any residential lot or within 50 feet of any adjoining property line.

(G) *Storage areas.* Outdoor storage yards shall be screened on the front side by a solid fence, wall, or hedge at least four feet high, and the rest of the area is fenced by a solid fence not less than six feet in height.

(2006 Code, Ch. 27, § 14.0) (Ord. 758,passed 6-5-2012)

§ 157.034 INDUSTRIAL DISTRICT.

(A) *Intent.* This district is designed to provide areas primarily for manufacturing and processing industries and their accessory uses, for supporting of related storage, transportation and distribution activities, for commercial activities with high intensity characteristics and for certain supporting service activities for the convenience of the concentrated employee population. These areas shall normally be located on planned sites with good access to major transportation arteries and to appropriate utilities capacities. The regulations of this district are intended to minimize conflicts with proximate land uses by controlling noise, odor, glare, smoke, dust, wastes and other adverse environmental effects. Industrial classifications shall normally apply to large tracts of land located in a manner that the uses permitted in the district will not detract from the appropriate development or enjoyment of nearby properties. Residential uses and most retail trade activities are prohibited in this district.

(B) *Permitted uses.*

(1) Manufacturing and fabrication of:

(a) Air conditioning and heating equipment;

(b) Apparel and clothing;

(c) Auto parts and accessories;

(d) Bakery and food products;

(e) Bedding and carpets;

(f) Beverages, including bottling;

(g) Boats;

(h) Books;

(i) Business machines;

(j) Candy and confections;

(k) Carbon and battery products;

(l) Dairy products;

(m) Drugs, medicines, cosmetics;

(n) Electrical appliances and electronic equipment;

(o) Felt and sandpaper;

(p) Furniture;

(q) Glass, ceramics and tile;

(r) Hardware and housewares;

(s) Ice;

(t) Industrial supplies and equipment;

(u) Insulation and wall board;

(v) Leather products;

(w) Machine tools;

(x) Musical instruments;

(y) Oilcloth and linoleum;

(z) Optical goods;

(aa) Paper products;

(bb) Plastic products;

(cc) Pottery, porcelain;

(dd) Precision instruments and jewelry;

(ee) Recreation and sporting goods;

(ff) Signs;

(gg) Soap, detergents, washing compound;

(hh) Textiles and cordage;

(ii) Tobacco products;

(jj) Truck trailers and mobile homes;

(kk) Watches and clocks;

(ll) Wood products;

(mm) Customary accessory uses;

(nn) Freezer lockers; and

(oo) Fiberglass manufacturing operations.

(Added 6-4-2000)

(2) Meat packaging (not slaughter or stockyard operations);

(3) Monument works;

(4) Processing activities:

(a) Automobile and junk salvage provided the requirements of the junkyard ordinances are met;

(b) Coffee, tea, spices;

(c) Dry cleaning and laundry plants;

(d) Grain and seed plants;

(e) Printing, engraving, publishing; and

(f) Tobacco processing.

(5) Supporting, intensive or large-area commercial activities:

(a) Auction sales, antique sales or flea marts; and

(b) Building materials, storage and sales.

(6) Communications towers and antennas, radio and television stations;

(7) Town owned well sites, above ground water storage tanks, lift stations, pump stations and electrical substations;

(Added 7-11-2000; Amended 10-2-2007)

(8) Contractors offices and storage yards;

(9) Machine and welding shops;

(10) Plumbing, heating and electrical suppliers and repairs;

(11) Industrial equipment and machinery repair and servicing;

(12) Auto and truck sales;

(13) Industry accessory uses:

(a) Research laboratories;

(b) Vocational trade schools; and

(c) Offices and parking lots.

(14) Transportation, storage, distribution activities:

(a) Airports;

(b) Grain elevators;

(c) Motor freight terminals;

(d) Railroad facilities; and

(e) Wholesale and warehousing businesses.

(15) Indoor recreational sports centers.

(16) Non-Bulk Storage of Liquefied Petroleum – Accessory Use

(Added 8-7-2001)

(C) *Special exceptions.*

(1) Automobile service stations or garages;

(2) Banks;

(3) Concrete mixing plant;

(4) Restaurants;

(5) Truck stops;

(6) Bulk storage of petroleum products: provided, the uses are properly buffered, located at least 300 feet from residential and related structural uses, and at least 1,000 feet from other bulk storage facilities;

(7) Rubber products manufacturing;

(8) Convenience stores;

(Added 9-2-1997)

(9) Convenience stores with gasoline sales; and

(Added 9-2-1997)

(10) Religious uses located outside of a designated industrial park.

(Added 5-7-2002)

(11) Solar farms: The standards for decision are as follows:

(a) Solar farm should not endanger the public health and safety.

(b) Solar farm should meet all required conditions and specifications.

(c) Solar farm should no injure the value of adjoining properties.

(d) Solar farm should be in harmony with the surrounding area and compatible with the surrounding area and compatible with the surrounding neighbors.

(e) Property must be screened per §§ 157.105 through 157.114.

(D) *Fences, walls, hedges.* Solid and open fences are permitted to any structurally sound height, excluding corner site distance.

(E) *Operational standards*. All industrial uses shall meet state and federal EPA regulations.

(F) *Buffer strips.*

(1) A densely planted buffer strip at least eight feet in height shall be planted and maintained along the rear and side yards of any residential district, but shall not extend beyond the front building line of adjacent residential lots.

(2) Open storage yards of any use permitted in this district shall be screened from adjoining streets and highways by a solid fence, wall or hedge at least four feet high (six feet if storage is stacked to or above six feet high) unless the storage is set back from the right-of-way at least 400 feet.

(G) *Service areas.* All uses in the district shall provide adequate, accessible areas for bulk storage of solid waste.

(12) Non-Bulk Storage of Liquefied Petroleum – Primary Use

(2006 Code, Ch. 27, § 15.0)

§ 157.035 O & I OFFICE AND INSTITUTIONAL DISTRICT.

(A) *Intent.* The purpose of this district is to create and protect areas in which residential, business, and professional uses may be and are compatibly mixed, achieving a healthful living environment for the residents of the district and at the same time preventing the development of blight and slum conditions. The district is limited to those sections of the community in which the mixing of the uses is necessary and desirable for the buffering between.

(B) *Permitted uses.*

(1) Multi-family dwellings;

(2) Accessory uses and structures;

(3) Art studio;

(4) Bank and savings and loan institutions, with or without drive-in facilities;

(5) Bed and breakfast inn, tourist homes;

(6) Book store;

(7) Church;

(8) Dance studio;

(9) Flower shop;

(10) Funeral home;

(11) Gift shop;

(12) Law offices;

(13) Medical, dental or similar clinic;

(14) Municipal government building or use;

(15) Museum;

(16) Music studio;

(17) Offices - business, financial, professional;

(18) Off-street parking facility;

(19) Pharmacy;

(20) Photographic studio;

(21) Principal use sign;

(22) Schools - public or private;

(23) Home occupations; and

(24) Town owned well sites, above ground water storage tanks, lift stations, pump stations and electrical substations.

(Added 7-11-2000; Amended 10-2-2007)

(C) *Special uses.*

(1) Day care centers, upon a finding that the activities at the location will not have adverse effect upon the enjoyment of adjoining properties and upon the condition that the play and fenced areas comply with state day care center requirements; and

(2) Public utilities facilities such as distribution lines, sewage lift stations, transformer stations, transmission lines and towers, electric substations, water tanks and towers, and telephone stations; provided, the facilities are essential for the service of the immediate area and further provided that no vehicles or other non-essential equipment are located on the premises and that no offices shall be permitted. The entire lot so used shall be properly landscaped and furnished with a densely planted buffer or fence of at least six feet in height.

(D) *Screening.* A six-foot solid fence or planted buffer shall be provided along the perimeter of the rear and sides of the site where the perimeter is adjacent to a single-family district or single-family use.

(2006 Code, Ch. 27, § 16.0)

§ 157.036 ADDED REQUIREMENTS.

(A) *Off-street parking required.* Off-street automobile parking or storage space shall be provided for every establishment and every dwelling on every lot, except in the central business district. If parking space cannot reasonably be provided on the same lot, the space shall be

provided on a lot within 400 feet of the principal use which is owned, leased or otherwise controlled or reserved by the principal use.

(B) *Combined lots.* The required parking space for any number of separate establishments may be combined in one lot but the required spaces for one establishment may not be assigned to another establishment at any time; except that, one-half of the parking spaces required for establishments whose peak attendance will be at night or on Sundays (such as churches and theaters) may be shared by an establishment which is closed at similar times.

(C) *Lot requirements*. Parking spaces may be provided in a parking garage or in a properly graded and improved open space. Remote parking lots are not permitted in residential districts. Each automobile parking space shall not be less than 200 square feet (ten feet wide by 20 feet deep) in area exclusive of adequate access drives and maneuvering space. Required parking areas must have vehicular access to a street or alley; the access shall not be thereafter encroached upon or altered.

(D) *Plans and permits*. Each application for a zoning permit or certificate of compliance submitted to the Zoning Admininstrator shall include information as to the location, dimensions and arrangement of off-street parking and loading space and the means of ingress and egress to the space. This information shall be in sufficient detail, including a plat plan if requested, to allow the Zoning Admininstrator to determine whether the requirements of this section are being met. No certificate of compliance will be issued unless and until all off-street parking and loading space requirements shown upon the plans or made a part of the zoning permit are in place and ready for use.

(E) *Exceptions.* Any structure or use in existence on the effective date of this chapter is not affected by these requirements until the gross floor area is increased 10% or more.

(2006 Code, Ch. 27, § 17.0)

§ 157.037 LID LIGHT INDUSTRIAL DISTRICT.

(A) *Intent.* This district is designed to provide areas primarily for light manufacturing and processing industries and their accessory uses, for supporting or related storage, transportation and distribution activities, for commercial activities with high intensity characteristics and for certain supporting service activities for the convenience of the concentrated employee population. These areas shall normally be located on planned sites with good access to major transportation arteries and to appropriate utilities capacities. The regulations of this district are intended to minimize conflicts with proximate land uses by controlling noise, odor, glare, smoke, dust, wastes and other adverse environmental effects. Light industrial classifications shall normally apply to large tracts of land located in a manner that the uses permitted in the district will not detract from the appropriate development or enjoyment of nearby properties. Residential uses and most retail trade activities are prohibited in this district.

(B) *Permitted uses.*

(1) Manufacturing and fabrication of:

(a) Air conditioning and heating equipment;

(b) Apparel and clothing;

(c) Auto parts and accessories;

(d) Bakery and food products;

(e) Bedding and carpets;

(f) Beverages, including bottling;

(g) Books;

(h) Business machines;

(i) Candy and confections;

(j) Dairy products;

(k) Drugs, medicines, cosmetics;

(l) Electrical appliances and electronic equipment;

(m) Furniture;

(n) Ice;

(o) Industrial supplies and equipment;

(p) Machine tools;

(q) Musical instruments;

(r) Optical goods;

(s) Precision instruments and jewelry;

(t) Recreation and sporting goods;

(u) Signs;

(v) Soap, detergents, washing compound;

(w) Watches and clocks; and

(x) Customary accessory uses.

(2) Processing activities:

(a) Coffee, tea, spices;

(b) Printing, engraving, publishing;

(c) Building materials, storage and sales;

(d) Contractors offices and storage yards;

(e) Plumbing, heating and electrical suppliers and repairs;

(f) Tobacco processing;

(g) Public works, public safety, governmental and public utilities; and

(h) Auto and truck sales.

(3) Industry accessory uses:

(a) Research laboratories;

(b) Vocational trade schools; and

(c) Offices and parking lots.

(4) Transportation, storage, distribution activities; and

(5) Wholesale and warehousing businesses.

(6) Non-Bulk Storage of Liquefied Petroleum – Accessory Use

(C) *Fences, walls, hedges.* Solid and open fences are permitted to any structurally sound height, excluding corner site distance.

(D) *Operational standards*. All industrial uses shall meet state and federal EPA regulations.

(E) *Buffer strips*. A densely planted buffer strip at least eight feet in height shall be planted and maintained along the rear and side yards of any residential district, but shall not extend beyond the front building line of adjacent residential lots.

(F) *Screening.* Open storage yards of any use permitted in this district shall be screened from adjoining streets and highways by a solid fence, wall or hedge at least four feet high (six feet if storage is stacked to or above six feet high) unless the storage is set back from the right-of-way at least 400 feet.

(G) *Service areas.* All uses in the district shall provide adequate, accessible areas for bulk storage of solid waste.

(H) *Special exceptions.*

(1) Automobile service stations or garages;

(2) Banks;

(3) Restaurants; and

(4) Truck stops.

(5) Non-Bulk Storage of Liquefied Petroleum – Primary Use

§ 157.038 SOLAR POWER OVERLAY DISTRICT.

(A) *Purpose.* In recognition of the movement to sustainable and clean energy, the town intends to allow solar providers to allow solar farms and related facilities in reasonable locations within the town's jurisdiction without, at the same time, encouraging proliferation. The creation of an overlay zoning district ensures that solar farms are suitably sited and properly screened and landscaped. An overlay zoning district may be applied by map amendment to property in addition to such property's existing zoning district designation. Accordingly, the Solar Power overlay district is hereby created for this intent and purpose.

(B) *Zoning Eligibility.* Solar Farms that meet the requirements of § 157.038 (B) and (C) shall be permitted as uses by right in the RA-20 and Industrial zoning districts, subject to confirmation and approval by the Board of Commissioners that all requirements have been met. To be considered for the Solar Power Overlay District, the parcel must comply with the following general requirements:

(1) Size. The minimum parcel size shall be no less than thirty (30) acres;

(2) Access. The site shall have sufficient street frontage or alternate access easement to allow appropriate site access;

(3) Underlying zoning district. Underlying Zoning District of RA-20 and Industrial;

(4) Location. A site in the RA-20 district must abut property zoned ID;

(5) Separation. The site shall not be closer than three miles from an existing solar farm in an RA-20 zone, as measured from the closest points of each parcel.

(C) Standards and requirements.

(1) *Height.* Solar panels, mounts, and related equipment or structures shall not exceed ten feet (10') in height, excluding power poles necessary for interconnection.

(2) *Fence and security*. The solar farm area shall be fully enclosed with a minimum 6-foot tall security fence along its perimeter. Gates shall be locked and secured. A sign stating the solar farm operators contact information, including name, address, and phone number, shall be placed near the primary entrance.

(3) *Setbacks.* The solar farm shall meet the side and rear setbacks for the underlying zoning district; however, the exterior facility fence shall not be closer than one thousand five hundred (1,500) feet from a public street and fifty (50) from any property line, provided, however, that if a solar farm includes more than one parcel, then no setback shall be required from interior lot lines. Access roads and overhead lines are permitted to cross a setback to allow for site access.

(4) *Residential separation.* All equipment, panels, mounts, and other materials (but not including the exterior fence) shall be set back a minimum of one thousand five hundred (1,500) feet from the footprint of any existing residential dwelling unit.

(5) *Buffers and Landscaping.* Except where natural vegetation already exists, fifty foot vegetated buffers sufficient to fully screen the facility shall be planted along all sides adjoin properties zoned or developed for agricultural or residential use. A minimum break in the buffer along the front side shall be allowed for access.

(6) *Landscaping Plan.* The applicant shall submit a Landscaping Plan that shows the locations, number and types of plants to be used in the vegetated buffer. A local nurseryman or landscaping contractor shall certify that the plants shall be of varieties native to eastern North Carolina or commonly used in eastern North Carolina and able to thrive in local soils. A sufficient amount of vegetation shall be of such density and height that panels are fully screened at the time of installation. The applicant shall also provide the name of a local landscaping contractor who shall certify that he has been hired to maintain the vegetation and to replace dead or diseased vegetation. A local landscaping contractor shall be hired for the life of the facility. A contractor shall be considered local if they regularly service other sites and properties within the Town of Farmville.

(7) *Reflection.* Solar panels shall be arranged, angles, or sited to minimize reflection onto adjoining properties and rights-of-way.

(8) *Decommissioning Plan.* A Decommissioning Plan shall be approved and recorded as a condition of site plan approval. At a minimum, the Decommissioning Plan shall address the following requirements:

(a) Responsible parties

(b) Timeline for the completion of all decommissioning plan activities within six months of power ceasing to be provided to the recipient client.

(c) Removal and disposal of all equipment and materials; including but not limited to: panels, mounts, structures, pads, foundations, underground wiring and fencing;

(d) Site reclamation and surface restoration; including but not limited to: retention of installed landscaping, putting down new topsoil, regrading, and re-seeding.

(e) A report prepared and sealed by an engineer demonstrating that the value of recycled solar farm components exceeds the estimated costs of removal. If the costs of removal exceed the value of recycled components, then the project owner shall post a form of surety sufficient to the Town for the difference.

(9) *Outside lighting.* Outside lighting shall not be allowed.

(D) *Approval.* An application for a solar farm zoning permit shall include the following:

(1) A site plan prepared and sealed by a North Carolina licensed surveyor or engineer that includes the following:

(a) A narrative describing the proposed solar farm, including an overview of the project;

(b) The proposed location and dimensions of all solar panels, inverters, existing and proposed structures, screening, fencing, property lines, turnout locations, ancillary equipment, transmission lines, vegetation and the location of any residences within 1,000 feet of the perimeter.

(c) Any preexisting structures on the same lot and principal structures on other properties that would the placement of solar panels.

(d) Parking, fencing, and access areas.

(e) Location of any proposed solar access easements

(f) Location of inter-connection to the system components and/or the local utility power grid, and location of disconnect switch.

(g) Standard drawings of the solar collection system components.

(h) Location and height and structure of security fencing.

(i) The location and widths of the buffer and landscaping described in subsection (C)(6).

(2) Copies of any lease agreement and solar access easements.

(3) Evidence that the electrical utility provider has been informed of the customers' intent to install an interconnected, customer-owned generator (off grid systems shall be exempt from this requirement).

(4) Decommissioning plan described in subsection (C)(7).

(5) Landscaping Plan described subsection (C)(6).

(6) Signature of the property owners, and the owners/operator of the facility, if different than the property owners.

(7) Other relevant information reasonably necessary to ensure compliance with this ordinance.

(E) *Conflicts.* Where a provision of the Solar Power Overlay District conflicts with a provision of the underlying zoning district, the Solar Power Overlay District shall govern.

(2006 Code, Ch. 27, § 26.0)

STANDARDS AND REQUIREMENTS

§ 157.050 INTERPRETATIONS AND OTHER REQUIREMENTS.

(A) (1) In interpreting and applying these regulations, they shall be held to be the minimum requirements necessary to carry out the purposes of the chapter.

(2) Except as may be specifically stated, it is not the intent of this chapter to interfere with, abrogate, annul or otherwise affect any easements, covenants or other agreements between parties; provided, however, that, when the requirements of this chapter impose a greater restriction upon the use of land or structures or requires greater yard or open spaces than imposed by other ordinances, rules, regulations, permits, easements, deed restrictions, covenants or agreements, the provisions of this chapter shall govern.

(B) (1) In interpreting and applying these regulations, they shall be held to be the minimum requirements necessary to carry out the purposes of the chapter.

(2) Except as may be specifically stated, it is not the intent of this chapter to interfere with, abrogate, annul or otherwise affect any easements, covenants or other agreements between parties; provided, however, that, when the requirements of this chapter impose a greater restriction upon the use of land or structures or requires greater yard or open spaces than imposed by other ordinances, rules, regulations, permits, easements, deed restrictions, covenants or agreements, the provisions of this chapter shall govern.

(2006 Code, Ch. 27, § 2.1)

§ 157.051 LAND AND STRUCTURES AFFECTED.

No land, building or structure shall be used or occupied and no building or structure or part thereof shall be erected, moved or structurally altered, except in conformity with these regulations.

(2006 Code, Ch. 27, § 2.2) Penalty, see § 157.999

§ 157.052 ONE PRINCIPAL BUILDING PER LOT; EXCEPTIONS.

There shall be no more than one principal building upon any residential lot, except as provided herein.

(2006 Code, Ch. 27, § 2.3) Penalty, see § 157.999

§ 157.053 CHANGES IN LOT SIZES AND YARD SPACES.

(A) No lot shall be reduced in area or changed in dimensions so that lot sizes, frontages, yard spaces and setbacks, open spaces or other requirements of this chapter are not met, except through an accepted dedication of right-of-way to the town or the state.

(B) Preexisting lots in the R-5 and R-8 districts may be subdivided, even if the lots created are non-conforming if they meet the following conditions:

(1) Lots must have more than one principal building and thus already be non-conforming by violating § 157.052;

(2) Lots created shall be subdivided and shall provide the widest setbacks possible for both houses; and

(3) Building footprints must not be expanded into the non-conforming setbacks, even if the original house is demolished or moved. Buildings can be expanded into areas that are within conforming setbacks.

(C) All lots and yard spaces established after the passage of this chapter shall be in full conformity with these regulations.

(2006 Code, Ch. 27, § 2.4) (Amended 12-6-2005) Penalty, see § 157.999

§ 157.054 DOUBLE COUNTING NOT PERMITTED.

No space, which has been counted as part of a yard, lot area, parking area or loading area required for one lot, use or building, shall be counted to satisfy or comply with the requirements for any other lot, use or building.

(2006 Code, Ch. 27, § 2.5) Penalty, see § 157.999

§ 157.055 STRUCTURES TO HAVE ACCESS.

Except as provided herein, every residential building hereafter erected or moved shall be on a lot having a minimum frontage of 20 feet on a public street. All structures shall be so located on lots to provide safe and convenient access from servicing, fire protection and required off-street parking.

(2006 Code, Ch. 27, § 2.6) Penalty, see § 157.999

§ 157.056 YARD SPACE ENCROACHMENTS.

No required yard space shall be encroached upon or reduced, except in conformity with these regulations. Shrubbery, driveways, retaining walls, fences, curbs or ornamental objects, and

plantings shall not be considered encroachments. Eaves may project no more than two feet into a minimum required yard.

(2006 Code, Ch. 27, § 2.7) Penalty, see § 157.999

§ 157.057 CORNER LOT SETBACK.

Buildings erected on lots having frontage on two or more streets shall be set back according to area and bulk regulations.

(2006 Code, Ch. 27, § 2.8) Penalty, see § 157.999

§ 157.058 INTERSECTION VISIBILITY.

On a corner lot in any residential district, no planting, structure, fence, wall or obstruction to vision more than two and one-half feet in height shall be placed or maintained within the triangular area formed by the intersecting property lines and a straight line connecting the points on the street lines each of which is 15 feet from the point of intersection.

(2006 Code, Ch. 27, § 2.9) Penalty, see § 157.999

§ 157.059 LOT COVERAGE.

The maximum lot coverage by all structures on a lot shall not exceed 50%, except for the central business district (CBD) which shall have no limitations on lot coverage.

(2006 Code, Ch. 27, § 2.10) Penalty, see § 157.999

§ 157.060 RESIDENTIAL ACCESSORY BUILDINGS.

The minimum setbacks for accessory buildings from side and rear lot lines in residential districts shall be reduced by 75% for that residential district.

(2006 Code, Ch. 27, § 2.11) Penalty, see § 157.999

§ 157.061 CONSTRUCTION IN PROGRESS.

No change in the plans, construction, size or immediate designated use shall be required for any building, structure or part thereof for which a building permit has been properly issued before passage of this chapter; provided, however, that, if construction is not begun within six months or prosecuted to completion within a reasonable time of the effective date of this chapter, any further construction shall conform with this chapter.

(2006 Code, Ch. 27, § 2.12)

§ 157.062 HEIGHT REGULATION EXCEPTIONS.

Height limitations contained do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, flagpoles or other projections usually required to be placed above the roof level and not intended for human occupancy.

(2006 Code, Ch. 27, § 2.13)

§ 157.063 ILLUMINATION FACING THOROUGHFARES.

No flood, screening or other type of lighting shall be placed or oriented so as to direct light rays or glare onto streets or highways in a manner which might distract or interfere with the vision of motorists or of pedestrians in crosswalks. This provision shall not affect traffic signals and street lights.

(2006 Code, Ch. 27, § 2.14) Penalty, see § 157.999

§ 157.064 TRANSIT SHELTERS.

Weather shelters at school bus or public transit stops, not exceeding 60 square feet in area, are permitted in all districts. The shelters shall not impair intersection visibility.

(2006 Code, Ch. 27, § 2.15)

§ 157.065 HOME OCCUPATIONS.

Home occupations must be clearly incidental and secondary to the use of the dwelling for residence purposes and must not change the character thereof. Home occupations must be conducted by the family dwelling therein, must not employ more than one person who is not a related family member, must not include sales rooms, display windows or outside storage, must not include installation of mechanical equipment, except the equipment normally used for domestic or professional purposes, must not use over 25% of the total floor space of the dwelling structure (including storage), and must not use accessory buildings in connection with the home

occupation. No home occupation shall significantly increase the traffic, noise, electrical interference, glare, dust, smoke or odor beyond levels normally existing in residential districts. Claims of home occupations shall not be used to circumvent or avoid the intent of this chapter that trades and commercial operations shall take place in appropriately zoned commercial districts.

(2006 Code, Ch. 27, § 2.16)

§ 157.066 BUFFER AREAS.

Buffer areas shall be continuously maintained in evergreen trees, initially planted at minimum heights of four feet and minimum density of one per 12 square feet or other arrangement which successfully achieves the screening objective. Buffer areas shall include only plantings and any required fencing and shall not include buildings, signs or vehicles.

(2006 Code, Ch. 27, § 2.17)

§ 157.067 CLASSIFICATION OF NEW JURISDICTION.

All territory which may hereafter be added to the town's zoning jurisdiction by an ordinance or bill of annexation or by an ordinance extending the extra-territorial jurisdiction shall be classified RA-20 residential-agricultural unless and until specifically classified otherwise by ordinance.

(2006 Code, Ch. 27, § 2.18)

§ 157.068 FAMILY CARE HOMES.

Family care homes for disabled people shall be allowed in all districts zoned residential in accordance with G.S. § 168-22.

(2006 Code, Ch. 27, § 2.19)

§ 157.069 STREAM BUFFER AREAS REQUIRED.

(A) *Stream buffer.* A minimum 50-foot vegetative buffer is required along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographical maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.

(B) *Development in buffers.* No new development is allowed in the buffer, except water dependent structures and public projects such as road crossings and greenways may be allowed where no practical alternative exists. These activities should minimize built-upon surface area,

direct runoff away from the surface waters and maximize the utilization of storm water best management practices (BMPs).

(2006 Code, Ch. 27, § 2.17) (Amended 9-7-2004)

§ 157.070 MINIMUM PARKING REQUIREMENTS.

Each use must provide off-street parking and/or loading space equal to or greater than the minimum requirement of that use as set forth below. For any use or class of uses not specifically mentioned, the requirements for off-street parking facilities for the most similar use or class of uses shall apply. Number of employees shall be computed as the largest number of persons employed on the largest shift.

Use	**Minimum Required Parking**
Apartments and multi-family dwellings	1.5 spaces per dwelling unit
Auditoriums and theaters	1 space for each 4 seats in largest assembly area
Automobile sales and repair	1 space for each 2 employees, plus 2 spaces for each 300 square feet of maintenance space
Automobile wash	1 space for each 2 employees, plus movement lane space equal to 5 times the capacity of the wash bays
Bowling alleys	3 spaces per alley plus requirements for any associated uses (restaurant and the like)
Churches	1 space for each 5 seats in main auditorium
Clubs or lodges, fraternal and non-residential	1 space for each 200 square feet used for assembly or dancing.
Day care centers	1 space per employee plus 1 loading space per six children
Financial institutions (banks, savings and loans, loan companies	1 space per 200 square feet of primary loans, loan companies) business area (excluding storage areas, corridors, stairwell and the like
Funeral homes, mortuaries	1 space for each 3 seats in the chapel plus 1 space for each funeral vehicle and each employee
Furniture stores	1 space for each 200 square feet below 5,000 square feet and 1 space for each 400 square feet above 5,000
Hospitals	1 space for each 2 beds, 1 space for each staff doctor, 1 space for each 3 employees

Hotels, motels	1 space for each unit, plus 1 space for each 2 employees, plus space for any associated uses
Industrial, manufacturing or warehouse firm	1.5 space for each 2 employees, 1 space for managerial, personnel and business vehicles, 1 visitor space for each 10 managerial personnel
Kindergartens, nurseries, elementary and junior high schools	1 space for each employee and 4 child loading spaces
Medical offices clinics	4 spaces per doctor plus 1 space for each employee
Offices (such as real estate, lawyers, insurance, government)	1 space for each 200 square feet of floor area and 1 for each employee
Outdoor recreation facilities (stadiums, amusement parks, driving ranges and miniature golf)	1 space for each 3 persons of maximum capacity
Rest homes, nursing homes, care homes, sanitariums	1 space for each 2 beds and 1 space for each employee
Restaurants and nightclubs	1 space for each 3 seats plus 1 space per employee
Restaurants, drive-ins	1 space for each 3 seats, plus 10 spaces for take-out customers, plus 1 space per employee
Retail business not otherwise listed	1 space per 200 square feet of floor area and 1 space for each employee
Rooming and boarding houses	1 space for each guest room, plus 4 spaces for owners and visitors
Senior high schools, trade and vocational schools, business schools, colleges and universities	5 spaces for each classroom, 1 space for each administrative employee, and 1 space for each 10 seats in largest auditorium
Service stations	4 spaces for each grease or wash rack
Shopping center	1 space for each 200 square feet gross floor area
Single-family dwellings and mobile homes	2 spaces for each dwelling unit
Wholesale businesses	1 space per each 2 employees, plus 1 space per 500 square feet of sales area

(2006 Code, Ch. 27, § 18.0)

§ 157.071 AREA AND BULK REGULATIONS.

District	Minimum Lot Requirements		Setback Requirements				Impervious Surface Limits	Maximum Height in Feet
	Lot Area in Square Feet	Lot Width in Feet	Front Yard	Side Yard	Corner Yard	Rear Yard		
RA-20 Residential-Agricultural	20,000	100	30	12	22	25		35 g , n
R-15 Residential District	15,000 j	90	30	12	22	25		35 g , n
R-12 Residential District	12,000 j	80	30	10	20	25		35 g , n
R-12 PUD Residential Overlay	87,120	Max. of 10 units per acre	q	q	q	q	65%	35 g , n
R-8 (Single Family) Residential District	8,000 j	75	25	8	18	25	65%	35 n
R-8 (Multi-Family) Residential District	o	o	o	o	o	o	65%	35 n
R-5 Residential District-Single Family	5,000 j	60	25	8	18	20	75%	35 n

District	Minimum Lot Requirements		Setback Requirements				Impervious Surface Limits	Maximum Height in Feet
	Lot Area in Square Feet	Lot Width in Feet	Front Yard	Side Yard	Corner Yard	Rear Yard		
R-5 Residential District-Two Family	7,500 j	70	25	8	18	20	75%	35 n
R-5 Residential District-Multi-Family	p	p	25	q	q	q	75%	35 n
RMF Residential Multi-Family	Max. of 12 one-bedroom units or 17 two-bedroom units per acre	25	q	q	q	75%	35 n	RMF Residential Multi-Family
RMH A or B Residential Manufactured Housing	5,000 j	60	25	8	18	20	75%	35 n
CBD Central Business District	2,500 j	20	0	b , c	b , c	c		
HBD Highway Business District	7,500 j	75	50	15 q	15 q	15 q	75%	n
NBD Neighborhood Business District	r	r	r	r	r	r	60%	r

District	Minimum Lot Requirements		Setback Requirements				Impervious Surface Limits	Maximum Height in Feet
	Lot Area in Square Feet	Lot Width in Feet	Front Yard	Side Yard	Corner Yard	Rear Yard		
RBD Rural Business District	7,500 j	75	50	15	15	15	75%	35 n
ID Industrial District	43,560	200	50	15	15	20	75%	50 e , n
LID Light Industrial District	43,560	200	50	15	15	20	75%	50 e , n
O & I Office & Institutional	6,000	60	25	8 m	8 m	20 m	75%	35 n

NOTES TO TABLE

a. Deleted

b. None required; but, if provided, each side yard shall be at least four feet in width.

c. Where a lot abuts any residential district, there shall be a side or rear yard clearance of at least ten feet on the side and/or rear yard abutting the residential district.

d. Upon any side or rear lot line which abuts a residential district, there shall be a densely planted buffer strip at least eight feet in height along the rear and/or side lot line abutting the residential properties. No buffer shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining residential lots.

e. No building shall exceed 50 feet in height unless the depth of the front yard and total width of the side yards herein shall be increased by one foot for each two feet, or fraction thereof, or building height in excess of 50 feet.

f. Deleted

g. No building over 35 feet in height unless the depth of the front and total width of the side yards required herein shall be increased by one foot for each two feet, or fraction thereof, of building height in excess of 35 feet.

h. Maximum permissible lot coverage by the principal building and all accessory buildings shall not exceed 50% of the total lot area, except for the central business district (CBD) which shall have no limitation on lot coverage.
i. Accessory buildings:
a. Accessory buildings shall not be erected in any required front or corner yard setbacks.
b. When building storage buildings, the side and rear yard setback requirements may be reduced to 75% of the side yard setback.
c. When building residential detached storage buildings less than 200 square feet in size, the side and rear yard setback requirements may be reduced five feet. (Amended 12- -2003)
j. Fence, wall and hedge placement, setback and height. Fences, walls and hedges are permitted in yards subject to the following requirements:
1. No fence, wall or hedge may be placed:
a. Upon the right-of-way of any street or highway;
b. Closer than 22 feet from the centerline of any street or highway; or
c. closer than seven feet from the back of a curb or ten feet from the edge of pavement (where there is no curb) of any street or highway, whichever distance in a., b. or c. is greater from the street or highway right-of-way.
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a. Accessory buildings shall not be erected in any required front or corner yard setbacks.
b. When building storage buildings, the side and rear yard setback requirements may be reduced to 75% of the side yard setback.
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b. Closer than 22 feet from the centerline of any street or highway; or
c. closer than seven feet from the back of a curb or ten feet from the edge of pavement (where there is no curb) of any street or highway, whichever distance in a., b. or c. is greater from the street or highway right-of-way.

2. Fences, walls and hedges shall be limited in height as follows:
a. Two and one-half foot maximum height within the sight distance at street intersections as defined in § 157.058.
b. Beginning at the setback established in j.1. above, the front yard setback shall have a four-foot maximum height. Additional side and rear yards shall have a six-foot maximum height for solid fences, walls, and hedges and a eight-foot maximum height for open fences, walls and hedges.
3. All swimming pools shall be enclosed by a fence of at least four feet in height.
k. Lot width shall be measured at front setback line.
l. Where lot lines are within the right-of-way of any public street, public highway or railroad, lot dimensions and setback requirements shall be measured from the right-of-way line which the lot line transverses.
m. A six-foot solid fence or planted buffer shall be provided along the perimeter of the rear and sides of the site where the perimeter is adjacent to a single-family district or single-family use.
n. Unoccupied portions of churches and religious buildings are exempt from height limitations.
o. Maximum of eight units per acre.
p. Maximum of 12 units per acre.
q. See § 157.071.
r. Requirements coincides with the requirements of the adjoining residential district.
s. Increase setback to 25 feet if abuts a residential district.
t. Increase setback to 50 feet if abuts a residential district.
u. When subdividing existing residential lots in town, the minimum required square footage for lots may be reduced by not more than 500 square feet, from that of the required square footage for the zoning district in which the property is located, to facilitate the redevelopment of existing properties under the following conditions. (Added 7-3-2001)
1. Provisions are made for adequate off-street parking, as required under § 157.070.
2. No reduction is required in side, rear or corner yard setback requirements to allow for the construction of the home, accessory buildings or any other structures on the lot.
3. The front yard setback may be reduced to equal that of immediately adjoining properties to maintain a similar appearance and character of surrounding properties.

4. The lot width may be reduced by ten feet.
5. The lot(s) was/were created prior to November 1972. (Amended 6-22-1999)
v. When renovating a contributing principal structure within the listed and recognized historic district, setback requirements may be reduced to that of the original structure provided that the renovations would return the structure to its original appearance. This provision is only applicable upon the Board of Adjustments finding that sufficient and substantial evidence exists that would prove that the original structure actually existing in a manner consistent with the proposed renovation. The Board must also ensure that the granting of this variance will not limit sight distances or otherwise adversely affect the surrounding properties. (Added 9-3-2002)

(2006 Code, Ch. 27, § 18.2)

§ 157.072 GROUP HOUSING DEVELOPMENT STANDARDS.

(A) In the case where two or more principal residential buildings or three or more units in a single building are to be constructed on a plot of land which is not subdivided, or which is subdivided but not in accordance with provisions contained in Ch. 155 of this code of ordinances, the building development shall be exempt from the minimum yard requirements for the buildings as stated in the area and bulk regulations of this chapter.

(B) The purpose of this exemption is to provide relief from certain dimensional requirements for building setbacks, lot sizes or yards where the spirit of this chapter can be met by alternate methods of development, but equal to the provisions of this chapter.

(1) *Density*. In no case shall the density of residential units exceed that of the controlling zoning district.

(2) *Setback and peripheral yard requirements.*

(a) No building shall be located within 20 feet of any exterior boundary, except where that boundary is a public right-of-way.

(b) The front yard setback requirement of the controlling zoning district shall be observed along all public rights-of-way.

(c) Each building located along a private drive shall have a minimum setback requirement of ten feet.

(d) A zero side or rear yard setback where the side or rear building line is on the side or rear lot line, may be permitted, subject to the following provisions:

1. The Original building must conform to the zoning ordinance and subdivision regulations;

2. Any wall, constructed on the side or rear lot line shall be a solid, doorless and windowless wall. The wall shall contain no electrical, mechanical, heating, air conditioning or other fixtures that project beyond the wall. Roof eaves may encroach two feet into the adjoining lot; and

3. No two units or structures shall be considered attached unless the units or structures share a common party wall constructed in accordance with the State Building Code and other applicable requirements.

(Amended 6-6-1995)

(3) *Interior yards*. For yards exclusive of those on the peripheral yard and the front yard setback from the right-of-way, each facade on all sides of every building shall have a yard space in the shape of an isosceles triangle whose base shall be a line connecting the extreme ends of the facade, and whose altitude shall be the length of the baseline multiplied by a factor of (0.4) for single story buildings and (0.5) for two story buildings.

(a) The yard space thus established for each wall or facade may not overlap the yard space or any other wall or facade of the same or any other building except that triangles may overlap into street rights-of-way and the peripheral yard.

(b) In no case shall the triangle altitude be less than 15 feet.

(c) The maximum required altitude of the triangle for the front facade of the building shall be 50 feet.

(d) The maximum required altitude of the triangle for the rear facade of the building shall be 25 feet.

(e) The minimum distance of any building to any portion of another building shall be 16 feet.

(f) A dwelling shall be considered as separate and detached from any other dwelling unless it shares a common party wall at least five feet long.

(g) No continuous unit or series of units shall exceed a combined length of 300 feet long.

(h) Where a rear wall or facade of a building is facing a public right-of-way, a buffer shall be planted or fence erected to prevent direct view from the right-of-way.

(i) Where official town plans show future streets or thoroughfares, or where access to landlocked property is required the development will be designed as to provide rights-of-way for the future streets or thoroughfares and to give access to properties by means of a public street dedication.

(4) *Parking.* Parking shall be provided in accordance with the provisions of § 157.070.

(a) No parking shall be closer than 15 feet to any dwelling unit.

(b) Off-street parking may be permitted within the required front yard setback, but shall be no closer than ten feet to any right-of-way of a public street.

(c) There shall be no on-street parking. All parking spaces shall be provided in parking lots or bays.

(d) Parking spaces, lots and bays shall be surfaced with concrete, bituminous asphalt, brick pavers or an approved equal which will not erode or pose a possible maintenance problem for storm drainage or storm drainage systems.

(e) No more than six consecutive parking stalls are permitted, and must be separated from additional stalls by a separation island which shall be landscaped with trees or shrubs. The separation island shall have a minimum width of four feet and a minimum depth of 18 feet.

(5) *Recreational requirements.*

(a) The recreation requirement for group housing developments with two acres or less shall not apply.

(b) The recreation requirement for group housing developments shall not apply if the project is located within one-half-mile radius of a public recreation facility.

(c) Recreation areas shall be provided at a ratio of 100 square feet per dwelling unit.

(6) *Site coverage and landscaping.*

(a) The maximum percentage of the site that may be covered by roofs, parking areas, walkways, dumpster pads or other impervious materials is as follows for zoning districts:

1. R-5 residential district: 60%;
2. R-8 residential district: 60%; and
3. Residential multi-family: 70%.

(b) All non-impervious areas shall be grassed or covered with tree bark, pine straw or similar landscaping material.

(7) *Screening.* A six-foot solid fence or planted buffer shall be provided along the perimeter of the rear and sides of the site where the perimeter is adjacent to a single-family district or single-family use.

(2006 Code, Ch. 27, § 18a)

§ 157.073 CLUSTER DEVELOPMENT.

Cluster development shall be permitted in the R-20 district under the following conditions.

(A) Minimum lot sizes may be reduced for a single-family cluster development project; however, if the lot sizes are reduced, an area equal to the reduction shall be provided in a vegetation or natural space as described in division (C) below, and the total number of lots shall not exceed the number of lots allowed for the RA-20 district.

(B) All built-upon areas shall be designed and located to minimize storm water runoff impact to the receiving waters and minimize concentrated storm water flow.

(C) The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners association, title of the open space shall be conveyed to the association for management. Where a property owners association is not incorporated, a maintenance agreement shall be filed with the property deeds.

(2006 Code, Ch. 27, § 18B)

§ 157.074 SITE PLANS.

(A) *General.* Site plans are required for multi-uses on the same parcel and/or tract of land, such as shopping center and multi-family complexes. No permits will be issued until approval of plans has been made by the Planning Board or Board of Adjustments while approving a special use permit. The Planning Board may consider only those items listed in division (B) below in approving or disapproving the site plan.

(B) *Plan content.* The site plan shall be prepared by an architect land surveyor, engineer or land planner, licensed to practice in the state and shall show the following features with proposed dimensions, drawn to a scale not smaller than one inch equals 50 feet:

(1) Dimension of parcel to be developed, location of easements, zoning of property to be developed and adjacent properties;

(2) Proposed use, location, dimensions, setbacks of primary and accessory structures;

(3) Location and dimensions of existing and proposed streets, vehicular entrances, exits and drives, pedestrian walks and pathways;

(4) Location of parking spaces, aisles and bays, angle of parking, truck loading spaces and dock, and fire lanes;

(5) Drainage system;

(6) Location of existing and proposed walls and fences and list type of material, and location of existing and proposed signs;

(7) Topography, ground cover, topographic features, banks, slopes, ditches and the like;

(8) Any additional information requested by Zoning Administrator to adequately review the proposed development;

(9) Setback for shopping centers shall be as follows:

(a) Front setback: 75 feet;

(b) Side setback: 15 feet, 25 feet if adjacent to residential district; and

(c) Rear setback: 15 feet, 25 feet if adjacent to residential district.

(10) Location and size of all utilities.

(C) *Review procedure.*

(1) Five completed copies of the proposed site development plans are to be submitted to the Zoning Administrator at least ten working days prior to the Planning Board meeting at which it will be considered. Administrative officials shall review the plan and submit comments to the Planning Board.

(2) Plans shall be reviewed by the Planning Board and shall be approved with modifications or disapproved within 35 days of the first review.

(3) The applicant shall be notified of the Board's finding within three days. Modifications are to be listed and the reason(s) for disapproval shall also be listed.

(4) Disapproval of the plans can be appealed to the Board of Commissioners by submitting a written request to the Town Clerk and the Zoning Administrator within ten days of the date of notice of a disapproval. The requested appeal shall be placed on the agenda of the next regular meeting of the Board of Commissioners.

(5) Plans approved with modification may receive final approval from the Zoning Administrator when the modifications have been completed.

§ 157.075 FRONT AND CORNER SIDE YARD PARKING.

(A) The parking of commercial vehicles in the front or corner side yards of improved single family lots, excluding driveways, shall be prohibited.

(B) Commercial vehicles shall be defined as any vehicle or trailer exceeding twenty (20) feet in length and more than eight (8) feet in height, including, but not limited to, tow trucks, dump trucks, construction or earth moving vehicles or equipment, semi-tractors, and trailers.

(Added 10/2/17)

(2006 Code, Ch. 27, § 19.0)

§ 157.076 STORAGE OF LIQUIFIED PETROLEUM

(A) Tanks shall not be located closer than 10 feet to a property line and the filling point shall be no less than 25 feet from a property line.

(B) Tanks shall not be located closer than 10 feet from any building on the property and the filling point shall not be located closer than 25 feet from any building.

SIGNS

§ 157.085 PURPOSES.

The purposes of these regulations are to preserve the legibility and usefulness of necessary signs, to minimize the detrimental effects of signs on adjacent properties, to prevent commercial signs from conflicting with, or obscuring signs related to the public safety or convenience, to ensure that signs do not become a public hazard or nuisance by reason of their size, placement, number or condition, to preserve the character of each district and any special qualities of a district (such as historic significance) and to protect and enhance the overall appearance of the community.

(2006 Code, Ch. 27, § 20.1)

§ 157.086 APPLICABILITY.

These regulations apply to signs intended to be clearly legible from a public right-of-way for vehicles or pedestrians. These requirements apply to all signs within the zoning jurisdiction of the town.

(2006 Code, Ch. 27, § 20.2)

§ 157.087 GENERAL REQUIREMENTS.

(A) *Signs for active uses.* All non-governmental signs must be for an active business, on the premises, except outdoor advertising signs (where permitted). Signs for discontinued businesses must be removed within 30 days.

(B) *Sign condition.* All signs shall be maintained in a legible and safe condition. Any sign in a deteriorated, rusting or unsafe condition shall be in violation of this chapter, and the Zoning

Admininstrator shall order that the sign be repaired or removed. The backs of ground signs shall be a neutral color to blend with their surroundings.

(C) *Illumination.* Signs may be illuminated by interior bulbs, neon lighting, silhouette lighting or flood lighting. Flood lights shall not be directed toward streets or public pedestrian walks.

(D) *Rights-of-way.* Non-governmental signs shall not be erected upon or encroach upon public rights-of-way.

(E) *Improper attachments.* Non-governmental signs shall not be attached to nor painted on power poles, light poles, telephone poles, traffic signs or other objects not intended to support a sign. Signs shall not be located on rocks, trees or other natural objects.

(F) *Design, construction and maintenance*.

(1) All signs shall comply with applicable provisions of the State Building Code and the National Electric Code. Signs shall be constructed of permanent materials and permanently affixed to the ground or building, except for the following signs:

(a) Temporary signs meeting the requirements elsewhere in this section;

(b) Signs advertising premises for sale, lease or rent;

(c) Signs providing information on construction taking place on the premises;

(d) Window signs; and

(e) Yard sale signs, political signs and election signs.

(2) Support wires, guy wires and other exterior supportive elements are not permitted.

(Amended 5-4-1999)

(G) *Changeable copy on signs*. Changeable copy is allowed on signs in non-residential districts and for non-residential uses in the PDR District, and for places of worship and institutional uses in any district subject to the following: no more than 50% of the area of a sign shall be devoted to changeable copy, except for signs for theaters and churches, which may devote up to 80% of a sign to changeable copy.

(Added 5-4-1999)

(2006 Code, Ch. 27, § 20.3) Penalty, see § 157.999

§ 157.088 PROHIBITED SIGNS.

(A) Any sign that obscures a sign displayed by public authority for the purpose of giving traffic instructions, direction or other public information;

(B) Any sign that uses the word “stop” or “danger” or otherwise represents or implies that the need or requirement of stopping or caution or the existing of danger, or which is a copy or

imitation of, or for any reason is likely to be confused with any sign displayed by public authority;

(C) Any sign that obstructs any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any building, as required by law;

(D) Any sign that violates any provision of any law of the state relative to outdoor advertising;

(E) Signs which obstruct sight distances at intersections or along public rights-of-way; and

(F) Signs which contain, employ or utilize lights or lighting which rotates, flashes, moves or alternates, except otherwise approved time and temperature signs.

(2006 Code, Ch. 27, § 20.4) Penalty, see § 157.999

§ 157.089 SIGNS ALLOWED IN ALL DISTRICTS.

Signs allowed where regulations do not apply:

(A) Signs not exceeding two square feet in area and bearing only property numbers, post office box numbers, names of occupants of premises or other identification of premises not having commercial connotations;

(B) Flags and insignia of any government, except where displayed in connection with commercial promotion;

(C) Legal notices, identification, information or directional signs erected or required by government bodies;

(D) Integral decorative or architectural features of buildings, except letters, trademarks, moving lights or moving parts; and

(E) Signs directing and guiding traffic on private property, but bearing no advertisement matter, and street name markers and historic markers.

(2006 Code, Ch. 27, § 20.5)

§ 157.090 NON-CONFORMING, OBSOLETE AND UNPERMITTED SIGNS.

(A) Signs which were lawful at the time of their construction but are not in conformance with current requirements shall be permitted to be maintained as non-conforming signs. Non-conforming signs shall posses a permit from the Inspections Department.

(B) (1) Signs which received a permit within a timely manner as required under this subchapter, effective 6-1-1999, and met all existing sign ordinance requirements when constructed, shall be allowed a period of non-conformity before compliance with this chapter is

required. Qualifying signs may continue to exist until 6-1-2001. The messages on these signs may be changed if the messages comply with this subchapter and are contained within the existing sign structure size and cabinet. No enlargement of the signs or modifications of this sign structure, including additional lighting is permitted.

(2) Conformance with the regulations of this chapter is required if repairs or damage to a sign or its support structure exceed 25% of the lesser of the declared value when the permit was originally obtained or the replacement value; or when the sign use or type is changed.

(C) Non-conforming signs which do not fall under the above division (B) shall be removed or shall be made conforming. This includes, but is not limited to, signs which did not receive a permit within six months under the ordinances referenced above. A sign structure on which the sign message on the sign surface changes from a permitted sign to an unpermitted sign shall be considered a violation of this section and the sign and sign structure may be required to be removed from the site.

(D) Obsolete signs must be removed. Both the owner of the property on which the signs are located and the owner of the sign, if different, are separately responsible for the removal.

(E) All administrative interpretations of this section and other provisions of the sign regulations may be appealed to the Planning and Zoning Board. Where necessary, the Board may consider not only the current or intended use of the sign, but also the past use. It shall be the obligation of the sign owner to furnish records concerning the past use, if requested by the Board.

(2006 Code, Ch. 27, § 20.6) (Added 5-4-1999)

§ 157.091 PERMITTED USES BY ZONING DISTRICT.

(A) Key to abbreviations.

c	Feet
cc	Inches
Aggr./aggreg.	Aggregate
Aprt.	Apart
Fr.	Front
Intersec.	Intersection
Lin.	Linear
Max.	Maximum
Pr.	Projection
Setbk	Setback
Sq.	Square
St.	Street
Vis.	Visibility

(2006 Code, Ch. 27, § 20.7) (Added 5-4-1999)

(B) Table: Permitted Uses by Zoning District.

Sign\ District	***ID***	***O&I***	***HBD***	***GBD***	***NBD***	***CBD***	***R-5***	***RMF***	***RMH***	***R-12***	***R-15***	***RA-20***
Outdoor advertising	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Marquees	Not Permitted	Not Permitted	6' max height	6' max height	Not Permitted	6' max height	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
I.D. plaques	5 sq. ' Maximum	5 sq. ' Maximum	5 sq. ' Maximum	5 sq. ' Maximum	Not Permitted	5 sq. ' Maximum	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Home occupation	Not Permitted	2 sq. ' Maximum	Not Permitted	Not Permitted	Not Permitted	Not Permitted	2 sq. ' Maximum	2 sq. ' Maximum	2 sq. ' Maximum	2 sq. ' Maximum	Not Permitted	2 sq. ' Maximum
Ground signs	100 sq.' max 400 aggr. 2 per st. 1000' vis 25' high	24 sq. ' max 10' max height above ground	100 sq.' max 400 aggr. 2 per st. 1000' vis 25' high	64 sq.' max 25' above ground 1 per st.	32 sq.' max 20' above ground 1 per st.	32 sq.' max 20' above ground 1 per st.	24 sq.' max 6' above ground	24 sq.' max 6' above ground	24 sq.' max 6' above ground	24 sq.' max 6' above ground	24 sq.' max 6' above ground	24 sq.' max 6' above ground

Sign\ District	***ID***	***O&I***	***HBD***	***GBD***	***NBD***	***CBD***	***R-5***	***RMF***	***RMH***	***R-12***	***R-15***	***RA-20***
Cornerstone building erect.	5 sq. ‘ max	5 sq. ‘ max	5 sq. ‘ max	5 sq. ‘ max	5 sq. ‘ max	5 sq. ‘ max	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Construction project	32 sq. ‘ max	32 sq. ‘ max	32 sq. ‘ max	32 sq. ‘ max	32 sq. ‘ max	16 sq. ‘ max	32 sq. ‘ max	32 sq. ‘ max	32 sq. ‘ max	32 sq. ‘ max	32 sq. ‘ max	32 sq. ‘ max
Window signs	50% window area max.	25% window area max.	50% window area max.	50% window area max.	50% window area max.	50% window area max.	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Wall signs - upper facade	3 sq’ per lin.’ wall space 300 sq ‘ max 18” max pr.	1 sq’ per lin.’ wall space 100 sq ‘ max 12” max	3 sq’ per lin.’ wall space 300 sq ‘ max 18” max	2 sq’ per lin.’ wall space 200 sq ‘ max 18” max	2 sq’ per lin.’ wall space 150 sq ‘ max 12” max	2 sq’ per lin.’ wall space 150 sq ‘ max 12” max pr.	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Wall signs - lower facade	1/2 sq’ per lin’ of wall front each wall	1/2 sq’ per lin’ of wall front each wall	1/2 sq’ per lin’ of wall front each wall	1/2 sq’ per lin’ of wall front each wall	1/2 sq’ per lin’ of wall front each wall	1/2 sq’ per lin’ of wall front each wall	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted

Sign\ District	***ID***	***O&I***	***HBD***	***GBD***	***NBD***	***CBD***	***R-5***	***RMF***	***RMH***	***R-12***	***R-15***	***RA-20***
Traffic control and parking lot	4 sq' max max 4' high	4 sq' max max 4' high	4 sq' max max 4' high max 4' high max 4' high Permitted	4 sq' max	2.5 sq' max 2.5' high int.	2.5 sq' max 2.5' high int.	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Time and temperature	Not Permitted	32 sq' max 20' max high	32 sq' max 25' max high	32 sq' max 25' max high	Not Permitted	32 sq' max 25' max high	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Temporary yard sale	Not Permitted	4 sq' max	Not Permitted	Not Permitted	Not Permitted	Not Permitted	4 sq' max	4 sq' max	4 sq' max	4 sq' max	4 sq' max	4 sq' max

SCREENING

§ 157.105 PURPOSE.

(A) To minimize the impacts of commercial, industrial or manufacture home parks on adjacent residential land uses a visual screen is required.

(B) Screening:

(1) Lessens the transmission from one lot to another of noise, dust and glare;

(2) Minimizes the visual pollution between incompatible uses of various intensity; and

(3) Creates a sense of privacy from visual or physical intrusion

(2006 Code, Ch. 27, § 25.1)

§ 157.106 OPTIONS.

The screening options shall consist of berms, plantings or fences. Existing vegetation can be used to fulfill part or all of the screening requirements.

(2006 Code, Ch. 27, § 25.2)

§ 157.107 EXISTING VEGETATION.

Existing vegetation is encouraged to be retained and used to fulfill the purposes of this section. The Zoning Administrator shall evaluate any existing vegetation on-site and determine what additional screening is needed to comply with the requirements of this section.

(2006 Code, Ch. 27, § 25.3)

§ 157.108 LOCATION.

(A) Screening shall be located along the rear and side yards of the commercial, and industrial property, where it is adjacent to any residential district.

(B) Any installation of screening in a drainage maintenance or utility easement shall be approved by the Town Planner.

(2006 Code, Ch. 27, § 25.4)

§ 157.109 SCREENING AREA SPECIFICATIONS AND DESIGN.

Screening area specifications and design specifications for the screening options are listed below. A combination of the options may be used to comply with the requirements of this section if approved by the Planning Board during the planning review process.

(A) *Berms.*

(1) Minimum height: five feet;

(2) Minimum crown width: three feet; and

(3) Side slope: three to one (3:1) slope.

(B) *Plantings.*

(1) Minimum screening area width: five feet; and

(2) Number of plants per 100 linear feet:

(a) Shrub: 25;

(b) Understory tree: five; and

(c) Canopy tree: three.

(2006 Code, Ch. 27, § 25.5)

§ 157.110 PLANT SPECIFICATIONS.

(A) *Shrubs*. All shrubs must be evergreens and shall reach a minimum height of 72 inches and a minimum spread of 30 inches within three years.

(B) *Understory tree.* Understory trees shall be a minimum of four feet high and one inch in caliper, measured six inches above grade, when planted. When mature, an understory tree should be between 15 and 40 feet high.

(C) *Canopy tree.* Canopy trees shall be a minimum of eight feet high and two inches in caliper, measured six inches above grade, when planted. When mature, a canopy tree should be at least 40 feet high and have a minimum crown of 30 feet.

(D) *Examples.* Examples of approved vegetation to satisfy screening requirements. Any combination of the following species will meet the screening requirements. Alternate species are acceptable if approved by the Town Planner.

(1) *Shrubs.*

Scientific Name	***Common Name***
Ligustrum japonicum	Curlyleaf Ligustrum
Cleyera japonica	Cleyera
Camelia sinensis	Tea Plant
Ilex cornuta	Chinese Holly
Ilex cornuta 'Burfordii'	Burford Holly
Ilex crenata	Japanese Holly
Ilex latifolia	Lusterleaf Holly
Ilex pedunculosa	Longstalk Holly
Laurus nobilis	Laurel
Leucothoe populifolia	Florida Leucothoe
Ligustrum japonicum	Japanese Privet
Ligustrum lucidum	Tall Glossy Privet
Loropetalum chinense	Loropetalum
Myrica cerifera	Wax-Myrtle
Myrica communis	Myrtle
Osmanthus x fortunei	Fortune Tea Olive
Osmanthus heterophyllus	Holly Osmanthus
Photinia x fraseri	Frasier Photinia
Photinia glabra	Red Phontinia
Podocarpus Macrophyllus maki	Podocarpus
Prunus Laurocerasus	English Laurel
Pyracantha koidzumii	Formusa Firethorn
Thuja Orientalis	Oriental Arborvitae
Viburnum Japonicum	Japanese Viburnum
Viburnum tinus	Laurestinus Viburnum

(2) Understory Trees

Scientific Name	***Common Name***
Cercis Canadensis	Redbud
Cornus Florida	Flowering Dogwood
Acer palmatum	Japanese Maple
Magnolia virginiana	Sweetbay Magnolia
Magnolia stellata	Star Magnolia
Magnolia soulangiana	Star Magnolia
Cornus kousa	Chinese Dogwood
Ilex vomitoria	Yaupon
Amelanchier x. grandiflora	Apple Serviceberry

(3) Canopy Trees.

Scientific Name	***Common Name***
Acer rubrum	Red Maple
Betula nigra	River Birch
Liquidambar styraciflua	Fruitless Sweetgum
Quercus alba	White Oak
Quercus nuttallii	Nuttall Oak
Quercus phellos	Willow Oak
Quercus rubra	Northern Red Oak
Taxodium distichum	Bald Cypress
Ulmus parviflora	Chinese Elm
Zelkova serrata	Zelkova

(2006 Code, Ch. 27, § 25.6)

§ 157.111 GROUPING.

Shrubs and trees may be grouped or clustered, however, no more than 50% of each required plant material may be grouped or clustered. The remainder of the material shall be evenly distributed throughout the screening area.

(2006 Code, Ch. 27, § 25.7)

§ 157.112 FENCES.

(A) Minimum height: five feet;

(B) Maximum height: eight feet; and

(C) Fence materials: masonry or stone walls, wood or similar opaque materials.

(2006 Code, Ch. 27, § 25.8)

§ 157.113 FLEXIBILITY IN ENFORCEMENT OF STANDARDS.

Because of the wide variety of development and the relationship between them, it is neither possible or prudent to establish inflexible screening requirements, the Zoning Enforcement Officer or the Planning Board during the site plan may require either more or less intensive screening whenever it finds the deviations are more likely to satisfy the intent of this section without imposing unnecessary costs to the developer.

(2006 Code, Ch. 27, § 25.9)

§ 157.114 MAINTENANCE.

The owner is responsible for maintaining planting, fences or berms. Plantings shall be kept in good health and appearance. Any dead, unhealthy or missing plants shall be replaced within 90 days with vegetation which meets the approval of the Zoning Enforcement Officer. Fences damaged, improperly constructed or incorrectly placed shall be repaired or replaced with appropriate materials approved by the Zoning Enforcement Officer.

(2006 Code, Ch. 27, § 25.10) (Amended 6-22-1999)

NON-CONFORMITIES

§ 157.125 INTENT.

The intent of this chapter is to allow non-conformities to continue, subject to limitations, but not to assist or encourage their survival. Pre-existing lots or structures, or uses of lots or structures which are prohibited under these regulations for the district in which located, shall be considered non-conforming. Non-conforming lots, structures or uses may be continued, provided they conform to the following provisions.

(2006 Code, Ch. 27, § 21.1)

§ 157.126 NON-CONFORMING LOTS OF RECORD.

(A) Any single lot lawfully recorded before the adoption of the Zoning Ordinance of 4-29-1971 may be built on providing the following setback requirements are met:

Lot of Record Width	***Minimum Side Yards***
Less than 40 feet	5 feet
40-49 feet	5 feet
50-59 feet	6 feet
60-74 feet	8 feet

(B) When two or more lots with continuous frontage are in one ownership at any time after the adoption of this chapter and the lots are individually less than the minimum area or width required in a district, the lots shall be combined to the extent necessary to achieve a lot or lots of the area and width required for the district.

(C) The front yard setback requirements of this chapter for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within 100 feet on either side of the proposed dwelling and on the same side of the same block and use district and fronting on the same street as the lots, is less than the minimum required front yard depth. In case the setback on the lots may be less than the required setback, but not less than the average of the existing setback on the aforementioned lots, or within ten feet of the street right-of-way line, whichever is greater.

(2006 Code, Ch. 27, § 21.2)

§ 157.127 NON-CONFORMING STRUCTURES.

A structure which legally existed at the time of adoption or amendment of this chapter, but does not comply with this chapter by reason of regulations on area, lot coverage, height, yard setback or other restrictions related to the structure, may be continued subject to the following conditions.

(A) No non-conforming structures shall be enlarged or altered, in any way, to increase their non-conformity. They may be altered to decrease their non-conformity.

(B) Maintenance and repairs necessary to keep a non-conforming structure in sound condition shall be permitted.

(C) No non-conforming structure shall be changed to another type of use without the structure first being brought into conformity with this chapter.

(2006 Code, Ch. 27, § 21.3)

§ 157.128 NON-CONFORMING USES.

A use of land or a structure which legally existed at the time of the adoption or amendment of this chapter but does not comply with this chapter by reason of its use, may be continued subject to the following conditions:

(A) When a non-conforming use of land or of a structure has been changed to a conforming use, it shall not thereafter be used for a non-conforming use; and

(B) A non-conforming use of land or of a structure may not be changed to another non-conforming use.

(2006 Code, Ch. 27, § 21.4)

§ 157.129 CESSATION OR DESTRUCTION OF NON-CONFORMING USES OR STRUCTURES.

(A) If use of a parcel of land or a structure are non-conforming, or if the structure(s) is non-conforming, or if both use and structure(s) are non-conforming, and active use of that parcel of land or structure(s) is discontinued for a continuous period of 180 days, the land and/or structure(s) shall thereafter be used only for a conforming use and the structure(s) shall be brought into conformity with this chapter prior to the use.

(B) If a business or industrial structure(s) or a part thereof is occupied by a non-conforming use and is damaged, destroyed or becomes deteriorated to an extent greater than 50% of its replacement cost at the time of damage or discovery of deterioration, the structure(s) may not be repaired for non-conforming use.

(2006 Code, Ch. 27, § 21.5)

§ 157.130 NON-CONFORMING SIGNS.

(A) Non-conforming signs and sign structures, which may be non-conforming either by reason of dimension, placement or uses inconsistent with this chapter, shall be eliminated within a reasonable period of time in order to promote the public safety and welfare. All non-conforming signs that are allowed to become unsafe shall not be permitted to be repaired, instead they shall be eliminated. Non-conforming signs that are heavily damaged by fire, storm and the like shall not be repaired, instead they shall be eliminated.

(B) All permanent and portable signs installed, and flashing and moving signs, shall be removed within six months after receiving notice of violation, except for permitted time and temperature signs.

(2006 Code, Ch. 27, § 21.6)

BOARD OF ADJUSTMENTS

§ 157.145 ESTABLISHMENT AND MEMBERS.

(A) The Planning and Zoning Board shall serve as the Board of Adjustments. The Planning and Zoning Board which consists of nine members must have a minimum of two and not more than three members residing in the extra-territorial jurisdiction. Each member shall be appointed by the Mayor with the approval of the Board of Commissioners. The members shall be appointed for staggered three-year terms. Each member shall hold office until his or her successor has been appointed and qualified. Any vacancy in membership shall be filed for the unexpired term. Vacancies for the unexpired terms shall be promptly filled. The governing body may remove any trustee for incapacity, unfitness, misconduct or neglect of duty. Members shall serve without compensation, but may be reimbursed for any expenses incurred while representing the Board.

(B) The Planning and Zoning Board shall serve as quasi-judicial panel to decide questions of chapter interpretation, applications for special exceptions and requests for variances. In performing these duties, the Planning and Zoning Board shall act to preserve and protect the content and intent of the chapter and to authorize deviations from the uniform regulations of the chapter only under explicit authority or extraordinary hardship.

(2006 Code, Ch. 27, § 22.1) (Amended 3-6-2001)

§ 157.146 BOARD PROCEDURES GENERALLY.

(A) *Officers.*

(1) The Board shall elect a Chairperson and Vice-Chairperson from among its members, who shall serve one-year terms or until their successors are elected.

(2) The Board shall appoint a Secretary, who may be a municipal employee.

(B) *Meetings*. Meetings shall be held at the call of the Chairperson or at such times as the Board may determine. The Chairperson or, in his or her absence, the Vice-Chairperson may administer oaths and compel the attendance of witnesses by subpoena. The Board shall adopt rules of procedure consistent with this chapter and state law.

(C) *Decisions.*

(1) The concurring vote of five members of the Planning and Zoning Board shall be necessary to reserve any order, requirement or determination of the Zoning Administrator, to grant special exceptions, to effect variances of this chapter or to decide in favor of the applicant upon any other matter which the Board is required to determine.

(2) All principal parties shall be informed in writing of any Board decision and the reasons therefor.

(D) *Records.* The Board shall keep minutes of its proceedings, recording attendance of members, votes of members on each question, facts entered in evidence, findings made, official actions and recommendations. A copy of these minutes shall be filed with the Town Clerk for public inspection.

(2006 Code, Ch. 27, § 22.2) (Amended 3-6-2001)

§ 157.147 ADMINISTRATIVE REVIEW PROCEDURES.

(A) The Board shall hear and decide appeals when it is alleged that there is error in any interpretation, order, requirement, decision or determination made by the Zoning Administrator in the enforcement and administration of this chapter.

(2006 Code, Ch. 27, § 22.3)

(B) (1) A written application for review of the administrative action shall be submitted to the Secretary of the Planning and Zoning Board and Zoning Administrator indicating the chapter provision and administrative action in question, asking a specific question or questions to be answered by the Board, stating the applicant's reasons for alleging that an error has been made by the Zoning Administrator in administering the chapter, and providing other relevant data requested by the Board Secretary or Board members. Appeals of action by the Zoning Administrator shall be filed within 45 days of the interpretation, order or other administrative action taken, and may be taken by an aggrieved person or by any municipal official or body affected by action of the Zoning Administrator.

(2) A timely appeal application shall stay proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustments that a stay would cause imminent peril to life or property. If the Zoning Administrator certifies that a stay would cause imminent peril, administrative proceedings shall not be stayed, except by an order of the Board or a court of competent jurisdiction.

(3) Upon receipt of an appeal of an administrative action, the Board Secretary shall notify the Zoning Administrator, who shall promptly transmit to the Board all relevant papers constituting the record of the action being appealed. The Board shall set a reasonable time for hearing of the appeal, shall give timely notice to the parties in interest and shall give public notice of the hearing.

(4) The hearing shall be held and the applicant (appellant) shall present information and evidence relevant to the appeal. The Zoning Administrator shall present information relevant to his or her reasons for the administrative action being appealed, and the town may introduce other relevant information concerning the administration of the chapter. Any person may appeal in person or by agent or attorney. All testimony shall normally be received under oath.

(5) The Board shall render a decision within a reasonable period of time, but need not issue a decision at the time of the initial hearing. The Board shall render its decision by answering the specific questions(s) asked by the applicant, shall determine whether the Zoning Administrator correctly administered the chapter and shall direct that the appropriate action be taken by the applicant and/or Zoning Administrator.

(2006 Code, Ch. 27, § 22.4)

(Amended 3-6-2001)

§ 157.148 SPECIAL EXCEPTIONS/SPECIAL USE PERMITS.

The Board shall consider requests for special use exceptions as may be conditionally permitted in various districts, shall determine whether the information submitted supports making the specific finding(s) required by the chapter to permit the use, shall issue special use permits (granting the special exception) if the required findings are made or deny issuance of a special use permit if all required findings cannot be made, and may attach reasonable conditions to the granting of a special exception to ensure the use's compatibility with other uses permitted in the district.

(2006 Code, Ch. 27, § 22.5) (Amended 3-6-2001)

§ 157.149 SPECIAL EXCEPTION PROCEDURES.

(A) A written application for a special exception shall be submitted to the Board Secretary and Zoning Administrator specifying the special exception sought, indicating the applicable chapter provision, providing information supporting the existence of the required findings and providing the plans or other relevant data as may be required by the town. The administrative and planning staff shall review the application and file a written report with the Chairperson and Secretary of the Board of Adjustments before they review the application.

(B) The Planning and Zoning Board shall set a reasonable time for a public hearing and consideration of the application. At least ten-days' notice of the hearing shall be published in a newspaper of general circulation in the town and the same advance notice shall be given to the applicant and Town Manager in writing. Notice of the hearing shall also be posted on the affected property in a prominent location.

(C) The hearing shall be conducted and the Board shall hear relevant presentations regarding whether the required findings exist and whether the special exception should be granted. The Board shall hear relevant information from the applicant, town administrative and planning officials and any interested or affected members of the public. Parties may appear in person or by agent or attorney to present information relevant to the requirements of the chapter.

(D) The Board shall render a decision within a reasonable period of time, but need not issue a decision at the time of the initial hearing and may call for additional information if needed. In order to grant a special exception, the Board must make the following written findings:

(1) The use will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved;

(2) The use will not substantially injure the value of adjoining property; or, that the use is a public necessity; and

(3) The location and character of the use, if developed according to the plans and information approved, will be in harmony with proximate land uses, consistent with the purposes of the district and in conformity with the town's land use plan.

(E) If the Board makes the above required findings, a special exception shall be granted and a special use permit shall be issued to permit the requested use. The special exception and use permit shall be subject to conditions stipulated by the chapter or determined by the Planning and Zoning Board to be necessary to ensure that the use remains compatible with other uses permitted in the district and with adjoining properties. No special use permit shall grant variances from the requirements of this chapter. If any conditions required or imposed as part of a special use permit are not maintained or carried out or cease to exist, the Zoning Administrator shall revoke the special use permit and the use shall become a chapter violation.

(F) If the Board cannot make all of the required findings, no special exception shall be granted nor special use permit issued. If circumstances change sufficiently that the necessary findings might be met in the future, the Board may re-hear a similar application, but the Board may deny re-hearing to any identical application filed within two years of a previous hearing if it makes a preliminary, informal determination that significant changes warranting re-hearing have not occurred.

(2006 Code, Ch. 27, § 22.6) (Amended 3-6-2001)

§ 157.150 VARIANCE PROCEDURES.

(A) A written application for a variance shall be submitted to the Board Secretary and Zoning Administrator specifying the nature of the variance sought, citing applicable chapter provisions, providing information supporting the existence of the required findings and providing any maps, plans or other relevant data required by the town.

(B) A public hearing will be held by the Board of Adjustments within a reasonable time to determine if required findings support granting of the variance. Testimony may be given by any person with relevant information, whether by agent, attorney or in person. It is the responsibility of the applicant to demonstrate that required findings exist. At least ten-days' notice shall be published in a newspaper of general local circulation and the same notice shall be submitted to the applicant, Zoning Administrator and Town Manager in writing.

(C) The Board of Adjustments shall render a decision, either at the hearing or within a reasonable period thereafter. In order to grant a variance, the Board must find:

(1) Practical difficulties or unnecessary hardships would result from enforcing the strict letter of the chapter. A determination shall be made only if the Board finds that the applicant has demonstrated that:

(a) Strict compliance with the chapter will deprive the applicant of any reasonable return from or use of his or her property;

(b) The hardship results from the application of the chapter and not other factors;

(c) The hardship is actually suffered by the land in question (not the general public or other properties);

(d) The hardship is not the result of the applicant's own actions or negligence; and

(e) The hardship is peculiar to the applicant's property, the result of unusual size, shape or topographic conditions not shared or experienced by other land or structures in the district.

(2) The proposed variance is in harmony with the general purpose and intent of the chapter and preserves its spirit. Requests to extend non-conforming uses or permit uses not allowed in the district are not consistent with this finding;

(3) If the variance is granted, the public safety and welfare will remain secure;

(4) If the variance is granted, substantial justice will be done. In making this determination, the Board shall examine whether literal administration of the chapter would deprive the applicant of rights commonly enjoyed by other property owners or occupants in the district and, on the other hand, whether granting the variance would confer on the applicant any special privilege denied by the chapter to other property in the district; and

(5) If the Board grants a variance, its action shall be accompanied by its reasons for making the required findings and by its certification that the variance is the minimum variance which will make possible the reasonable use of land, buildings or structures.

(2006 Code, Ch. 27, § 22.7) (Amended 3-6-2001)

§ 157.151 ADMINISTRATIVE POWERS.

In exercising its powers, the Board may, in accordance with this chapter, reverse, affirm or modify in whole or part the order, requirement, decision, interpretation or determination appealed from and may issue the orders, requirements, decisions, interpretations or determinations as may be necessary. In these actions, the Board shall have all the powers of the official from whom the appeal was taken.

(2006 Code, Ch. 27, § 22.8) (Amended 3-6-2001)

§ 157.152 AMENDMENT RECOMMENDATIONS.

The Planning and Zoning Board has both the authority and responsibility to recommend to the Board of Commissioners that amendments to this chapter be considered in order to ensure its equitable and comprehensive application, clarify gaps or ambiguities, or otherwise improve its administration and effectiveness.

(2006 Code, Ch. 27, § 22.9) (Amended 3-6-2001)

§ 157.153 APPEALS FROM PLANNING AND ZONING BOARD.

Any person, public body or organization aggrieved by a decision of the Board may, within 30 days of the Board’s decision, seek review by Superior Court by proceedings in the nature of certiorari.

(2006 Code, Ch. 27, § 22.10) (Amended 3-6-2001)

ADMINISTRATION AND ENFORCEMENT

§ 157.165 ZONING ADMINISTRATOR; POWERS.

(A) A Zoning Administrator appointed by the Town Manager is authorized and directed to enforce and administer the provisions of this chapter. The Zoning Administrator may hold other offices or positions concurrently. Appeals from any order, decision or requirement of the Zoning Administrator shall be made to the Planning and Zoning Board.

(2006 Code, Ch. 27, § 23.1)

(B) (1) *Primary Administrator.* All questions of interpretation and enforcement shall be initially presented to and determined by the Zoning Administrator. Subsequent recourse shall be, in order, to the Board of Adjustments and the courts.

(2) *Enforcement means*. The Zoning Administrator shall enforce this chapter by withholding zoning permits and compliance certificates, by seeking an injunction, mandamus or other judicial action to prevent, correct or abate unlawful construction, conversion, alteration, occupancy or use, and by seeking warrants for prosecution of chapter violators.

(2006 Code, Ch. 27, § 23.4)

§ 157.166 ZONING PERMITS.

(A) *Permits required.* No building shall be erected, moved, extended, enlarged, structurally altered or changed in use; nor shall any land be excavated or filled for construction or changed in use until the Zoning Administrator has issued a zoning permit certifying that the proposed structure and/or use complies with this chapter. No building permit or certificate of occupancy shall be issued until a zoning permit has been issued.

(B) *Application*. Applications for zoning permits shall be submitted on forms provided by the Zoning Administrator and shall contain information essential to a determination of chapter compliance, such as: plot plans with lot and/or building dimensions, the locations of buildings and structures, number of dwelling units (if any) and setback lines.

(C) *Permit term.* Zoning permits shall become invalid if the work, occupancy or use authorized is not commenced within six months of permit issuance or if work is suspended or abandoned for one year, or if use or occupancy is suspended for six months.

(D) *Permit effect.* Zoning permits and certificates of compliance issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement or construction as shown therein. Use, arrangement or construction at variance with that authorized is a violation of this chapter.

(2006 Code, Ch. 27, § 23.2)

§ 157.167 CERTIFICATES OF COMPLIANCE.

(A) *Certificate required.* A certificate of compliance issued by the Zoning Administrator and certifying that the building and/or premises is ready for occupancy in conformity with this chapter, is required in advance of occupancy or use of a building hereafter erected, altered or moved, or a change of use of any building or land.

(B) *Application.* A certificate of compliance for a whole or part of a building or premises shall be applied for within ten days after the completion of any erection, alteration or other preparation for occupancy or use. A certificate of compliance shall not be issued unless the proposed use of land and/or building complies with this chapter. If the certificate is denied, the zoning certificates shall be kept on file in the office of the Zoning Administrator and copies shall be furnished upon request to any person.

(2006 Code, Ch. 27, § 23.3)

AMENDMENTS

§ 157.180 PRINCIPLES.

(A) Amendments of the text and zoning map of this chapter may be undertaken from time to time in order to carry out the purposes stated in § 157.001 and to improve this chapter's ability to effectively carry out these purposes. Proposed amendments to the chapter shall be considered significant potential changes in the chapter's ability to assist the implementation of the community's land use plan and comprehensive plan. Proposed amendments should be considered with significant attention to the issues of whether they promote health, safety and the general welfare, encourage the most appropriate use of land and carry out the community's comprehensive plan.

(B) Because the zoning chapter is based on a comprehensive plan, amendments (particularly proposed map changes) should be carefully examined to determine if they are justified by an error in the original provision or classification or whether circumstances have changed sufficiently to make the existing provision or district inappropriate. Absent the justifications, an amendment may be unneeded. In applying district classifications in particular, the community's need for various types and amounts of uses, as well as the suitability of the land for the uses, should be principal determining factors.

(2006 Code, Ch. 27, § 24.1)

§ 157.181 LIMITATIONS.

Zoning classifications shall not be established, nor the official zoning map amended, in the following manners.

(A) *Conditional zoning.* Zoning classifications shall not be based on conditions of time and/or development which will result in an automatic classification change at a future date.

(B) *Contract zoning.* Zoning classifications shall not be based on assurances by an applicant, or conditions imposed by the Town Board that rezoned property will be developed in a particular, limited fashion.

(C) *"Spot" zoning.* Zoning classifications shall not be adopted in a manner which confers special benefit or places special restriction upon a particular parcel of land nor adopted in a manner which classifies a relatively small area differently from surrounding property of similar nature and logical use, without sound basis in the purposes of zoning as set forth in this chapter and state law.

(2006 Code, Ch. 27, § 24.2)

§ 157.182 AMENDMENT PROCEDURES.

(A) *Standing.* A petition for a zoning chapter amendment may be initiated by the Town Board of Commissioners, Planning Board, any department or official of the town, or any citizen residing or owning property within the zoning jurisdiction of the town.

(B) *Application.* Applications to amend this chapter shall be filed with the Secretary to the Planning Board at least ten days prior to the Planning Board meeting at which it is to be considered. The application shall be submitted in the number of copies specified by the town and shall include information necessary to review the application, including the applicant's full name, address and interest in any affected property, a description of the property (if applicable), and the nature of the amendment requested, and a statement of what changed conditions make the amendment necessary to the purposes of zoning and the implementation of the town's comprehensive plan. If the requested change is a zoning map amendment, an accurate map or diagram of the property proposed for re-classification should be submitted, including property lines with dimensions, north arrow, adjoining streets and their widths, the location of all structures, the existing uses of land at the site, and the current zoning classification of the property and adjoining properties. A reasonable application fee set by the Town Manager, subject to Town Board review, may be charged to offset advertising and administrative expenses in processing the application.

(C) *Staff review.* Copies of the application shall be immediately forwarded to the Town Manager, Zoning Administrator and the chief municipal planner for review and comment.

(D) *Planning Board review.* The application and any staff comments shall be considered by the Planning Board at its first regular meeting at least ten days following submission of the

complete application. The Planning Board shall submit its recommendations and/or comments to the Town Board in writing within 35 days following its initial consideration. If the Planning Board fails to submit a written report within 35 days, it shall be considered to have no objection or substantive comment to offer and the Town Board may proceed to consideration of the petition. The Planning Board may, if it wishes, conduct a preliminary public hearing on the proposed change and/or may sit concurrently with a public hearing conducted by the Board of Commissioners. In making its recommendation on any zoning district change, the Planning Board shall consider the factors affecting the use of land as its natural features, community facilities, economic needs, environmental quality, official plans, transportation, legal factors and public services impact.

(E) *Town Board review.*

(1) Following receipt of the Planning Board's recommendation or expiration of the 35 days, the Board of Commissioners may proceed to consideration of the proposed amendment. Prior to adoption of any amendment, the Town Board shall conduct a public hearing, which shall be advertised for two successive weeks in the newspaper of general circulation in the town, the first time at least 15 and not more than 25 days prior to the hearing date. At its option or by agreement with the Planning Board, the Town Board may conduct the hearing prior to issuance of a Planning Board recommendation. The Town Board may also elect not to conduct a hearing if it feels that an application lacks sufficient merit to receive further consideration.

(2) In review of the application, the Town Board shall consider staff and Planning Board recommendations, the relationship of the proposed amendment to the land use plan and other elements of the comprehensive plan, information given by the applicant and the public, and principals of good land use planning. If, after a public hearing, the Town Board determines that the amendment is consistent with the purposes of zoning and the town's comprehensive plan, it may adopt a chapter amending this chapter.

(F) *Petition withdrawal.* Any petition for amendment of this chapter may be withdrawn at any time prior to an actual amendment by the person(s) initiating the request, upon written notice to the Secretary of the Board considering the petition at that time. Withdrawal of a petition by an applicant shall not prohibit further consideration of possible amendments by the appropriate officials and public bodies if they determine that the petition raised significant questions of need for review of the chapter.

(G) *Reconsideration.* When the Town Board has denied or tabled an application for a zoning classification change, no application for the same change affecting the same property or a portion thereof shall be accepted for at least one year from the Board's action. This limitation may be waived if reconsideration is voted by four-fifths of the Board membership. Petitions withdrawn prior to Board of Commissioner's action may be re-filed after six months.

(2006 Code, Ch. 27, § 24.3)

§ 157.183 FORMAL PROTESTS.

(A) The owners of property included in or adjoining a proposed zoning amendment, supplement, change, modification or repeal may formally protest the changes by petition. Submission of a valid protest petition requires that a vote of the Town Board to amend the chapter be adopted by a three-fourths vote.

(B) In order to qualify as a valid protest petition, the petition must:

(1) The hardship results from the application of the chapter and not other factors;

(2) Be submitted in a written format prescribed by the Town Manager and state that the signers do protest the proposed change;

(3) Be received by the Town Clerk in sufficient time to allow the town at least two normal work days before the public hearing to determine the sufficiency and accuracy of the petition; and

(4) Be signed by the owners of at least 20% of either the area of lots included in the proposed change or the area extending for 100 feet therefrom on the rear or on either side, or directly opposite.

(2006 Code, Ch. 27, § 24.4)

Statutory reference:

Related provisions, see G.S. §§ 160A-385, 160A-386

§ 157.184 CHANGES IN OFFICIAL ZONING MAP.

Changes in district boundaries or the extra-territorial jurisdiction shall be entered on the official zoning map promptly after the changes have been approved by the Board of Commissioners. No change in the official zoning map shall be valid unless all previous changes have been properly entered on the official zoning map.

(2006 Code, Ch. 27, § 24.5)

§ 157.185 POSTING OF PROPERTY.

The Code Enforcement Officer or Town Planner shall also post notices on property that has a pending zoning request. This sign shall be posted within 14 days of the initial request and shall remain on the property until after the time that the public hearing has been conducted. The Code Enforcement Officer or Town Planner may take any other action deemed necessary to give adequate notice of the hearing on any proposed amendment or change in zoning.

(2006 Code, Ch. 27, § 24.6) (Added 2-3-1998)

§ 157.999 PENALTY.

(A) *General.*

(1) *Complaints.* Any person alleging a violation of this chapter may file a written complaint with the Zoning Administrator. Upon receipt of a written complaint, the Zoning Administrator shall investigate the matter within ten days, and take appropriate action to abate any verified violation. A complete record shall be kept of all written complaints received and the actions taken pursuant thereto.

(2) *Remedies.* When any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this chapter, the Zoning Administrator, or any other appropriate town authority, or any person who would be damaged may institute action for injunction, or mandamus, or other appropriate action or proceeding to prevent or halt the violation.

(2006 Code, Ch. 27, § 23.5)

(C) *Penalties.* Any person, firm or corporation who violates any provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished for each offense by a fine not exceeding $50 or by imprisonment to exceed 30 days. Each day the violation continues shall be considered a separate offense. Work carried on in violation of the cancellation of any permit issued under this chapter shall also be deemed a violation punishable in the same manner.

(2006 Code, Ch. 27, § 23.6)