

TOWN OF LITTLETON, NORTH CAROLINA

CODE OF ORDINANCES

AMERICAN LEGAL PUBLISHING CORPORATION

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PUBLISHERS'S ACKNOWLEDGMENT

In the publication of this Code of Ordinances, every effort was made to provide easy access to local law by municipal officials, the citizens of this municipality, and members of the business community.

We want to express our grateful appreciation to all municipal officials for their untiring efforts in the preparation of this Code of Ordinances.

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**LITTLETON, NORTH CAROLINA
TABLE OF CONTENTS**

Chapter

CHARTER

TITLE I: GENERAL PROVISIONS

- 10. General Provisions

TITLE III: ADMINISTRATION

- 30. Board of Commissioners
- 31. Town Officers and Employees
- 32. Boards and Departments
- 33. Finance

TITLE V: PUBLIC WORKS

- 50. Water and Sewer
- 51. Water Conservation
- 52. Garbage and Refuse

TITLE VII: TRAFFIC CODE

- 70. General Provisions
- 71. Traffic Rules
- 72. Parking Regulations

TITLE IX: GENERAL REGULATIONS

- 90. Streets and Sidewalks
- 91. Health and Sanitation; Nuisances
- 92. Fire Prevention
- 93. Cemeteries
- 94. Abandoned Vehicles and Property
- 95. Animals

TITLE XI: BUSINESS REGULATIONS

- 110. General Licensing Regulations
- 111. Amusements
- 112. Taxicabs

TITLE XIII: GENERAL OFFENSES

- 130. Offenses Against Public Morals
- 131. Offenses Against Public Peace
- 132. Offenses Against Public Health and Safety

TITLE XV: LAND USAGE

- 150. Flood Damage Prevention
- 151. Building Codes
- 152. Minimum Housing Standards
- 153. Zoning

TABLE OF SPECIAL ORDINANCES

Table

- 1. Contracts and Agreements

PARALLEL REFERENCES

References to General Statutes
References to 1959 Code
References to Resolutions
References to Ordinances

INDEX

LITTLETON, NORTH CAROLINA CHARTER TABLE OF CONTENTS

Section

Article I. Incorporation, Corporate Powers and Boundaries

- 1.1 Incorporation
- 1.2 Powers
- 1.3 Corporate limits

Article II. Governing Body

- 2.1 Town governing body; composition
- 2.2 Town Board of Commissioners; composition; terms of office
- 2.3 Mayor; term of office; duties
- 2.4 Mayor Pro Tempore
- 2.5 Meetings
- 2.6 Quorum; voting
- 2.7 Compensation; qualifications for office; vacancies

Article III. Elections

- 3.1 Regular municipal elections
- 3.2 Election of Mayor
- 3.3 Election of Commissioners
- 3.4 Special elections and referenda

Article IV. Organization and Administration

- 4.1 Form of government
- 4.2 Town Attorney
- 4.3 Town Clerk
- 4.4 Tax Collector
- 4.5 Other administrative officers and employees

THE CHARTER OF THE TOWN OF LITTLETON

ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES

Section 1.1. Incorporation.

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

Section 1.2. Powers.

The Town shall have and may exercise all of the powers, duties, rights, privileges and immunities conferred upon the Town of Littleton specifically by this Charter or upon municipal corporations by general law. The term "general law" is employed herein as defined in G.S. 160A-1.

Section 1.3. Corporate Limits.

The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Halifax County Register of Deeds and the appropriate board of elections.

ARTICLE II. GOVERNING BODY

Section 2.1. Town Governing Body; Composition.

The Board of Commissioners, hereinafter referred to as the "Board," and the Mayor shall be the governing body of the Town.

Section 2.2. Town Board of Commissioners; Composition; Terms of Office.

The Board shall be composed of five members, to be elected by all the qualified voters of the Town, for staggered terms of four years or until their successors are elected and qualified.

Section 2.3. Mayor; Term of Office; Duties.

The Mayor shall be elected by all the qualified voters of the Town for a term of four years or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government and preside at meetings of the Board, shall have the right to vote only when there is an equal division on any question or matter before the Board, and shall exercise the powers and duties conferred by law or as directed by the Board.

Section 2.4. Mayor Pro Tempore.

The Board shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Board.

Section 2.5. Meetings.

In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

Section 2.6. Quorum; Voting.

Official actions of the Board and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

Section 2.7. Compensation; Qualifications for Office; Vacancies.

The compensation and qualifications of the Mayor and Commissioners shall be in accordance with general law. Vacancies that occur in any elective office of the Town shall be filled by majority vote of the remaining members of the Board and shall be filled for the remainder of the unexpired term, despite the contrary provisions of G.S. 160A-63.

ARTICLE III. ELECTIONS

Section 3.1. Regular Municipal Elections.

Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

Section 3.2. Election of Mayor.

A Mayor shall be elected in the regular municipal election in 2001 and each four years thereafter.

Section 3.3. Election of Commissioners.

In the regular municipal election in 1999, the three candidates for Commissioner who receive the highest number of votes shall be elected for four-year terms, while the two candidates who receive the next highest number of votes shall be elected for two-year terms. In the regular municipal election in 2001, and quadrennially thereafter, two Commissioners shall be elected to four-year terms in those positions whose terms are then expiring. In the regular municipal election in 2003, and quadrennially thereafter, three Commissioners shall be elected to four-year terms in those positions whose terms are then expiring.

Section 3.4. Special Elections and Referenda.

Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

ARTICLE IV. ORGANIZATION AND ADMINISTRATION

Section 4.1. Form of Government.

The Town shall operate under the mayor-council form of government, in accordance with G.S. Chapter 160A, Article 7, Part 3.

Section 4.2. Town Attorney.

The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials and perform other duties required by law or as the Board may direct.

Section 4.3. Town Clerk.

The Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Board may direct.

Section 4.4. Tax Collector.

The Town shall have a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Board.

Section 4.5. Other Administrative Officers and Employees.

The Board may authorize other positions to be filled by appointment and may organize the Town government as deemed appropriate, subject to the requirements of general law.

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

Section

- 10.01 Title of code
- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Captions
- 10.05 Definitions
- 10.06 Rules of interpretation
- 10.07 Severability
- 10.08 Reference to other sections
- 10.09 Reference to offices
- 10.10 Errors and omissions
- 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 or supplement code
- 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 Littleton shall be designated as the "Code of Littleton, North Carolina" and may be so cited.

§ 10.02 INTERPRETATION.

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

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

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

BOARD OF COMMISSIONERS. The legislative body of the Town of Littleton, North Carolina.

CHARTER. The Charter of the Town of Littleton, 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.

COUNTY. Halifax County, 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 that authority to a majority of those persons or officers.

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

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

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 that property.

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

PERSONAL PROPERTY. Every species of property except real property.

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

PROPERTY. Includes real and personal property.

REAL PROPERTY. Includes lands, tenements, and hereditaments.

SHALL. The act referred to is mandatory.

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

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

STATE. The State of North Carolina.

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

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

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

TOWN. The Town of Littleton, North Carolina.

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

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this town shall be by the following rules, unless such a 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, such requisition shall be satisfied by the performance of that act by an authorized agent or deputy.

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

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

§ 10.07 SEVERABILITY.

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

§ 10.08 REFERENCE TO OTHER SECTIONS.

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

§ 10.09 REFERENCE TO OFFICES.

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

§ 10.10 ERRORS AND OMISSIONS.

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

§ 10.11 OFFICIAL TIME.

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

§ 10.12 REASONABLE TIME; COMPUTING TIME.

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

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

§ 10.13 ORDINANCES REPEALED.

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

§ 10.14 ORDINANCES UNAFFECTED.

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.

§ 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 OR SUPPLEMENT CODE.

(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, such repealed portions may be excluded from this code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence 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 those 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 Littleton, 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 Littleton, 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, articles, chapters, or provisions desired to be repealed must be specifically repealed by section, article, 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 the most recent three amending ordinances, if any, are listed following the text of the code section. *Example:* (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(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 1-17-80; Am. Ord. 20, passed 1-1-85)

(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. §§ 139-1 et seq.

§ 10.99 GENERAL PENALTY.

Any person, firm, or corporation violating any of the provisions of any section or division of this code of ordinances for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed \$100 or imprisonment not to exceed 30 days, and each day that any of the provisions of this code of ordinances are violated shall constitute a separate offense.

(G.S. § 14-4(a))

Statutory reference:

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

TITLE III: ADMINISTRATION

Chapter

- 30. BOARD OF COMMISSIONERS**
- 31. TOWN OFFICERS AND EMPLOYEES**
- 32. BOARDS AND DEPARTMENTS**
- 33. FINANCE**

CHAPTER 30: BOARD OF COMMISSIONERS

Section

Board Meetings

- 30.01 Time and location
- 30.02 Rules of procedure
- 30.03 Committees

Ordinances

- 30.15 Confined to one subject
- 30.16 Official copy
- 30.17 Appropriations

Cross-reference:

Ordinances; effective date; repeal and amendment, see §§ 10.15 - 10.17

BOARD MEETINGS

§ 30.01 TIME AND LOCATION.

(A) *Regular meetings.* The regular meetings of the Mayor and Board of Commissioners of the town shall be held on the first Monday of each month, at 7:30 p.m., at the Town Hall, unless otherwise designated by the Board.

(B) *Special meetings.* Special meetings of the Board may be held, after 48 hours notice, upon the call of the Mayor or upon the request in writing of any two members of the Board of Commissioners. Notice of the time and purposes of special meetings shall be posted at the Town Hall, and due notice shall be given to the Mayor and Board of Commissioners of the time and purposes of special meetings. ('59 Code, Chapter A, Article I, §§ 1, 2)

§ 30.02 RULES OF PROCEDURE.

(A) *Quorum.* A majority of the members of the Board of Commissioners shall constitute a quorum and no official business of the town shall be transacted by the Board unless a quorum is present.

(B) *Minutes*. It shall be the duty of the Clerk to be present at all meetings of the Board, to keep in a book provided for that purpose a record of all the proceedings of the Board.

(C) *Mayor to preside*. The Mayor shall preside at all meetings of the Board and in his or her absence the Mayor Pro Tempore shall preside.

(D) *Mayor not to vote*. The Mayor shall not vote on any question before the Board except in the case of a tie vote deadlocking a decision of the Board of Commissioners.

(` 59 Code, Chapter A, Article I, §§ 3 - 6)

§ 30.03 COMMITTEES.

The Mayor and Commissioners may create committees of the Board for special purposes as they deem best.

(` 59 Code, Chapter A, Article I, § 7)

ORDINANCES

§ 30.15 CONFINED TO ONE SUBJECT.

All ordinances shall be confined to one subject except appropriation ordinances, which shall be confined to the subject of appropriations only.

(` 59 Code, Chapter A, Article II, § 2)

§ 30.16 OFFICIAL COPY.

A true copy of an ordinance, which has been duly enacted by the Board, signed by the Mayor, and attested to by the Clerk, shall be known as an official copy of any ordinance for the town. All ordinances or a true copy thereof shall be inserted in this code in the proper chapter.

(` 59 Code, Chapter A, Article II, § 3)

§ 30.17 APPROPRIATIONS.

No appropriation ordinance or ordinance to alter or repeal an appropriation ordinance shall be enacted at any meeting other than a regular meeting, except by a unanimous vote of the entire Board.

(` 59 Code, Chapter A, Article II, § 4)

CHAPTER 31: TOWN OFFICERS AND EMPLOYEES

Section

- 31.01 Mayor
- 31.02 Town Clerk
- 31.03 Other officers and employees
- 31.04 Bond

§ 31.01 MAYOR.

It shall be the duty of the Mayor to cause all ordinances of the town to be enforced, and to attend and preside over all meetings of the Board of Commissioners. It shall further be the duty of the Mayor, within 30 days after the close of each year, to require a report to the Board from the various departments of the town government for the previous year and recommend adjustments as he or she may see fit. The Mayor shall perform other duties as the Board may from time to time require. The Mayor shall be the chief executive officer of the town.

(' 59 Code, Chapter A, Article III, § 1)

§ 31.02 TOWN CLERK.

(A) The Clerk and Finance Officer shall be appointed by the Board at the organizational meeting following the Board's staggered term elections.

(B) The Clerk and Finance Officer, hereinafter called the Clerk, shall have the following duties and powers.

(1) The Clerk shall attend all meetings of the Board of Commissioners and shall regularly and fairly record all of their proceedings in a book to be kept by him or her for that purpose. He or she shall also keep a well-bound book to be styled the Code of Ordinances, in which he or she shall fairly and correctly transcribe all ordinances which are enacted by the Board of Commissioners.

(2) It shall be the duty of the Clerk to keep true, accurate, and just books of accounts of the dealings and transactions of the town, which books shall show at all times the true condition of the town, its resources and liabilities, and the disposition and use of the monies coming under the control of the town.

(3) The Clerk shall keep or cause to be kept in a safe place all monies, records, and accounts.

(4) The Clerk shall disburse funds for the various purposes of the town only when an appropriation for such a purpose has been made in the annual budget and the disbursement is authorized by the Board of Commissioners.

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

(` 59 Code, Chapter A, Article III, § 2)

§ 31.03 OTHER OFFICERS AND EMPLOYEES.

Other officers and employees that are deemed necessary shall be appointed by the Board of Commissioners at the organizational meeting following the Board's staggered meeting term elections. All officers and employees shall serve at the pleasure of the Board and receive such compensation as from time to time may be prescribed by the Board.

(` 59 Code, Chapter A, Article III, § 3)

§ 31.04 BOND.

The Clerk and other officers or employees required by the Board shall, before entering upon their duties, post bond in amounts specified by the Board. All bond premiums shall be paid from town funds. Provided, that when two offices are combined, such as Clerk and Finance Officer, only one bond shall be required.

(` 59 Code, Chapter A, Article III, § 4)

CHAPTER 32: BOARDS AND DEPARTMENTS

Section

Police Department

- 32.01 Organization
- 32.02 Board to control
- 32.03 Uniforms
- 32.04 Duties
- 32.05 Chief of Police

Planning Board

- 32.15 Established
- 32.16 Membership; terms; vacancies
- 32.17 Organization; rules; meetings; records
- 32.18 Compensation
- 32.19 Powers and duties
- 32.20 Annual report; budget

POLICE DEPARTMENT

§ 32.01 ORGANIZATION.

The Police Department of the town shall consist of a Chief and as many police officers as the Board of Commissioners shall from time to time determine and elect, and as many special police officers as the Mayor and Board may deem necessary to appoint for special purposes.

(' 59 Code, Chapter B, § 1)

§ 32.02 BOARD TO CONTROL.

The Board of Commissioners shall have general supervision over the Police Department. The Board may suspend, for cause, any member of the Police Department until the next regular meeting, at which time final disposition shall be made.

(' 59 Code, Chapter B, § 2)

§ 32.03 UNIFORMS.

All police officers shall wear uniforms as shall be provided by the town and shall keep their uniforms in a neat and clean condition, and shall surrender all uniforms and equipment upon leaving the police service of the town if those uniforms and equipment were furnished by the town.

(` 59 Code, Chapter B, § 3)

§ 32.04 DUTIES.

The Police Department shall carry out all orders of the Board, enforce all laws and ordinances of the town and the state, and shall at all times preserve the peace, and protect the property and the safety of the citizens of the town.

(` 59 Code, Chapter B, § 4)

§ 32.05 CHIEF OF POLICE.

The Chief shall have control over the Police Department under the supervision of the Board of Commissioners. The Chief shall keep the Board informed of the Department's activities and make reports that the Board may from time to time require, and he or she shall perform other duties as may be required of him or her by the Board.

(` 59 Code, Chapter B, § 5)

PLANNING BOARD**§ 32.15 ESTABLISHED.**

There shall be a Planning Board for the town, established under the authority of the General Statutes of the state.

(Ord. O-80-003, passed 9-8-80)

Statutory reference:

Establishment and operation of municipal planning boards, see G.S. §§ 160A-360 et seq.

§ 32.16 MEMBERSHIP; TERMS; VACANCIES.

(A) The Planning Board shall consist of seven members, five of whom shall be citizens living within the corporate limits of the town, one of whom shall be a citizen living within the Warren County portion of the town's extraterritorial jurisdiction and one of whom shall be a citizen living within the Halifax

County portion of the town's extraterritorial jurisdiction. The in-town members shall be appointed by the Board of Commissioners of the town. The extraterritorial members shall be appointed in accordance with G.S. 160A-362, for terms of three years except that initial terms shall expire on September 1, 1987.

(B) (1) The initial appointment shall be according to the following terms:

- (a) One member shall be appointed for a term of one year;
- (b) Two members shall be appointed for a term of two years; and
- (c) Two members shall be appointed for a term of three years.

(2) Their successors shall be appointed for terms of three years.

(3) Terms shall expire on September 1. Members shall serve until the expiration of their terms or until their successors have been appointed.

(C) Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term by the Board of Commissioners of the town.

(D) Faithful attendance at the meetings of the Planning Board is considered a prerequisite for the maintenance of membership on the Board. Unexcused absence from three consecutive meetings shall be deemed adequate reason for termination of membership on the Planning Board of in-town members by the Littleton Board of Commissioners.

(Ord. O-80-003, passed 9-8-80)

§ 32.17 ORGANIZATION; RULES; MEETINGS; RECORDS.

The Planning Board shall elect a chairperson and may create and fill other offices as it may deem necessary. The term of officers shall be one year or until successors shall have been elected and installed, with eligibility for reelection. Vacancies in officers' positions prior to expiration of terms shall be filled for the period of the unexpired term by the Planning Board. The Board shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings, and recommendations, which record shall be a public record. The Board shall hold at least one meeting monthly unless there is no business to be discussed or acted upon, and all of its meetings shall be in accordance with G.S. §§ 143-318.9 *et seq.* A quorum shall consist of four members for the purpose of taking any official action required by this subchapter. All members of the Board shall have voting power on all matters of business. However, any member who is a party in interest to matters under consideration by the Board shall declare that interest prior to a vote of the Board on the question, and shall abstain from voting on the question. This provision shall not prohibit those members from participation in discussions of the Board on those matters prior to a vote. The extraterritorial members may serve as officers.

(Ord. O-80-003, passed 9-8-80)

§ 32.18 COMPENSATION.

All members of the Planning Board shall serve as such without compensation. Members or employees of the Planning Board, when duly authorized by the Planning Board, may attend planning conferences or meetings of planning institutes or hearings upon pending planning legislation; and the Planning Board may, by formal and affirmative vote, pay the reasonable traveling expenses incidental to such attendance within the Planning Board's budget and with concurrence of the Board of Commissioners of the town.

(Ord. O-80-003, passed 9-8-80)

§ 32.19 POWERS AND DUTIES.

(A) It shall be the function and duty of the Planning Board to make comprehensive surveys and studies of existing conditions and probable future developments and prepare plans for physical, social, and economic development as will best promote the public health, safety, morals, conveniences, or the general welfare, as well as efficiency and economy in the development of the town. The Planning Board shall have the powers and duties given it by the General Statutes of the state and the Board of Commissioners of the town, including the power to:

- (1) Take studies of the area within its jurisdiction and surrounding areas;
- (2) Determine objectives to be sought in the development of the study area;
- (3) Prepare and adopt plans for achieving objectives;
- (4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
- (5) Advise the legislative body concerning the use and amendment of means for carrying out plans;
- (6) Exercise any function in the administration and enforcement of various means for carrying out plans that the Board of Commissioners of the town may direct;
- (7) Perform any other related duties that the Board of Commissioners of the town may direct;
- (8) Accept, receive, and disburse in furtherance of its functions any funds, grants, and services made available by the federal government and its agencies, the state government and its agencies, any local government and its agencies, and any private and civic sources, with concurrence of the Board of Commissioners of the town; the Planning Board, with concurrence of the Board of Commissioners of the town, may enter into and carry out contracts with the state and federal government or any agencies thereof under which financial or other planning assistance is made available to the municipality, and may agree to and comply with any reasonable conditions that are imposed upon such assistance;

(9) Enter into and carry out contracts, with the concurrence of the Board of Commissioners of the town, with any other city, county, or regional council or planning agency under which technical planning assistance is furnished; and, with the concurrence of the Board of Commissioners of the town, may enter into and carry out contracts with any other city, county, or regional planning agency for technical planning assistance;

(10) Conduct public hearings as may be required to gather information necessary for the drafting, establishment, and maintenance of a development plan for the town; and

(11) 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 deem necessary.

(B) The Planning Board shall have no power to incur any debt or obligation of the town, nor shall it have any power to make any expenditure of funds of the town unless those funds are specifically provided for in the budget of the town and appropriation made for those purposes by the Board of Commissioners of the town, or unless the incurring of such other obligation is otherwise approved by the Board of Commissioners of the town.

(Ord. O-80-003, passed 9-8-80)

§ 32.20 ANNUAL REPORT; BUDGET.

The Planning Board shall, annually, submit to the Board of Commissioners of the town a written report of its activities and analysis of the expenditures to date for the current fiscal year, and its requested budget of funds needed for operation during the ensuing fiscal year. The Planning Board is authorized to appoint committees and to authorize expenditures within its approved budget as it may see fit, subject to limitations of funds provided for the Planning Board by the Board of Commissioners of the town.

(Ord. O-80-003, passed 9-8-80)

CHAPTER 33: FINANCE

Section

Purchasing

- 33.01 Authority of Town Clerk
- 33.02 Report
- 33.03 Application
- 33.04 Other authority not limited
- 33.05 Appropriation required
- 33.06 General Statutes apply
- 33.07 Statutory authority
- 33.08 Manager, McPherson Business Complex

Disposal of Surplus Property

- 33.20 Authority of Town Clerk
- 33.21 Methods; greatest value
- 33.22 Records
- 33.23 Statutory authority

PURCHASING

§ 33.01 AUTHORITY OF TOWN CLERK.

Subject to the restrictions and conditions hereinafter provided, when purchasing apparatus, supplies, materials, or equipment for use by the town, in addition to such authority as may be provided by law or otherwise delegated by the Board of Commissioners, the Town Clerk shall have the authority to:

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

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

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

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

(E) Reject bids;

(F) Re-advertise to receive bids;

(G) Waive bid bond or deposit requirements;

(H) Waive performance and payment bond requirements; and

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

(Ord. O-98-004, passed 2-23-98)

§ 33.02 REPORT.

At the first meeting of the Board of Commissioners following the award of any contract(s) pursuant to this subchapter, the Town Clerk shall submit a report to the Board of Commissioners summarizing the bids received and the contract(s) awarded. This report shall be included in the minutes of the meeting at which it is received.

(Ord. O-98-004, passed 2-23-98)

§ 33.03 APPLICATION.

Except in cases of sole source purchases pursuant to G.S. § 143-129(e) and cases of purchases from established contracts pursuant to G.S. § 143-129(g), unless otherwise provided by law, the provisions of this subchapter shall apply to the purchase of apparatus, supplies, materials, or equipment requiring the estimated expenditure of municipal funds in an amount not to exceed \$1,000 for any one item or group of similar items.

(Ord. O-98-004, passed 2-23-98)

§ 33.04 OTHER AUTHORITY NOT LIMITED.

The provisions of this subchapter are not intended to limit, restrict, or revoke, in any manner, authority otherwise granted or delegated to the Town Clerk by statute, law, or action or the Board of Commissioners.

(Ord. O-98-004, passed 2-23-98)

§ 33.05 APPROPRIATION REQUIRED.

No purchase shall be made by the Town Clerk under authority of this subchapter unless an appropriation for that purpose has been authorized in the annual budget, or by supplemental appropriation or budget appropriation amendment duly adopted by the Board of Commissioners.
(Ord. O-98-004, passed 2-23-98) Penalty, see § 10.99

§ 33.06 GENERAL STATUTES APPLY.

In acting pursuant to the authority delegated by this subchapter, the Town Clerk shall comply with the requirements of G.S. §§ 143-128 *et seq.*, as from time to time amended, modified, supplemented, revised, or superseded, to the same extent as would have otherwise applied to the Board of Commissioners.

(Ord. O-98-004, passed 2-23-98)

§ 33.07 STATUTORY AUTHORITY.

This subchapter is enacted pursuant to the provisions of G.S. § 143-129(a).
(Ord. O-98-004, passed 2-23-98)

DISPOSAL OF SURPLUS PROPERTY**§ 33.20 AUTHORITY OF TOWN CLERK.**

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

(A) The item or group of items has a fair market value of less than \$5,000;

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

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

(Ord. O-98-005, passed 2-23-98)

§ 33.21 METHODS; GREATEST VALUE.

(A) The Town Clerk may dispose of any thus described surplus personal property by any means which he or she judges reasonably calculated to yield the highest attainable sale price in money or other consideration, including but not limited to the methods of sale provided in G.S. §§ 160A-265 through 160A-279. The sale may be public or private, and with or without notice and minimum waiting period.

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

(Ord. O-98-005, passed 2-23-98) Penalty, see § 10.99

§ 33.22 RECORDS.

The Town Clerk shall keep a record of all property sold under authority of this subchapter, and that record shall generally describe the property sold or exchanged, to whom it was sold or with whom exchanged, and the amount of money or other consideration received for each sale or exchange.

(Ord. O-98-005, passed 2-23-98)

§ 33.23 STATUTORY AUTHORITY.

This subchapter is enacted pursuant to the provisions of G.S. § 160A-266(c).
(Ord. O-98-005, passed 2-23-98)

TITLE V: PUBLIC WORKS

Chapter

- 50. WATER AND SEWER**
- 51. WATER CONSERVATION**
- 52. GARBAGE AND REFUSE**

CHAPTER 50: WATER AND SEWER

Section

General Provisions

- 50.001 Purpose and policy; statutory authority
- 50.002 Definitions and abbreviations
- 50.003 Interpretation
- 50.004 Board of Commissioners to control; Administrator
- 50.005 Application of regulations

Construction and Connections

- 50.015 Use of public sewers required
- 50.016 Connection permit required; application; rejection; inspection
- 50.017 System alteration; permit required
- 50.018 Costs borne by owner
- 50.019 Separate building sewer required; exception
- 50.020 Old building sewers
- 50.021 Minimum standards of sewers
- 50.022 Common connections on one lot; requirements
- 50.023 Sewer size and slope; grades; drain elevation; connection angle
- 50.024 Excavation and backfill
- 50.025 Notice to town

Private Sewage Disposal

- 50.035 Permit required
- 50.036 Inspection requirements
- 50.037 Standards
- 50.038 Public sewer available; connection requirement
- 50.039 Operation and maintenance requirements
- 50.040 Requirements not exclusive

Water and Sewer Service Extensions

- 50.050 Service to property in town; general policy
- 50.051 Extension to developed property in town

- 50.052 Extension within new developments in town
- 50.053 Extensions outside of town
- 50.054 Extensions by other than town personnel; requirements; disclaimer
- 50.055 Work by others; inspection by town
- 50.056 Dedication of extensions; town to control

Service Line Use Requirements; Discharges

- 50.070 Prohibited activities
- 50.071 Sanitary sewers; prohibited discharges
- 50.072 National categorical pretreatment standards; application
- 50.073 Wastewater; local limits
- 50.074 Disposal of unacceptable waste
- 50.075 Right of rejection; service discontinuance
- 50.076 Dilution not a pretreatment substitute
- 50.077 Wastewater pretreatment; requirements
- 50.078 Accidental discharge and sludge control plans
- 50.079 Hauled wastewater; permit required; analysis and reporting

Industrial Wastewaters; Permits

- 50.090 Wastewater discharger; permit required
- 50.091 Significant industrial user permit
- 50.092 Wastewater discharge permit application; evaluation; hearings
- 50.093 Permit modification procedures
- 50.094 Conditions
- 50.095 Expiration
- 50.096 Nontransferable
- 50.097 Reissuance procedure

Industrial Users; Reporting Requirements; Compliance Monitoring

- 50.110 Baseline monitoring reports
- 50.111 Compliance schedule; progress reports
- 50.112 Categorical pretreatment standard deadline; compliance reports
- 50.113 Periodic compliance reports
- 50.114 Changed conditions; report required
- 50.115 Potential problems; notification and report required
- 50.116 Unpermitted users; reporting requirements
- 50.117 Notice of violation required; repeat sampling and report
- 50.118 Analysis and sampling techniques; national standards
- 50.119 Sample collection techniques
- 50.120 Submission dates

- 50.121 Record keeping requirements
- 50.122 Monitoring facilities
- 50.123 Inspection and sampling; right of entry
- 50.124 Search warrants

Administration and Enforcement

- 50.135 Confidential information
- 50.136 Administrative remedies
- 50.137 Additional remedies
- 50.138 Remedies not exclusive
- 50.139 Publication of significant noncompliance
- 50.140 Discharge violations; affirmative defenses
- 50.141 Enforcement procedures; termination of service; hearings; reinstatement
- 50.142 Rates and charges adopted by reference

50.999 Penalty

Cross-reference:

Septic tanks restricted, see § 91.22

GENERAL PROVISIONS

§ 50.001 PURPOSE AND POLICY; STATUTORY AUTHORITY.

(A) This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for this town, hereafter referred to as the town, and enables the town to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 *et seq.*) and the General Pretreatment Regulations (40 CFR 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 sludges from the municipal system;

(4) To protect 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.

(E) This chapter is adopted under the authority granted by G.S. § 160A.
(Ord. O-00-001, passed 2-24-00, §§ 1.01, 13.01)

§ 50.002 DEFINITIONS AND ABBREVIATIONS.

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 USC 1251 *et seq.*

APPROVAL AUTHORITY. The Director of the Division of Environmental Management of the state Department of Environment, Health, and Natural Resources, or his or her designee.

AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER.

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

(a) 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

(b) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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

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

(4) The individuals described in divisions (1) through (3) 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.

BIOCHEMICAL OXYGEN DEMAND or **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 (such as mg/l).

BOD. Biochemical oxygen demand.

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.

CFR. The Code of Federal Regulations.

COD. Chemical oxygen demand.

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

EPA. The Environmental Protection Agency.

gpd. Gallons per day.

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.

G.S. North Carolina General Statutes.

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 USC 1317), 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 USC 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 USC 6901 *et seq.*), the Clean Air Act (42 USC 7401 *et seq.*), the Toxic Substances Control Act (15 USC 2601 *et seq.*), the Marine Protection Research and Sanctuary Act (MPRSA) (16 USC 1431 *et seq.*, 33 USC 1401 *et seq.*) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA (42 USC 6941 *et seq.*)) applicable to the method of disposal or use employed by the POTW.

l. Liter.

MAY. The act referred to is permissive or discretionary.

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.

mg. Milligrams.

mg/l. Milligrams per liter.

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 USC 1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405 - 471.

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

NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE STANDARD. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 50.015 of this code and are developed under the authority of § 307(b) of the Act (33 USC 1317) and 40 CFR 403.5.

NEW SOURCE.

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

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

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

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

(2) Construction on a site at which an existing source is located results in a modification rather than a **NEW SOURCE** if the construction does not create a new building, structure, facility, or installation meeting the criteria of division (1)(b) or (1)(c) above but otherwise alters, replaces, or adds to existing process or production equipment.

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

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

1. Any placement, assembly, or installation of facilities or equipment; or
2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of **NEW SOURCE** facilities or equipment.

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

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

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

NPDES. National Pollution Discharge Elimination System.

O&M. Operation and maintenance.

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 ten) 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 any 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 any agricultural waste, and certain characteristics of wastewater (such as pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

POTW. Publicly owned treatment works, as defined herein.

POTW DIRECTOR. The town Administrator, appointed by the Town Board of Commissioners pursuant to § 50.004 of this code.

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 that 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 CFR 403.8 and approved by the approval authority as authorized by G.S. § 143-215.3(a)(14) in accordance with 40 CFR 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 USC 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**.

RCRA. The Resource Conservation and Recovery Act (42 USC 6901 *et seq.*)

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.

SHALL. The act referred to is mandatory.

SIC. Standard Industrial Classification, as defined herein.

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

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

(2) Contributes more than 5% of any design or treatment capacity (such as allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge;

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

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

SIGNIFICANT NONCOMPLIANCE or ***REPORTABLE NONCOMPLIANCE***. A status of noncompliance defined as follows:

(1) Violations of wastewater discharge limits:

(a) Chronic violations, such as 66% or more of the measurements exceed (by any magnitude) the same daily maximum limit and the same average limit in a six-month period;

(b) Technical Review Criteria (TRC) violations, such as 33% or more of the measurements are more than the TRC times the limit (maximum or average) in a six-month period, equal or exceed the product of the daily maximum or the average limit multiplied by the applicable TRC. There are two groups of TRCs:

1. For conventional pollutants, BOD, TSS, fats, oil, and grease, $TRC = 1.4$; and

2. For all other pollutants, $TRC = 1.2$.

(c) 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

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

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

(3) 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;

(4) Failure to accurately report noncompliance; or

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

SLUDGE LOAD. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 50.071 of this code.

STANDARD INDUSTRIAL CLASSIFICATION or 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.

SWDA. The Solid Waste Disposal Act (42 USC 6901 *et seq.*).

TKN. Total Kjeldahl nitrogen.

TOWN. The Town of Littleton, North Carolina.

TSS. Total suspended solids.

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

USC. United States Code.

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 §§ 50.090 - 50.097 of this code.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourses, 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.
(Ord. O-00-001, passed 2-24-00, § 1.02)

§ 50.003 INTERPRETATION.

(A) Wherever a statute or regulation is cited, all subsequent amendments to and enactments of that statute or regulation are incorporated by reference.

(B) This chapter is gender neutral, and the masculine gender shall include the feminine and vice versa. 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.

(Ord. O-00-001, passed 2-24-00, § 1.02)

§ 50.004 BOARD OF COMMISSIONERS TO CONTROL; ADMINISTRATOR.

The sanitary sewer system of the town shall be under the control of the Board of Commissioners for the town. The system shall be regulated and operated as the Board of Commissioners shall ordain and direct. The Board of Commissioners shall appoint a qualified person or outside firm, who shall be known as the Administrator, to supervise the operation and regulation of the system, under the direction of the Board of Commissioners. The title and duties of the Administrator may be assigned to an employee of the town in addition to his or her other duties.

(Ord. O-00-001, passed 2-24-00, § 13.02)

§ 50.005 APPLICATION OF REGULATIONS.

(A) The provisions of §§ 50.015 - 50.025, 50.035 - 50.040, and 50.050 - 50.056 apply only to domestic sewage dischargers, commercial users, and unpermitted industrial users. In those sections the term **DOMESTIC SEWAGE DISCHARGER OR COMMERCIAL USER** shall refer to any discharger who is not permitted pursuant to §§ 50.090 - 50.097 of this code or by the approval authority.

(B) Industrial users permitted in accordance with §§ 50.090 - 50.097, including holders of permits issued by the approval authority prior to approval of the town's pretreatment program, are governed by §§ 50.090 - 50.097, other portions of this chapter where applicable, and state and federal pretreatment regulations.

(Ord. O-00-001, passed 2-24-00, § 2)

CONSTRUCTION AND CONNECTIONS**§ 50.015 USE OF PUBLIC SEWERS REQUIRED.****(A) *Unlawful waste disposal.***

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

(2) It shall be unlawful to discharge to any natural outlet within the town, or in any area under the jurisdiction of the town, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(3) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(B) *Public sewer use required.* The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the town and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the town, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect those facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 30 days after date of official notice to do so; provided, that the public sewer is within 200 feet of the property line and can be reached by gravity flow.

(C) *Exception.* No property owner shall be required to connect to the public sewer system if he or she must first purchase an easement in which to install sewer lines.

(Ord. O-00-001, passed 2-24-00, § 2.01) Penalty, see § 50.999

§ 50.016 CONNECTION PERMIT REQUIRED; APPLICATION; REJECTION; INSPECTION.

(A) No person may connect or be connected to the water or sewer system of the town until a permit for the connection has been issued pursuant to division (B) below.

(B) Applications for water or sewer service connections shall be made at the Town Hall during normal business hours. Application shall be made on the forms prescribed, shall be made in the name of the customer who will be responsible for the payment of the bills, and shall be signed by the customer or by his or her authorized agent. Every application for connection shall be accompanied by the service connection fee specified in the schedule of rates and charges.

(C) (1) Upon application for connection permit, the town may reject the application and decline to provide service for the following reasons:

(a) Service is not available under the standard rate;

(b) The cost of the service is excessive;

(c) The provision of service to the applicant will adversely affect the supply of water to other customers or will adversely affect the town's sewage treatment capabilities; or

(d) Other good and sufficient reasons.

(2) The town may also reject an application for service if there is an outstanding amount due the town for water or sewer service in the applicant's name.

(3) A lessee making an initial application for service to his or her leased dwelling shall not be refused service by the town solely because of an outstanding amount owed the town by another customer for service previously furnished to that same address.

(D) By making application for service, the customer agrees that the town possesses the right to inspect and accept or reject the private water distribution systems, water connections, sewage collection systems, and sewer connections before they are connected to the town water and sewer systems. The town shall be given notice to inspect before the pipes are covered and the systems are connected.
(Ord. O-00-001, passed 2-24-00, §§ 2.02 - 2.05) Penalty, see § 50.999

§ 50.017 SYSTEM ALTERATION; PERMIT REQUIRED.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the town.
(Ord. O-00-001, passed 2-24-00, § 2.06) Penalty, see § 50.999

§ 50.018 COSTS BORNE BY OWNER.

All cost and expense incident to the connection of the building sewer on the owner's property shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may be directly or indirectly occasioned by the connection of the building sewer. Any connection into the public sewer shall be made by the town, for which the owner shall pay the town a standard sewer tap fee as set by the Board, copy of that schedule to be kept on file in the office of the Clerk.
(Ord. O-00-001, passed 2-24-00, § 2.07)

§ 50.019 SEPARATE BUILDING SEWER REQUIRED; EXCEPTION.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, when approved by the town.

(Ord. O-00-001, passed 2-24-00, § 2.08)

§ 50.020 OLD BUILDING SEWERS.

No old sewers will be excepted. This requirement may be waived by the approving authority after the condition of the sewer has been thoroughly inspected by same.

(Ord. O-00-001, passed 2-24-00, § 2.09)

§ 50.021 MINIMUM STANDARDS OF SEWERS.

The building sewer shall, in all cases, meet the minimum standards of the state Plumbing and Building Codes and be installed in accordance with all applicable OSHA requirements. Joints shall be watertight. Any part of the building sewer that is located within ten feet of a water service shall be constructed of ferrous metal pipe with joints equivalent to water main standards. Ductile iron with mechanical joints may be required by the town where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of ductile iron or cast iron soil pipe, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the town.

(Ord. O-00-001, passed 2-24-00, § 2.10)

§ 50.022 COMMON CONNECTIONS ON ONE LOT; REQUIREMENTS.

(A) Where there are multiple buildings or structures situated on one lot and where the lot owner desires to have a common water connection, and a common sewer connection, he or she must meet the following requirements.

(1) The building or buildings to be serviced shall be in compliance with all applicable zoning regulations.

(2) The building permit and plot shall show a single owner and shall indicate the complex of buildings to be constructed on a single lot.

(3) The applicant shall be required to submit to the town a site plan showing the proposed water and sewer systems. Site plans shall be prepared by a registered professional engineer who shall also provide satisfactory inspection of the work. The plans shall include:

(a) Size of water lines, materials to be used for construction, valve locations, and hydrant locations. All construction from the property line to the water meter shall be in accordance with town standards and specifications. Construction beyond the water meter may be with materials permitted in the plumbing code. All construction shall be performed by either a licensed master plumber or a licensed utility contractor; and

(b) Size of sewers and materials to be used for construction. All sewer lines eight inches or larger in size shall be constructed in accordance with town specifications and standards. All sewer lines smaller than eight inches shall be constructed in accordance with the plumbing code. All construction shall be performed by either a licensed plumber or a licensed utility contractor.

(B) Should a building served by a common connection be conveyed to a new owner, the town shall require a separate water and sewer connection from that building to the mains in the street, except in the case of condominium or townhouse developments.

(Ord. O-00-001, passed 2-24-00, § 2.10)

§ 50.023 SEWER SIZE AND SLOPE; GRADES; DRAIN ELEVATION; CONNECTION ANGLE.

(A) *Size and slope of sewer.* The size and slope of the building sewer shall be subject to the approval of the town; but in no event shall the diameter be less than four inches. The slope of the four-inch pipe shall not be less than $\frac{1}{8}$ inch per foot.

(B) *Grades for sewers.* Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to, or within three feet of, any load bearing wall which might thereby be weakened. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipes and fittings.

(C) *Building drains.* In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by that drain shall be lifted by approved artificial means and discharged to the building sewer.

(D) *Angle of connection.* The connection of the building sewer into the public sewer shall be made at an angle of approximately 45 degrees. A 45-degree ell may be used to make the connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at the same or at a higher elevation than the invert of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight. Special fittings may be used for the connection only when approved by the town.

(Ord. O-00-001, passed 2-24-00, §§ 2.11 - 2.13, 2.15) Penalty, see § 50.999

§ 50.024 EXCAVATION AND BACKFILL.

All excavations required for the installation of a building sewer shall be open trench work, unless otherwise approved by the town. Backfill shall not be performed until the work has been inspected by the County Plumbing Inspector.

(Ord. O-00-001, passed 2-24-00, § 2.14) Penalty, see § 50.999

§ 50.025 NOTICE TO TOWN.

The applicant for the building sewer permit shall notify the town when the building sewer is ready for inspection and connection to the public sewer.

(Ord. O-00-001, passed 2-24-00, § 2.16)

PRIVATE SEWAGE DISPOSAL**§ 50.035 PERMIT REQUIRED.**

(A) Where a public sanitary sewer is not available, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this subchapter.

(B) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the County Health Sanitarian. The application for this permit shall be made on a form furnished by the county, which the applicant shall supplement by any permit and inspection fee, plans, specifications, and other information as are deemed necessary by the Sanitarian, or county regulations.

(Ord. O-00-001, passed 2-24-00, § 2.17)

§ 50.036 INSPECTION REQUIREMENTS.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Sanitarian. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Sanitarian when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the Sanitarian.

(Ord. O-00-001, passed 2-24-00, § 2.17)

§ 50.037 STANDARDS.

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the state Department of Environment, Health, and Natural Resources, Division of Environmental Management. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 20,000 square feet. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet. (Ord. O-00-001, passed 2-24-00, § 2.17) Penalty, see § 50.999

§ 50.038 PUBLIC SEWER AVAILABLE; CONNECTION REQUIREMENT.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 50.015 of this code, a direct connection shall be made to the public sewer in compliance with this chapter at the first malfunction of the private system. At this time, any septic tanks, cesspools, or similar private sewage disposal facilities shall be abandoned and filled with suitable material. (Ord. O-00-001, passed 2-24-00, § 2.17)

§ 50.039 OPERATION AND MAINTENANCE REQUIREMENTS.

(A) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at his or her own expense.

(B) In addition to the other requirements of this subchapter, all owners of lots on which private sewage systems are situated shall maintain those systems properly. Failure to maintain the systems properly shall constitute a nuisance which may be abated using the procedures of this chapter. However, notwithstanding the availability of these procedures, if a lot owner does not respond to an emergency situation where a lack of sewer service poses an immediate threat to public health, the town may summarily abate the nuisance and bill the lot owner for all costs incurred by the town. (Ord. O-00-001, passed 2-24-00, § 2.17) Penalty, see § 50.999

§ 50.040 REQUIREMENTS NOT EXCLUSIVE.

No statement contained in this subchapter shall be construed to interfere with any additional requirements that may be imposed by the County Sanitarian. (Ord. O-00-001, passed 2-24-00, § 2.17)

WATER AND SEWER SERVICE EXTENSIONS**§ 50.050 SERVICE TO PROPERTY IN TOWN; GENERAL POLICY.**

(A) The town recognizes its basic responsibility to provide water and sewer service to all properties within the corporate limits on a nondiscriminatory basis and, subject to the availability of funds, to extend its service lines to all in-town properties unless it is unreasonable to do so.

(B) The town may determine that an extension of service is unreasonable for the following reasons:

(1) The cost of service extension is excessive in terms of the number of customers to be serviced or because of topographical, engineering, technical, or other problems;

(2) The provision of service will adversely affect the supply of water to other customers or will adversely affect the town's sewage treatment capabilities; or

(3) Other good and sufficient reasons.

(Ord. O-00-001, passed 2-24-00, § 2.18)

§ 50.051 EXTENSION TO DEVELOPED PROPERTY IN TOWN.

(A) Except as provided in § 50.052 below for extensions within new subdivisions and other new developments in town, the town will initially bear the cost of extending water or sewer service to properties within the corporate limits. However, the town may recoup its costs, in whole or in part, by charging front footage fees at the time of connection to the water or sewer system, or by levying special assessments on benefitted property.

(B) Except as provided in § 50.052, the town, or those entities it contracts with, will provide water and sewer main extensions to serve properties within the town.

(C) Water mains shall be extended only within the rights-of-way of publicly dedicated and opened streets. Sewer lines shall also be located within such rights-of-way, except where the topography makes this impracticable. However, in no case will the town extend sewer lines across private property, unless the town has obtained adequate permanent easements for those lines.

(D) In order to preserve road surfaces, whenever the town installs water or sewer line extensions in paved streets within the town, it may install lateral lines to serve undeveloped as well as developed properties.

(Ord. O-00-001, passed 2-24-00, § 2.19)

§ 50.052 EXTENSION WITHIN NEW DEVELOPMENTS IN TOWN.

(A) As indicated in § 50.050 above, the town recognizes its responsibility to extend its water and sewer lines to properties within the town. However, the responsibility for extending water and sewer lines within new subdivisions or within other new developments lies with the subdivider or developer, although the town may in its discretion contract with the subdivider or developer to install these water and sewer lines.

(B) The cost of extending water or sewer lines within new subdivisions or other new developments shall generally be borne by the subdivider or developer. However, if the town requires lines within a subdivision or other new development that are larger than those necessary to serve the project and are located so as to serve other properties, the town shall reimburse the developer for any additional costs incurred as a result of installing the oversized lines. This reimbursement shall be paid at the time the lines are connected to the town's system.

(Ord. O-00-001, passed 2-24-00, § 2.20)

§ 50.053 EXTENSIONS OUTSIDE OF TOWN.

(A) The town has no responsibility to provide water or sewer service to property located outside its corporate limits. However, upon request, the town may extend its water and sewer lines to serve properties outside the town when it, in its sole discretion, determines that it is in the town's best interests to do so.

(B) Any owner of property outside the corporate limits who seeks an extension of the town's water or sewer system to service his or her property, shall provide all information the town deems necessary to determine whether the requested extension is feasible and in the town's best interests.

(C) The responsibility for extending a water or sewer line to serve property outside the town is solely that of the property owner requesting the extension. Accordingly, the entire cost of extending lines within new subdivisions or developments outside the town shall be borne by the subdivider or developer.

(Ord. O-00-001, passed 2-24-00, § 2.21)

§ 50.054 EXTENSIONS BY OTHER THAN TOWN PERSONNEL; REQUIREMENTS; DISCLAIMER.

(A) All additions to the town's water or sewer system by other than town personnel, whether inside or outside the town, shall be performed in accordance with the provisions of this chapter as well as all other applicable town specifications and requirements. These include, but are not limited to, specifications governing the size of all lines, their location, grade, materials used, manner of installation, and provision for future extensions.

(B) No construction on any addition to the town's water or sewer system shall commence until detailed plans have been reviewed and approved by the Administrator. The plan shall include whatever information the Administrator deems reasonably necessary to determine whether the proposed extension complies with all applicable town specifications and requirements.

(C) Water lines intended for addition to the publicly owned water system will be allowed to connect to the system only if installed within the right-of-way of a publicly dedicated and opened street, except that the town may accept an offer of dedication of lines installed within unsubdivided commercial or industrial developments if necessary easements are provided. Sewer lines shall also be installed within public street rights-of-way wherever practicable, but the town may accept sewer lines constructed on private property (where the topography makes this necessary) if adequate permanent easements are provided.

(D) To protect street surfaces, the town may require that whenever extensions of water or sewer lines are made to properties or within new subdivisions, laterals be extended to all properties expected to tap on to those water or sewer lines.

(E) By making application for extension to the town's water or sewer system, the person responsible for the extension agrees to indemnify and hold the town harmless from all loss, cost, damage, liability, or expense resulting from injury to any person or property arising out of the extension of those service lines.

(Ord. O-00-001, passed 2-24-00, § 2.22) Penalty, see § 50.999

§ 50.055 WORK BY OTHERS; INSPECTION BY TOWN.

(A) All work on the extension of water or sewer lines not performed by town personnel (whether inside or outside the town) shall be subject to inspection by the town. If, in the judgment of the Administrator, there is a demonstrated lack of competent supervision by a contractor, the Administrator may at his or her option:

(1) Halt work until approved supervision is obtained and the work done in accordance with town specifications and requirements; or

(2) Provide constant inspection by town personnel at the expense of the applicant.

(B) Inspection of a project by the town does not consist of or imply supervision. The person requesting the extension is solely responsible for ensuring that the project is completed according to town specifications (if the work is not done by town personnel), and may be required to bring the project into conformity with such specifications and requirements, including correction of work already performed. (Ord. O-00-001, passed 2-24-00, § 2.23)

§ 50.056 DEDICATION OF EXTENSIONS; TOWN TO CONTROL.

(A) All water and sewer mains constructed and connected with the facilities of the town pursuant to this subchapter shall be conveyed to and become the property of the town upon completion and acceptance by the town. Connection to the system and acceptance by the town shall constitute dedication of a water or sewer main extension by the person responsible for the extension.

(B) Following dedication as provided in division (A) above, the town shall have exclusive control of all water or sewer lines and shall be responsible for their maintenance, repair, and operations. However, the conveyor of additions to the system shall guarantee the entire project against defective material and workmanship for a period of 12 months from the date of completion and acceptance of the project, including all incidental damages as may arise from such claims.

(Ord. O-00-001, passed 2-24-00, § 2.24)

SERVICE LINE USE REQUIREMENTS; DISCHARGES**§ 50.070 PROHIBITED ACTIVITIES.**

No unauthorized person may:

(A) Supply or sell water from the town system to other persons or carry away water from any hydrant, public water fountain, or other public outlet without specific authorization from the town;

(B) Manipulate, tamper with, or harm in any manner whatsoever any water line, sewer line, main, or appurtenance, or any other part of the water or sewer system, including, but not limited to, any testing or inspection device used to measure the character or concentration of wastes discharged into the sanitary sewer system;

(C) Tamper with the water meter so as to alter the true reading for the amount of water consumed and sewage discharged; or

(D) Attach or cause to be attached any connection to the water line before the water meter.
(Ord. O-00-001, passed 2-24-00, § 3.01) Penalty, see § 50.999

§ 50.071 SANITARY SEWERS; PROHIBITED DISCHARGES.

(A) No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. 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) 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, waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;

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

(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 12.5, 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 (66°C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which infuses 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 § 50.079 of this code;

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

(10) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under § 405 of the Act (33 USC 1345), the Solid Waste Disposal Act (42 USC 6901 *et seq.*), the Clean Air Act (42 USC 7401 *et seq.*), the Toxic Substances Control Act (15 USC 2601 *et seq.*), 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 or 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, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, de-ionized 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 50 mg/l;

(15) Any sludges, screenings, 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 CFR 261 if not disposed of in a sewer;

(19) Any wastewater causing the treatment plant effluent to violate state water quality standards for toxic substances as described in 15A NCAC 02B .0200;

(20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's 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;

(24) Any substance discharged in a quantity that would cause any portion of the POTW to be hydraulically overloaded;

(25) (a) Waste from garbage shredders and grinders shall not be acceptable for discharge into a town sewer, except:

1. Wastes generated in preparation of food normally consumed on the premises; or
2. Where the user has obtained a permit for that specific use from the town and agrees to undertake whatever self-monitoring is required to enable the town to determine the waste constituents and characteristics and applicable fees and charges.

(b) These grinders must shred the waste to a degree so that all particles will be carried freely under normal flow conditions prevailing in the town sewer. Garbage grinders shall not be used for grinding plastic, paper products, inert materials, or garden refuse.

(26) No person shall discharge any substances directly into a manhole or other opening in a town sewer other than through an approved building sewer, unless he or she has been issued a permit by the town. If a permit is issued for such a direct discharge, the user shall pay the applicable charges and fees and shall meet other conditions necessary to properly treat this discharge as required by the town; and

(27) (a) No person shall discharge any holding tank waste, including by definition but not limited to pumpings from septic tanks, into a town sewer, unless he or she has been issued a permit by the town. Unless otherwise allowed by the town under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit will state the specific location of the discharge, the time of day the discharge is to occur, the volume of the discharge, and the wastewater constituents and characteristics. If a permit is granted for discharge of this type of waste into a town sewer, the user shall pay the applicable charges and fees and shall meet other conditions necessary to properly treat this discharge as required by the town. An exception to the above is that no permit will be required for discharge of domestic wastes from recreational motor home holding tanks, provided that those discharges are made into a town approved facility designed to receive those wastes.

(b) Monitoring facilities for holding type wastes such as those described in the preceding division shall be provided by the user when in the exclusive judgment of the town they are deemed reasonably necessary for monitoring purposes.

(C) Pollutants, substances, wastewater, or other wastes prohibited by this subchapter shall not be processed or stored in such 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) When the POTW Director determines that a user 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 of the potential impact of the contribution on the POTW in accordance with § 50.110 of this code; and

(2) Take appropriate actions in accordance with §§ 50.090 - 50.097 for that user to protect the POTW from interference or pass through.

(Ord. O-00-001, passed 2-24-00, § 3.02) Penalty, see § 50.999

§ 50.072 NATIONAL CATEGORICAL PRETREATMENT STANDARDS; APPLICATION.

(A) Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-71, which are specifically incorporated herein.

(B) (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit, using the combined waste stream formula in 40 CFR 403.6(e).

(3) 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 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(Ord. O-00-001, passed 2-24-00, § 3.03) Penalty, see § 50.999

§ 50.073 WASTEWATER; LOCAL LIMITS.

(A) To implement the general and specific discharge prohibitions listed in this chapter, industrial user-specific local limits will be developed to ensure that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern for each industrial user.

(B) Unless authorized by a permit issued pursuant to §§ 50.090 - 50.097 of this code, no person shall discharge wastewater containing pollutants at levels which exceed the levels associated with domestic sewage.

(1) For the following parameters, exceeding domestic sewage levels shall mean in excess of the following levels:

<i>Pollutant</i>	<i>Maximum Domestic Sewage Level</i>
Arsenic	0.003 mg/l
BOD	250 mg/l
Cadmium	0.003 mg/l
Total chromium	0.05 mg/l
Copper	0.061 mg/l
Cyanide	0.041 mg/l
Lead	0.049 mg/l
Mercury	0.0003 mg/l
Nickel	0.021 mg/l
Silver	0.005 mg/l
TKN	40 mg/l
TSS	250 mg/l
Zinc	0.175 mg/l

(2) Domestic sewage levels for pollutants not listed above shall be determined by the POTW Director and shall be based on either actually measured local domestic sewage levels or levels generally accepted as reasonable in the scientific community.

(3) Industrial user-specific local limits for appropriate pollutants of concern shall be included in wastewater permits and are considered pretreatment standards. The POTW Director may impose mass limits in addition to, or in place of, the concentration-based limits above.

(4) 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.

(5) The town reserves the right to establish limitations and requirements for domestic sewage dischargers and commercial users which are more stringent than those required by either state or federal regulation.

(C) Unless authorized by a permit issued pursuant to §§ 50.090 - 50.097 of this code, no domestic sewage discharger or commercial user shall discharge wastewater with any of the following characteristics:

- (1) Having any clothing, rags, textile remnants, or the like, except scraps of fibers that will pass through a $\frac{1}{4}$ -inch mesh screen or its equivalent in screening ability;
- (2) Having a COD of more than 1,500 mg/l;
- (3) Having an ammonia nitrogen content of more than 40 mg/l;
- (4) Containing in excess of 0.02 mg/l total identifiable chlorinated hydrocarbons;
- (5) Containing 1.0 mg/l phenolic compounds which cannot be removed by the town's treatment process;
- (6) Containing any toxic or poisonous substances or any other materials (including, but not limited to, heavy metals or chemicals) in sufficient quantities to interfere with the biological processes used in the sewage treatment works or that will pass through the sewage treatment works and harm persons, livestock, or aquatic life utilizing the natural outlet;
- (7) Containing strong iron pickling wastes or concentrated plating solutions unless pretreated in such a way as to comply with all other limitations of this section;
- (8) Containing any solid or viscous substance, including, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, paper products, glass, rags, bones, feathers, slurry, lime residues, slops, whole blood, fleshings, chemical residues, paint residues, waxes, asphalt, tar, hair, plastics, wood, paunch manure, butcher's offal, or animal viscera capable of causing obstructions to the flow in the sewers or other interference with the proper operation of the sewage collection system or the sewage treatment works;
- (9) Containing any liquid waste or other substance that contains dyes or other colors of such character and quantity as to prevent removal by biological processes employed at the town's treatment plant or that requires special chemical treatment;
- (10) Containing any liquid or other substances that, after normal treatment, require excessive amounts of chlorine for stabilization or pathogenic disinfection. The amount of excess demand will be determined by comparing the chlorine demand of all other wastes entering the plant;
- (11) Containing any materials that form excessive amounts of scum that may interfere with the operation of the sewage treatment works or cause undue additional labor or chemicals in connection with its operation; or
- (12) Having any waste resulting from process(es) involving textiles, fabrics, wool, or other processes containing inert fibrous materials. These discharges shall undergo evaluation by the town. Since some of these processes have been shown to be detrimental to the treatment of waste, the evaluation procedure will be concerned with residual fiber within the treatment plant and its discharges.

Any process determined by the town to be creating adverse conditions within the treatment plant by the collection of fibrous or inert materials in its basins, pond, or discharges, shall not be allowed to continue disposing of its waste into the sanitary sewer collection system of the town, but shall dispose of its waste by alternative means.

(D) Users in industrial categories subject to effluent guidelines issued under § 304(b) of the Act which are discharging incompatible pollutants to publicly owned treatment works, are required to adopt the best practicable control technology currently available, as defined by the Administrator pursuant to § 304(b) of the Act. Where the town's treatment works were designed to and do achieve substantial removal of pollutants other than compatible pollutants, as defined in this chapter, the town may not require the user to achieve best practicable control technology currently available, since this would lead to an uneconomical duplication of treatment facilities. While the term **SUBSTANTIAL REMOVAL** is not subject to precise definition, it generally contemplates removals on the order of 80% or greater; minor incidental removals on the order of 10% to 30% are not considered substantial. For some industrial categories it may be necessary to define pretreatment guidelines for problems that may arise as a result of the discharge into the town's treatment works or sanitary sewer system. However, any adjustments required for particular industrial categories should be considered in connection with the town's requirements, rather than the national pretreatment standard.

(E) Limitations on wastewater strength in this chapter may be supplemented with more stringent limitations in accordance with the permit sections of this chapter and regulations, laws, and procedures governing reissuance of permits.

(Ord. O-00-001, passed 2-24-00, § 3.04) Penalty, see § 50.999

§ 50.074 DISPOSAL OF UNACCEPTABLE WASTE.

Waste not permitted to be discharged into the town's sewer must be transported to a state approved disposal site.

(Ord. O-00-001, passed 2-24-00, § 3.05)

§ 50.075 RIGHT OF REJECTION; SERVICE DISCONTINUANCE.

(A) If any waters or wastes, discharged or proposed to be discharged to the public sewers, contain the substances or possess the characteristics enumerated in this subchapter, and which in the judgment of the town may have a deleterious effect upon the wastewater treatment works, processes, equipment, or receiving waters, or which create a hazard to life, or constitute a public nuisance, the town may reject the waters.

(B) The town may discontinue water service or sewer service, or both, to any domestic sewage discharger or commercial user who violates this subchapter, when in the judgment of the town that action is necessary to protect the wastewater treatment works, processes, equipment, or receiving waters from injury or damage, or is necessary to protect life or health.

(Ord. O-00-001, passed 2-24-00, § 3.06)

§ 50.076 DILUTION NOT A PRETREATMENT SUBSTITUTE.

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.

(Ord. O-00-001, passed 2-24-00, § 3.07) Penalty, see § 50.999

§ 50.077 WASTEWATER PRETREATMENT; REQUIREMENTS.

(A) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this chapter and wastewater permits issued under §§ 50.090 - 50.097 of this code and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in § 50.070 of this code within the time limitations as specified by the 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 these 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 sewers, relocate or consolidate points of discharge, separate sewage waste streams from industrial waste streams, 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 their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(3) (a) Grease and oil traps or other interceptors shall be provided at the user's expense, when that user operates an establishment preparing, processing, or serving food or food products. Grease interceptors can be required in other industrial products. Grease interceptors can be required in other industrial or commercial establishments when they are necessary for proper handling of liquid wastes containing oil or grease in amounts in excess of 50 mg/l by weight fat soluble, or for any flammable wastes. All such traps, tanks, chambers, or other interceptors shall be of a type and capacity approved by the town and shall be readily and easily accessible for cleaning and inspection. All such interceptors

shall be serviced and emptied of the waste content as required, but not less often than every 30 days, in order to maintain their minimum design capability to intercept oils and greases from the wastewater discharged to the publicly owned sanitary sewer. Failure to comply can result in the implementation of the enforcement procedures as written in §§ 50.136 - 50.138 and 50.999 of this code.

(b) Wastes removed from grease interceptors shall not be discharged into the publicly owned sanitary sewer. The owner shall be responsible for the sanitary disposal of these wastes.

(c) A facility must keep interceptor cleaning records on file a minimum of three years. The following information must be kept on file: receipt for job performed signed by contractor and cost, clean out date, person responsible for cleaning, name of firm performing the clean out, and the disposal method for and destination of material removed.

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

(Ord. O-00-001, passed 2-24-00, § 3.08) Penalty, see § 50.999

§ 50.078 ACCIDENTAL DISCHARGE AND SLUDGE CONTROL PLANS.

(A) At least once every two years, the POTW Director shall evaluate whether each significant industrial user needs an accidental discharge and sludge control plan. The POTW Director may require any user to develop, submit for approval, and implement such a plan. Alternatively, the POTW Director may develop such a plan for any user.

(B) An accidental discharge and sludge control plan shall address, at a minimum, the following:

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

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW Director of any accidental or sludge discharge, as required by § 50.115 of this code; and

(4) Procedures to prevent adverse impact from any accidental or sludge discharge. These types of 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 measures and equipment for emergency response.

(Ord. O-00-001, passed 2-24-00, § 3.09)

§ 50.079 HAULED WASTEWATER; PERMIT REQUIRED; ANALYSIS AND REPORTING.

(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 (42 USC 6901 *et seq.*) hazardous wastes.

(Ord. O-00-001, passed 2-24-00, § 3.10) Penalty, see § 50.999

INDUSTRIAL WASTEWATERS; PERMITS**§ 50.090 WASTEWATER DISCHARGER; PERMIT REQUIRED.**

(A) *Wastewater dischargers.* 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 30 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.

(B) *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.

(Ord. O-00-001, passed 2-24-00, §§ 5.01, 5.02) Penalty, see § 50.999

§ 50.091 SIGNIFICANT INDUSTRIAL USER PERMIT.

(A) *Significant industrial user determination.* All persons 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 §§ 50.070 - 50.079 of this code, any of the priority pollutants (as discussed in § 307(a) of the Act (33 USC 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) of the Act and contained in 40 CFR 136, as amended;

(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) 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 the 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; and

(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 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, 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 CFR 403.12(b) and 15A NCAC 02H .0908(a), as outlined in § 50.110 of this code; and

(14) Any other information the POTW Director deems necessary to evaluate the permit application.

(Ord. O-00-001, passed 2-24-00, § 5.02)

§ 50.092 WASTEWATER DISCHARGE PERMIT APPLICATION; EVALUATION; HEARINGS.

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

(B) *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. He or she 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 application if he or she determines that it is complete. If the POTW Director determines that the application is not complete, he or she shall return the application to the applicant with a statement explaining what additional information is required.

(C) *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 (C)(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 limitations; 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 (C)(1) and (C)(2) above and the town's general permit conditions into a significant industrial user permit.

(D) *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. This fact sheet shall be made available to the public upon request. The contents of these 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.

(E) 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 those 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 § 50.093 of this code;

(d) Revoke any permit, pursuant to § 50.136 of this code;

(e) Suspend a permit, pursuant to § 50.136 of this code; 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.

(F) 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 § 50.999, or one issued an administrative order under § 50.136, 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 this 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 (F)(1) above, may be appealed to the Board of Commissioners upon filing a written demand within ten days of receipt of notice of the decision. Hearings held under this subdivision shall be conducted in accordance with the state Administrative Procedure Act (APA), G.S. § 150B. APA forms may be utilized. APA forms and procedures are incorporated herein solely as a convenience to the applicant and the town; the town is not subject to the APA. Failure to make written demand within the time specified herein shall bar further appeal. The Board of Commissioners shall make a final decision on the appeal within 90 days of the date the appeal was filed, and shall transmit a written copy of its decision by registered or certified mail.

(3) *Official record.* When a final decision is issued under division (F)(2) above, the Board of Commissioners shall prepare an official record of the case. This record shall include:

(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 the Board of Commissioners.

(4) *Judicial review.* Any person against whom a final order or decision of the Board of Commissioners is entered, pursuant to the hearing conducted under division (F)(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. A copy of the petition must be served on the town when the petition is filed. Within 30 days after receipt of the copy of the petition of judicial review, the Board of Commissioners shall transmit to the reviewing court the original or a certified copy of the official record.

(Ord. O-00-001, passed 2-24-00, § 5.02) Penalty, see § 50.999

§ 50.093 PERMIT MODIFICATION PROCEDURES.

(A) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits, except as follows:

(1) Changes in the ownership of the discharge when no other change in the permit is indicated;

(2) A single modification of any compliance schedule not in excess of four months; or

(3) Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.

(B) Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(C) (1) 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 that standard within the time frame prescribed by that standard.

(2) Where a user subject to a national categorical pretreatment standard has not previously submitted an application for a wastewater discharge permit as required by § 50.091(B), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.

(D) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. § 143-215.1(b) for modifications.
(Ord. O-00-001, passed 2-24-00, § 5.02)

§ 50.094 CONDITIONS.

(A) 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.

(B) Wastewater permits shall contain, but are not limited to, the following:

(1) A statement of duration (in no case more than five years);

(2) A statement of nontransferability;

(3) Applicable effluent limits based on categorical standards or local limits or both;

(4) Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

(5) Notification requirements for sludge loads; and

(6) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

(C) In addition, permits may contain, but are not limited to, the following:

(1) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization;

(2) Limits on the instantaneous, daily, and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;

(3) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, and the like, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(4) Development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

(5) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system;

(6) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system;

(7) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(8) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules;

(9) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation(s);

(10) Compliance schedules for meeting pretreatment standards and requirements;

(11) Requirements for submission of periodic self-monitoring or special notification reports;

(12) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in § 50.121 of this code and affording the POTW Director, or his or her representatives, access thereto;

(13) Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system;

(14) Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee;

(15) Requirements for immediate notification of excessive, accidental, or slug discharges, or any discharge which could cause any problems to the system;

(16) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the terms of the permit; and

(17) Other conditions as deemed appropriate by the POTW Director to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(Ord. O-00-001, passed 2-24-00, § 5.02)

§ 50.095 EXPIRATION.

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.

(Ord. O-00-001, passed 2-24-00, § 5.02)

§ 50.096 NONTRANSFERABLE.

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.

(Ord. O-00-001, passed 2-24-00, § 5.02) Penalty, see § 50.999

§ 50.097 REISSUANCE PROCEDURE.

A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with this subchapter a minimum of 180 days prior to the expiration of the existing permit.

(Ord. O-00-001, passed 2-24-00, § 5.02)

INDUSTRIAL USERS; REPORTING REQUIREMENTS; COMPLIANCE MONITORING**§ 50.110 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 CFR 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 following information:

(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 waste stream formula set out in 40 CFR 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 § 50.118 of this code; and

(c) Sampling must be performed in accordance with procedures set out in § 50.120.

(6) *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (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 that 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 subchapter must meet the requirements set out in § 50.111 of this code; and

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with § 50.092(A) of this code.
(Ord. O-00-001, passed 2-24-00, § 6.01)

§ 50.111 COMPLIANCE SCHEDULE; PROGRESS REPORTS.

The following conditions shall apply to the compliance schedule required by § 50.110(B)(7) of this code:

(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;

(C) 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; and

(D) In no event shall more than nine months elapse between these progress reports to the POTW Director.

(Ord. O-00-001, passed 2-24-00, § 6.02) Penalty, see § 50.999

§ 50.112 CATEGORICAL PRETREATMENT STANDARD DEADLINE; COMPLIANCE REPORTS.

(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 those pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in § 50.110(B)(4) - (B)(6) of this code.

(B) For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 50.092(A) of this code.
(Ord. O-00-001, passed 2-24-00, § 6.03)

§ 50.113 PERIODIC COMPLIANCE REPORTS.

(A) All significant industrial users shall, at a frequency determined by the POTW Director, but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 50.092(A) of this code.

(B) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(C) If a user subject to the reporting requirement in this subchapter monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in § 50.118 of this code, the results of this monitoring shall be included in the report.
(Ord. O-00-001, passed 2-24-00, § 6.04)

§ 50.114 CHANGED CONDITIONS; REPORT REQUIRED.

(A) 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 90 days before the change.

(B) (1) 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 §§ 50.090 - 50.097 of this code.

(2) The POTW Director may issue a wastewater discharge permit under §§ 50.090 - 50.097 of this code or modify an existing wastewater discharge permit under §§ 50.090 - 50.097 of this code in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20% or greater, and the discharge of any previously unreported pollutants.
(Ord. O-00-001, passed 2-24-00, § 6.05)

§ 50.115 POTENTIAL PROBLEMS; NOTIFICATION AND REPORT REQUIRED.

(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 sludge load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) (1) Within five days following the above-described 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.

(2) This 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 this 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 such a discharge to occur are advised of the emergency notification procedure.

(Ord. O-00-001, passed 2-24-00, § 6.06) Penalty, see § 50.999

§ 50.116 UNPERMITTED USERS; REPORTING REQUIREMENTS.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require.

(Ord. O-00-001, passed 2-24-00, § 6.07)

§ 50.117 NOTICE OF VIOLATION REQUIRED; REPEAT SAMPLING AND REPORT.

If sampling performed by a user indicates a violation, the user must notify the POTW Director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within 30 days after becoming aware of the violation. The user is not required to resample if the POTW Director monitors at the user's facility at least once a month, or if the POTW Director samples between the user's initial sampling and when the user receives the results of this sampling.

(Ord. O-00-001, passed 2-24-00, § 6.08)

§ 50.118 ANALYSIS AND SAMPLING TECHNIQUES; NATIONAL STANDARDS.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report, shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.
(Ord. O-00-001, passed 2-24-00, § 6.09)

§ 50.119 SAMPLE COLLECTION TECHNIQUES.

(A) Except as indicated in division (B), below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the POTW Director may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(B) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
(Ord. O-00-001, passed 2-24-00, § 6.10)

§ 50.120 SUBMISSION DATES.

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.
(Ord. O-00-001, passed 2-24-00, § 6.11)

§ 50.121 RECORD KEEPING REQUIREMENTS.

(A) 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 these 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.

(B) 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 Director.
(Ord. O-00-001, passed 2-24-00, § 6.12)

§ 50.122 MONITORING FACILITIES.

(A) 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 internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the town may, when that 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) There shall be ample room in or near the sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. 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) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the town's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the town.

(Ord. O-00-001, passed 2-24-00, § 7.01)

§ 50.123 INSPECTION AND SAMPLING; RIGHT OF ENTRY.

(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. Persons or occupants of premises where wastewater is created or discharged shall allow the town, approval authority, and the 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. The town, approval authority, and the EPA shall have the right to set up on the user's property devices as are necessary to conduct sampling, inspection, compliance monitoring, and metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements with its 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.

(B) It shall be a violation of this chapter for anyone to deny the POTW Director, approval authority, or EPA access to the user's premises. Unreasonable delays may constitute denial of access.

(Ord. O-00-001, passed 2-24-00, § 7.02) Penalty, see § 50.999

§ 50.124 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 or sample as 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 Superior Court.

(Ord. O-00-001, passed 2-24-00, § 7.03)

ADMINISTRATION AND ENFORCEMENT

§ 50.135 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 this information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user. Any request of this type 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 the pretreatment programs; provided, however, that these 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.

(Ord. O-00-001, passed 2-24-00, § 8)

§ 50.136 ADMINISTRATIVE REMEDIES.

(A) *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 that person a written notice stating the nature of the violation. Within 30 days from the date of that 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.

(B) *Consent orders.* The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. These orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to division (D) below.

(C) *Show cause hearing.*

(1) The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this chapter, or is in noncompliance with a wastewater discharge permit, to show cause 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 the 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.

(2) The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

(3) A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under § 50.999; nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under § 50.092(F).

(D) *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 of this type and direct those persons in noncompliance to do any of the following:

(1) Immediately comply with all requirements;

(2) Comply in accordance with a compliance time schedule set forth in the order;

(3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation; or

(4) Disconnect unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated within a specified time period.

(E) *Emergency suspensions.*

(1) The POTW Director may suspend the wastewater treatment service and 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.

(2) Any user notified of a suspension of the wastewater treatment service 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 noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Director prior to the date of the above-described hearing.

(F) *Termination of permit.*

(1) Any user who violates the following conditions of this chapter, or applicable state and federal regulations, is subject to having its permit terminated:

(a) Failure to accurately report the wastewater constituents and characteristics of his or her discharge;

(b) Failure to report significant changes in operations or wastewater constituents and characteristics;

(c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(d) Violation of conditions of the permit.

(2) Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under this section why the proposed action should not be taken.

(Ord. O-00-001, passed 2-24-00, § 9.01) Penalty, see § 50.999

§ 50.137 ADDITIONAL REMEDIES.

(A) Other remedies, in addition to those mentioned elsewhere in this chapter, are available to the POTW Director, who may use any single remedy or combination of remedies against a noncompliant user.

(B) Additional available remedies include, but are not limited to the following.

(1) *Criminal violations.* The District Attorney for Judicial District 6A may, at the request of the town, prosecute noncompliant 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 creating a public nuisance shall be subject to the provisions of the applicable local law governing nuisances, including reimbursing the POTW for any costs incurred in removing, abating, or remedying the nuisance.
(Ord. O-00-001, passed 2-24-00, § 9.03) Penalty, see § 50.999

§ 50.138 REMEDIES NOT 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 noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the town's enforcement response plan. However, the POTW Director may take other action against any user when the circumstances warrant. Further, the POTW Director is empowered to take more than one enforcement action against any noncompliant user.
(Ord. O-00-001, passed 2-24-00, § 9.04) Penalty, see § 50.999

§ 50.139 PUBLICATION OF SIGNIFICANT NONCOMPLIANCE.

At least annually, the POTW Director shall publish in the largest daily newspaper circulated in the service area, a list of those industrial users which were found to be in significant noncompliance, also

referred to as reportable noncompliance in 15A NCAC 02H .0903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.
(Ord. O-00-001, passed 2-24-00, § 10)

§ 50.140 DISCHARGE VIOLATIONS; AFFIRMATIVE DEFENSES.

(A) *Upset*. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of division (A)(1), below, are met.

(1) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

(a) An upset occurred and the user can identify the cause(s) of the upset;

(b) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

(c) The user has submitted the following information to the POTW Director within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

1. A description of the indirect discharge and cause of noncompliance;

2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

3. Steps being taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(2) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(3) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(4) 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. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced or lost, or fails.

(B) *Prohibited discharge standards defense*. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 50.071(A)

of this code or the specific prohibitions in §§ 50.071(B)(2), (B)(3), and (B)(5) - (B)(7) of this code 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:

(1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the town was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(C) *Bypass.*

(1) 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 provisions of divisions (C)(2) and (C)(3) of this section.

(2) (a) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director at least ten days before the date of the bypass, if possible.

(b) A user shall submit oral notice to the POTW Director of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(3) 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 (C)(2) of this section.

(4) 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)(3) of this section.

(Ord. O-00-001, passed 2-24-00, § 11) Penalty, see § 50.999

§ 50.141 ENFORCEMENT PROCEDURES; TERMINATION OF SERVICE; HEARINGS; REINSTATEMENT.

(A) *Application.* Except with respect to nonpayment of accounts as described in division (B)(1)(a) of this section, the provisions of this section do not apply to industrial users or other users permitted pursuant to §§ 50.090 - 50.097 of this code or by the approval authority. Users who are not permitted pursuant to §§ 50.090 - 50.097 or the approval authority are governed by this section.

(B) *Termination or interruption of services by town.*

(1) The town may terminate service to enforce any of the provisions of this chapter. Accordingly, the town may terminate service for reasons which include the following:

- (a) Refusal by the customer to pay in full an account that remains delinquent in excess of ten days;
- (b) Prevention of fraud or abuse by a customer; or
- (c) Failure of the customer to comply with any of the provisions of this chapter.

(2) Before service is terminated, the customer shall be notified of the proposed termination and given an opportunity to be heard on the matter as provided in this section.

(3) The town reserves the right to discontinue or interrupt service temporarily for any of the following reasons:

- (a) Emergency repairs;
- (b) Insufficient supply or treatment capacity; or
- (c) Strike, riot, flood, accident, act of God, or any other unavoidable cause.

(4) The town shall make a good faith effort to notify affected customers before service is discontinued or interrupted as provided in division (B)(3). However, the customer, by making application for service, agrees to hold the town harmless from liability for any loss or damage that may occur due to discontinuance or interruption of service for the above mentioned causes.

(C) *Notice of proposed termination of service and right of hearing.*

(1) On the day that an account becomes delinquent, or as soon thereafter as possible, the town shall mail to the customer a notice informing the customer of the amount owed and stating that:

(a) The customer's account is delinquent and is subject to a penalty charge of \$5;

(b) The customer is entitled to be heard before service termination by a designated employee at a specified address or telephone number during stated business hours if there is any dispute over the amount of the bill; and

(c) Unless the bill is paid in full or otherwise resolved by a specified date, the town may terminate service without further notice.

(2) The service termination date stated in the notice described in division (B) shall be the later of the following:

(a) The tenth day after the date the notice is mailed; or

(b) The tenth day after the account becomes delinquent.

(3) If the town proposes to terminate service for any reason other than nonpayment, the town shall first mail to the customer a notice informing the customer:

(a) That the town proposes to terminate service without further notice on a specified date, which date shall be not earlier than the tenth day after the notice is mailed;

(b) What the reasons for the proposed termination are and what, if anything, the customer may or must do to avoid termination of service; and

(c) That the customer is entitled to be heard by a designated employee (at any time prior to termination of service) at a specified address or telephone number during stated business hours if there is any question about the accuracy or legitimacy of the reasons stated for the proposed termination.

(D) *Termination hearing.*

(1) The hearing provided for in division (C) above may be held by phone or, at the request of the customer, the customer may meet in person with the employee at the office of the employee, as specified in the notice.

(2) The hearing shall be conducted informally. The customer shall be given every reasonable opportunity to bring to the attention of the designated employee information that reasonably bears upon the reasons for the proposed termination.

(E) Stay of termination pending hearing outcome.

(1) If the hearing provided for is requested and held before the service termination date indicated in the notice, the town shall postpone the proposed termination date until three days after the written decision is served on the customer as provided in division (E)(2) below.

(2) As soon as reasonably possible after the hearing, the employee conducting the hearing shall inform the customer in writing of his or her decision and the reasons therefor. If the proposed termination relates to an unpaid account, the writing shall also inform the customer that unless the account is paid in full within three days after the notice is served, the service will be terminated. This decision may be served upon the customer personally or mailed by certified mail, return receipt requested.

(3) If the customer fails to make a timely request for the hearing or, following a hearing, fails to comply with the decision of the town within the time specified in division (E)(2) above, the town may terminate service without further notice.

(F) Lessee may take responsibility for payment.

(1) (a) A copy of the notice of proposed termination required by division (C) of this section shall be sent to the occupant of the dwelling unit or the tenant of the non-residential structure, whenever:

1. A water meter serves a single dwelling unit or, in the case of non-residential structures, a single tenant;

2. The occupant of the dwelling unit or the tenant is not the person responsible for water or sewer payments (such as is not the customer); and

3. The customer becomes delinquent in his or her payments.

(b) The notice shall include or be accompanied by a statement setting forth the rights of the occupant or tenant (the lessee) as provided in division (F)(2) below.

(2) When a lessor becomes delinquent in his or her water or sewer payment, a lessee may take responsibility for the payments and may thereby become the customer. The lessee shall not be responsible for the debts of the lessor.

(G) Procedure for service termination and reinstatement.

(1) Water and sewer service termination shall be effected only by authorized agents of the town.

(2) When service is terminated, discontinued, or interrupted for any reason set forth in this section, it shall be unlawful for any person other than a duly authorized agent or employee of the town to do any act that results in the resumption of service.

(3) When service is terminated for nonpayment of bills, the service application deposit shall be applied to the outstanding bill.

(4) If there are deposit funds remaining after the deposit is applied to the outstanding bill, the excess shall be refunded to the customer. If a portion of the bill remains outstanding, the town may proceed to collect the balance using any lawful procedure.

(5) Before service will be reinstated, the customer shall be required to make full payment of any charges still outstanding on his or her account. In addition, the customer shall also redeposit with the town an amount equal to his or her application deposit or the amount of the bill outstanding at the time of termination, whichever is greater.

(6) A charge for service reinstatement shall be made pursuant to the schedule of rates and charges adopted by the Board of Commissioners.

(H) Termination at customer's request.

(1) The customer shall request that service be discontinued (for a change in occupancy or other reason) at least one day before the customer desires the termination to become effective.

(2) The customer shall be responsible for all water consumed and for pro-rated service up to the time service is terminated, or until one day following receipt of the request for termination, whichever occurs sooner.

(3) When all charges for service are paid in full, the customer's deposit shall be refunded. The deposit will be refunded pursuant to the schedule of rates and charges.

(4) The customer shall be entitled to be heard by a designated employee concerning any dispute about the amount of the deposit refund. The employee shall inform the customer in writing of his or her decision and the reasons therefor as soon as reasonably possible.

(Ord. O-00-001, passed 2-24-00, § 12) Penalty, see § 50.999

§ 50.142 RATES AND CHARGES ADOPTED BY REFERENCE.

The provisions in § 4 of the town's water and sewer ordinance, regarding charges and fees, as they may be amended from time to time, are hereby adopted by reference and shall be a part of this code as if set forth in full herein.

§ 50.999 PENALTY.

(A) Any person who violates any provision of this chapter for which no other specific penalty has been provided shall be subject to the penalties described in § 10.99 of this code.

(B) (1) 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 \$10,000 per day per violation.

(2) In determining the amount of the civil penalty, the POTW Director shall consider the following:

(a) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;

(b) The duration and gravity of the violation;

(c) The effect on 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 noncompliance;

(f) Whether the violation was committed willfully or intentionally;

(g) The prior record of the violator in complying or failing to comply with the pretreatment program; and

(h) The costs of enforcement to the town.

(3) Appeals of civil penalties assessed in accordance with this division shall be as provided in § 50.092(F) of this code.

(Ord. O-00-001, passed 2-24-00, § 9.02)

AN ORDINANCE AMENDING/REPLACING AND RENAMING, FROM WATER CONSERVATION TO WATER SHORTAGE RESPONSE, CHAPTER 51, OF THE CODE OF ORDINANCES OF THE TOWN OF LITTLETON

(O-07-002)

WHEREAS, Chapter 51, Water Conservation, needs to be replaced with an updated Water Shortage Response.

NOW, THEREFORE BE IT RESOLVED By the Board of Commissioners of the Town of Littleton that Chapter 51 is rewritten as follows:

CHAPTER 51: WATER SHORTAGE RESPONSE

Section

- 51.01 Purpose
- 51.02 Definitions
- 51.03 Declaration of Voluntary Conservation
- 51.04 Declaration of Mandatory Conservation
- 51.05 Declaration of a Water Shortage Emergency
- 51.06 Declaration of Rationing
- 51.07 Shortage Water Rates
- 51.08 Regulations
- 51.09 Penalties
- 51.10 Civil Penalties
- 51.11 Severability
- 51.12 Effective Date
- 51.13 Effective Period
- 51.14 Addendum – Conservation Measures

An ordinance authorizing the declaration of water shortage' establishing procedures and measure for the essential conservation of water resources; and prescribing certain penalties.

Be It Enacted by Board of Commissioners of the Town of Littleton, North Carolina.

§ 51.01 PURPOSE

The purpose of this ordinance is to provide for the declaration of official phases of water supply shortage situations and the implementation of voluntary and mandatory water conservation measures throughout the Town in the event a shortage is declared.

§ 51.02 DEFINITIONS

ALLOTMENT shall mean the maximum quantity of water allowed for each customer over an applicable period as established in the water rationing provisions of this ordinance.

ANY WATER shall mean any type of water, including fresh water, brackish water, wastewater, or reclaimed water.

BRACKISH water shall mean water containing more than 1000 parts per million of dissolved salts.

CUSTOMER shall mean any person using water for any purpose from the Town's water distribution system and for which a regular charge is made.

EMERGENCY shall mean the water supplies are below the level necessary to meet normal needs and that serious shortages exist in the area.

EXCESS USE shall mean the usage of water by a water customer in excess of the water allotment provided under the water rationing provisions of this ordinance for that customer, over any applicable period.

FRESH WATER shall mean water withdrawn from surface or groundwater, which has not been previously used, other than brackish water.

MANDATORY CONSERVATION shall mean that raw water supplies are consistently below seasonal averages, and if they continue to decline, may not be adequate to meet normal needs.

NON-RESIDENTIAL CUSTOMER shall mean commercial, industrial, institutional, public and all other such users, with exception of hospitals and health care facilities.

RATIONING shall mean procedures established to provide for the equitable distribution of critically-limited water supplies, in order to balance demand and limited available supplies, and to assure that sufficient water is available to preserve public health and safety.

RECLAIMED WATER shall mean wastewater, which has been treated to allow reuse.

RESIDENTIAL CUSTOMER shall mean any customer who receives water service for a single or multi-family dwelling unit. The term residential customer does not include educational or other institutions, hotels, motels, or similar commercial establishments.

SERVICE INTERRUPTION shall mean the temporary suspension of water supply, or reduction of pressure below that required for adequate supply, to any customer, portion of the system, or the entire system.

VOLUNTARY CONSERVATION shall mean that conditions exist which indicate the potential for serious water supply shortages.

WASTE OF WATER includes, but is not limited to (1) permitting water to escape down a gutter, ditch, or other surface drain, or (2) failure to repair a controllable leak of water due to defective plumbing.

WASTEWATER shall mean water previously used for industrial, municipal, county, domestic, or other purposes, and has not been returned to the surface or groundwater source.

WATER shall mean water available to the Town of Littleton for treatment by virtue of its water right or withdrawal permit or any treated water introduced by the County into the Town of Littleton's water distribution system, including water offered for sale.

WATER USE CLASSES shall be established as follows;

Class 1: Essential Water Uses

Domestic Use:

(1) Water necessary to sustain human life and the lives of domestic pets, and to maintain minimum standards of hygiene and sanitation.

Health Care Facilities:

(1) Patient care and rehabilitation, including swimming pools used for patient care and rehabilitation.

Public Use:

(1) Fire Hydrants.

(2) Firefighting.

(3) Certain testing and drills by the fire departments if performed in the interest of public safety and if approved by the Town Board of Commissioners.

Flushing of Sewers and Hydrants:

(1) As needed to ensure public health and safety if approved by the Town of Board of Commissioners.

Class 2: Socially or Economically Important Uses of Water

All Domestic Uses Other Than Those Included in Classes 1 and 3:

(1) Home water use including kitchen, bathroom, and laundry use.

(2) Minimal watering of vegetable gardens.

(3) Watering trees where necessary to preserve them.

Commercial, Agricultural, Industrial, and Institutional Uses.

(1) Outdoor commercial watering (public or private) using conservation measures and to the extent that sources of water other than fresh water are not available to use.

(2) Irrigation for commercial vegetable gardens and fruit orchards or the maintenance of livestock.

(3) Watering by commercial nurseries at a minimum level necessary to maintain stock.

(4) Water use by arboretums and public gardens of national, State, or regional significance where necessary to preserve specimens.

(5) Use of fresh water at a minimum rate necessary to implement vegetation following earth-moving, where such revegetation is required by law or regulation.

(6) Watering of golf course greens.

(7) Filling and operation of swimming pools. Residential pools which serve more than 25 dwelling units, pools used by health care facilities for patient care and rehabilitation, and municipal pools.

(8) Commercial car and truck washes.

(9) Commercial Laundromats.

(10) Restaurants, clubs, and eating establishments.

(11) Air conditions. Refilling for start-up at the beginning of the cooling season, make-up water during cooling season, refilling specifically approved by health officials and the Town Board of Commissioners, where the system has been drained for health protection or repair purposes.

(12) Schools, churches, motels, hotels and similar commercial establishments.

Class 3: Non-Essential Uses of Water

Ornamental Purposes:

(1) Fountains reflecting pools, and artificial waterfalls.

Outdoor Non-Commercial Watering (public or private)

- (1) Gardens, lawns, parks, golf courses (except greens), playing fields and other recreational areas.
- (2) Filling and operation of recreational swimming pools which serve fewer than 25 dwellings.
- (3) Non-commercial washing of motor vehicles.
- (4) Serving water in restaurants, clubs, or eating places except by specific request.
- (5) Refilling of air conditioning cooling towers after draining except as specified in Class 1.

Public Use:

- (1) Fire hydrants, any use including use of sprinkler caps and testing fire apparatus and for fire department drills, except as listed in Class 1.
- (2) Flushing of sewers and hydrants except as listed in Class 1.

§ 51.03 DECLARATION OF VOLUNTARY CONSERVATION

Whenever the Town Board of Commissioners finds that a potential shortage of water supply is indicated, it shall be empowered to declare by adoption of a resolution that Voluntary Conservation conditions exist, and that the water director shall, on a daily basis, monitor the supply and demand upon that supply. In addition, the Board is authorized to call upon all water customers to employ voluntary water conservation measures (see Addendum) to limit water use (especially Class 3 users) and eliminate the waste of water. This resolution shall be published in a newspaper of general circulation in the areas which qualifies under GS 1-597, and may be publicized through the general news media or any other appropriate method of making such resolutions public.

§ 51.04 DECLARATION OF MANDATORY CONSERVATION

Whenever the Town Board of Commissioners finds raw water supplies to be consistently below seasonal averages, and if they continue to decline and may not be adequate to meet normal needs, it shall be empowered to declare by adoption of a resolution that Mandatory Conservation conditions exist. The Town shall continue to encourage voluntary water conservation measures defined under the Voluntary Conservation declaration, and further shall impose a ban on all Class 3 water uses for the duration of the shortage until it is declared ended by resolution of the Town Board of Commissioners. Publications of these resolutions shall follow the provisions declared in Section 3 of this ordinance.

§ 51.05 DECLARATION OF A WATER SHORTAGE EMERGENCY

Whenever the Town Board of Commissioners finds that raw water supplies are below the level necessary to meet normal needs and that serious shortages exist, it shall be empowered to declare by adoption of a resolution that a Water Shortage Emergency exists. Class 1, essential uses shall be identified, in specific, as targets for voluntary conservation initiatives. Also, all Class 2, socially or economically important uses shall be banned in addition to the Class 3, non-essential uses. These restrictions shall continue until the emergency is declared ended by resolution of the Town Board of Commissioners. Publication of these resolutions shall follow the provisions in Section 3 of this ordinance.

§ 51.06 DECLARATION OF RATIONING

When the Town Board of Commissioners has declared a water shortage emergency and finds a need to provide for the equitable distribution of critically-limited water supplies, in order to balance demand and limited available supplies, and to assure that sufficient water is available to preserve public health and safety, it shall be empowered to provide for mandatory rationing by adoption of a resolution.

(A) Objectives of Rationing:

A resolution that provides for mandatory rationing shall state findings that:

(1) It is imperative that water customers achieve an immediate further reduction in water use in order to extend existing water supplies and, at the same time, assure that sufficient water is available to preserve the public health and sanitation and to provide fire protection service.

(2) The immediate further reduction in water usage is another step along a continuum of responses to the present water supply shortage. Should shortage continue, further reductions in usage may be required. It must be emphasized that the additional usage reduction in the rationed area is a valid and attainable goal reflective of the conditions, which currently exist.

(3) The plan provides for equitable reductions in water usage and for equal sacrifice on the part of each water customer. The success of this ordinance depends on the cooperation of all water customers in the emergency area.

(B) Water Use Rationing for Residential Users:

(1) Metered Residential Water Customers and Allotments:

(a) The number of permanent residents in each dwelling unit (household) will determine the amount of water that each household will be allowed.

(b) Each dwelling unit (household) shall be allotted 25 gallons per day for each resident of the household. Households with only one permanent resident will have a daily allotment of 30 gallons.

(c) Residential water customers are required to provide municipality and utility personnel with reasonable access to read meters as necessary to this rationing declaration. Where access is not readily available, all reasonable efforts to contact customers in order to arrange for access to read meters shall be made. In the event a water customer does not allow entry to read the meter after reasonable efforts to arrange for such access, the dwelling unit (household) allotment will be reduced to 30 gallons per day.

(d) (1) If it is found that the residential water allotment provided under this section would create an extraordinary hardship for individual customers, as in the case of special health-related requirements, a revised allotment for the particular customer may be established.

(2) Suggested Conservation Measures. See Addendum.

(C) Water Use Rationing for Non-Residential Water Users:

(1) Non-residential customers include commercial, industrial, institutional, public, and all other such users, with the exception of hospital and health care facilities.

(2) Non-residential water customers shall further reduce their water usage to 25 gallons per person per day or to 50 percent of normal usage during the period of this resolution.

(3) It is the primary responsibility of each non-residential water customer to meet its mandated water use reduction goal in whatever manner possible, including limitation of operating hours or days if necessary.

(4) The Town will establish a water allotment for each non-residential water customers, based upon a required further reduction water usage from the rate of water used by the customer during the period described in item (b) above.

(5) Each non-residential water user shall provide access to Town personnel for **purposes** of meter reading and monitoring of compliance with this ordinance.

(6) (a) If the mandated further reduction in water usage cannot be obtained without imposing extraordinary hardship which threatens health and safety, the non-residential customer may apply to the Town for a variance. For these purposes "extraordinary hardship" means a permanent damage to property or an economic loss which is substantially more severe than the sacrifices borne by other water users subject to the water rationing resolution. If the further reduction would cause an extraordinary

hardship or threaten health or safety, a variance may be granted by the Town and a revised water use reduction requirement for the particular customer may be established.

(7) The Town will provide each non-residential customer with suggested means to reduce usage levels. (See addendum)

(D) Water Use Rationing for Hospitals and Health Care Facilities:

(1) Hospitals and health care facilities shall comply with all restrictions imposed on residential and non-residential water customers as may be applicable to each individual institution, to the extent compliance will not endanger the health of patients or residents of the institution.

(2) Each hospital or health care facility shall survey its water usage patterns and requirements and implement such additional conservation measures as may be possible without endangering the health of its patients or residents to achieve a further reduction in the institution's water usage.

(3) The Town will provide each hospital and health care facility with suggested means to reduce usage levels. (See addendum)

(E) Enforcement of Water Rationing:

(1) The Town will have primary responsibility for monitoring of compliance with the water rationing resolution.

(2) The following provisions shall govern the implementations of temporary service interruptions:

(a) In order to effectuate compliance with this ordinance, the Town is hereby authorized and required to plan and implement temporary service interruptions to all or part of its water distribution system, as may be deemed appropriate, when any and/or all of the following conditions are determined to exist:

(1) The mandated reduction in system-wide usage has not been achieved, and/or

(2) The mandated reduction in system-wide water usage has been achieved, but has failed to have a significant impact in extending limited water supplies, and/or

(3) Temporary service interruptions are necessary in order to further extend limited and/or dwindling water supplies.

(b) In the event it is determined that temporary service interruptions are necessary, the Town shall notify its customers through the public media (newspapers, radio, and television), at least one day prior to the temporary service

interruption, that a planned, temporary service interruption is to be imposed. Such notice shall:

(1) State the day or days when the planned, temporary service interruption will occur;

(2) State the time(s) when such planned, temporary service interruptions will commence, and the time(s) such interruption will cease;

(3) State whether the planned, temporary service interruptions are to be imposed on the entire system, or part thereof, and if only part(s) of the system will experience planned, temporary service interruption, identify geographic boundaries within which such interruptions will occur; and

(4) Advise all customers within the areas affected by planned, temporary service interruptions how to treat any water received from the system, for human consumption, during the period(s) of such interruptions and for such additional time as may be necessary until full pressure is restored to the system.

(c) If a planned, temporary service interruption is imposed as authorized and required by this ordinance, the Town must provide for the continued delivery of water to health care facilities within the area(s) effected by such interruptions, by means of any adequate, alternative delivery measures that may be necessary.

(d) If a planned, temporary service interruption is implemented, the Town must make provision, by any means possible, for the continued delivery of such water as may be necessary for the proper operation of sewage collection, treatment, and disposal systems and facilities.

(3) Any residential or non-residential water customer who exceeds the allotments established pursuant to this water rationing will be subject to the following excess-use civil penalties.

(a) "Excess-use civil penalties" will be collected based on the amount by which a customer's use exceeds the ware allotments established pursuant to the local water rationing declaration, computed in accordance with the following schedule:

Excess Usage Per Month

Civil Penalty For Excess

First 2000 gallons or
portion thereof

\$20.00 per 1000 gallons or
portion thereof

Each 1000 gallons or
portion thereof, thereafter

\$15.00 per 1000 gallons or
portion thereof

(b) Any monies collected through excess-use civil penalties shall not be accounted for as income, but shall be placed in a reserve account that is dedicated to addressing water shortage problems and water conservation initiatives.

(4) In addition to the excess-use civil penalty, non-compliance with the water rationing provisions of this ordinance will result in the following;

(a) For the first excess use, a warning of possible discontinuation shall be issued to the customer.

(5) For the second or subsequent excess use, service to the customer may be interrupted or shut off for a period not to exceed 48 hours, or, if the customer provides access, a flow restrictor may be installed in the customer's service line for the duration of the emergency. The cost incurred to interrupt or shut of and reinstate service, or to install and remove a flow restrictor shall be assessed to the water customer. Before service to an individual may be terminated under this provision, actual notice of the intent to discontinue shall be given, which shall include notice that the customer may appear at a designated time and place (within 24 hours) for an informal hearing to show why service should not be discontinued.

(6) Meter reading schedules are authorized to be altered to assure adequate monitoring of compliance with this ordinance.

(7) Any customer or other person aggrieved by a decision or action imposing an excess-use civil penalty or other remedy for non-compliance with the requirements of this ordinance may proceed in accordance with the following provisions:

(a) The Town shall adopt procedures, which provide an opportunity for the customer or aggrieved party to rebut the finding of a violation, or provide evidence of circumstances beyond the customer's control, which resulted in the violation. A record of evidence regarding disputed violations shall be kept, and a written notice of the Town's final decision and action in such cases shall be provided to the customer or aggrieved party.

§ 51.07 SHORTAGE WATER RATES

Upon the declaration of a water supply shortage as provided in Sections 3-6, the Town Board of Commissioners shall have the power to adopt shortage water rates by ordinance designed to conserve water supplies. Such rates may provide for, but not be limited to: (a) higher charges per unit for increasing usage; (b) uniform charges for water usage per unit of use; (c) extra charges for use in excess of a specified level; or (d) discounts for conserving water beyond specified levels.

§ 51.08 REGULATIONS

During the effective period of any water supply shortage as provided for in Sections 3-6, the Town Board of Commissioners is empowered to promulgate by ordinance such

provisions and requirements as may be necessary to carry out the provisions of this ordinance, any water supply shortage declaration ordinance, or water shortage rate ordinance. Such ordinances may be adopted at a special or emergency meeting of the governing body, if statutory requirements are met.

§ 51.09 PENALTIES

Any person who violates the provisions of this ordinance, who fails to carry out the duties and responsibilities imposed by this ordinance, or who impedes or interferes with any action undertaken or ordered pursuant to this ordinance shall be subject to the following penalties.

(A) If the manager, water director, or other Town official or officials charged with implementation and enforcement of this ordinance or a water supply shortage resolution learns of any violation of any water use restriction imposed pursuant to this ordinance, a written notice of the violation shall be affixed to the property where the violation occurred and mailed to the customer of record and to any other person known to the Town who is responsible for the violation or its correction. Said notice shall describe the violation and order that it be corrected, cured, or abated immediately or within such specified time as the Town determines is reasonable under the circumstances. If the order is not complied with, the Town may terminate water service to the customer subject to the following procedures.

(1) The Town shall give the customer notice by mail that, due to the violation, water services will be discontinued within a specified time and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the Town Board of Commissioners or a Town official designated as a hearing officer by the Town Board of Commissioners;

(2) If such a hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is order; and

(3) The Town Board of Commissioners or hearing officer shall make findings of fact and order whether service should continue or be terminated.

(B) A fee of \$50.00 shall be paid for the reconnection of any water service terminated pursuant to sub-section (a). In the event of subsequent violation the reconnection fee shall be \$200.00 for the second violation and \$300.00 for each additional violation.

(C) Any customer may also be charged with violation of this ordinance and prosecuted in District Court. Any person so charged and found guilty of violating the provisions of this ordinance shall be guilty of a misdemeanor. Each day's violation shall constitute a separate offense. The penalty for violation shall be a maximum fine of \$50.00 or imprisonment for not more than 30 days.

§ 51.10 CIVIL PENALTIES

In addition to or in lieu of criminal prosecution, violation of this ordinance may subject the offender to civil penalties in the amounts provided, or otherwise in an amount of \$25.00 per day, collectible in a civil action in the nature of debt.

§ 51.11 SEVERABILITY

If any provision of this ordinance is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and its applicability to the other person and circumstances shall not be affected thereby.

§ 51.12 EFFECTIVE DATE

This ordinance shall take effect immediately upon adoption or passage by the Town Board of Commissioners.

§ 51.13 EFFECTIVE PERIOD

This ordinance will remain in effect until terminated by action of the Town Board of Commissioners.

§ 51.14 ADDENDUM - CONSERVATION MEASURES

Direct users to adopt the following conservation measures:

INDOOR RESIDENTIAL USE:

Conservation for **Voluntary** and **Mandatory** conservation measures:

- * Use dishwashers only when they are full. Washing dishes by hand (don't let the tap run!) saves about 25 gallons.
- * Adjust water level on clothes washing machines, if possible. Use full loads only, if not adjustable.
- * Turn off faucets while brushing teeth, etc. Saves about 5 gallons per day.
- * Reduce water used per flush by installing toilet tank displacement inserts.
- * Do not use the toilet as a trash can.
- * Use sink and tub stoppers to avoid wasting water.

*Keep a bottle of chilled water in the refrigerator for drinking.

*Find and fix leaks in toilet, which can leak silently. Place a drop of food coloring in the upper tank and don't flush for thirty minutes. If color appears in the bowl, there's leakage.

*Adapt plumbing with flow-restricting or other water -saving devices. Learn to read your water meter to keep track of the difference conservation makes.

*Take shorter showers and shallower baths.

*Reduce the number of toilet flushes per day.

*Don't use a garbage disposal.

Conservation for **Emergency** conservation or **Rationing** phase (in addition to the measures listed above:

*Turn off shower while soaping up.

*Use disposable eating utensils.

OUTDOOR RESIDENTIAL USE:

Conservation for Normal Conditions and Voluntary conservation phase:

LAWNS

*Water before 10:00 a.m. to prevent evaporation which occurs during the hottest part of the day.

*Water only when lawn shows signs of wilt. Grass that springs back when stepped on does not need water.

*Water thoroughly, not frequently: long enough to soak roots.

*Don't let the sprinkler run any longer than necessary.

*Allow maximum of one inch of water per week on your lawn.

*Use pistol-grip nozzles on hoses to avoid waste when watering flowers, and shrubs.

*Aerate lawns by punching holes 6 inches apart. This allows water to reach the roots rather than run off surfaces.

*Position sprinklers to water the lawn, not the pavement.

- *Avoid watering on windy days, which causes excess evaporation.
- *Adjust hose to simulate a gentle rain not a fine mist.
- *Know how to turn off automatic sprinkler system in case of rain.
- *Use an audible timer to remind you to shut off sprinklers that don't have timers.

Vegetables and Flower Gardens

- *Water deeply, slowly and weekly. Most vegetables require moisture to a depth of 6 to 8 inches.
- *Keep soil loose so water can penetrate easily.
- *Use mulch around plants and between rows to hold in moisture.
- *Keep weeds pit to reduce competition of water.
- *Put the water where you want it and avoid evaporation by using soil-soakers or slow-running hoses, not sprinklers.

Tress and Shrubs

- *Water deeply u sing a soil-soaker.
- *Water only when needed. Check the depth of soil dryness by digging with a trowel.
- *Mulch to reduce evaporation.
- *Dig troughs around plants to catch and retain water.
- *Water trees growing in full sun more often than those in shade.
- *Do not use sprinklers. Apply water directly at base.
- *Do not fertilize during the summer. Fertilizing increases a plant's need for water.
- *Postpone planting until fall or spring when there is generally less need for water.
- *Water at night, when cloud, or even when a light rain is falling.

OUTDOOR RESIDENTIAL USE:

Conservation for **Voluntary** conservation phase (in addition to measures listed above).

- *Do not allow children to play with hose or sprinklers.

- *Limit car washing.
- *Be ready to catch rainfall that occurs. Place containers under drainspouts.
- *Use leftover household water.
- *Consider delaying the seeding or sodding of new lawns.
- *Determine the amount of water being used outdoors by comparing water bills for summer and winter.

Conservation for **Mandatory** conservation phase (in addition to measures listed above).

*Vegetable gardens and food trees should be given minimal amounts of water on an individual basis only.

*Do not water lawns and inedible plants.

*Do not use sprinklers.

HOSPITAL AND HEALTH CARE FACILITY USE

*Reduce laundry usage or services by changing bed linens, etc. only when necessary to preserve the health of patients or residents.

*Use disposable food service items.

*Eliminate, postpone, or reduce, as may be appropriate, elective surgical procedures during the period of emergency.

INDUSTRIAL USE

*Identify and repair all leaky fixtures and water-using equipment.

*Adjust water-using equipment to use the minimum amount of water required to achieve its stated purpose.

*Shorten rinse cycles for laundry machines as much as possible: implement lower water levels wherever possible.

*For processing, cooling, and other uses, either re-use water or use water from sources that would not adversely affect public water supplies.

*Advise employees, students, patients, customers, and other users not to flush toilets after every use. Install toilet tank displacement inserts; place flow restrictors in shower heads and faucets.

*Place water-saving posters and literature where employees, students, patients, customers, etc, will have access to them.

*Check water meter on a frequent basis to determine consumption patterns.

*Review usage patterns to see where other savings can be made.

Adopted by the Town of Littleton Board of Commissioners this 2nd day, of July, 2007.

B. Mason Kempfield
Mayor, Town of Littleton

ATTEST:

Shirley R. Sawyer
Clerk to the Board

CHAPTER 52: GARBAGE AND REFUSE

Section

- 52.01 Definition
- 52.02 Prompt removal required
- 52.03 Wet garbage
- 52.04 Deposit of garbage on public or private property prohibited
- 52.05 Transportation of garbage; permit required
- 52.06 Hour for placing cans
- 52.07 Removal of dead animals

Cross-reference:

Health and sanitation enforcement, see § 91.15

§ 52.01 DEFINITION.

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

GARBAGE. Includes all refuse, animal, fruit, and other vegetable matter, all tin cans, glassware, and crockery in which any such matter has been put up or stored, and all rags, waste paper, floor sweepings, and other combustible refuse, except building material, scraps, and tree trimmings.

(` 59 Code, Chapter G, Article II, § 1)

§ 52.02 PROMPT REMOVAL REQUIRED.

No garbage that has become decayed or that shall otherwise be a menace to health or cleanliness shall be allowed to remain in any dwelling house, hotel, boarding house, safe, restaurant, lunch stand, fruit stand, meat market, store, or other building, or on any premises, a longer time than shall be reasonably necessary to remove and deposit the same in a can or cans as provided in this chapter.

(` 59 Code, Chapter G, Article II, § 2) Penalty, see § 10.99

§ 52.03 WET GARBAGE.

All wet garbage shall have the liquid drained off and shall be wrapped in paper or other combustible material before it is placed in the garbage can, thus preventing smell and the breeding of flies in summer and freezing and adhesion to the can in winter.

(` 59 Code, Chapter G, Article II, § 4)

§ 52.04 DEPOSIT OF GARBAGE ON PUBLIC OR PRIVATE PROPERTY PROHIBITED.

No person shall throw, place, or deposit any garbage in any street, alley, public place, or private property within the city limits, except in garbage cans or garbage vehicles as provided in this chapter.

(` 59 Code, Chapter G, Article II, § 5) Penalty, see § 10.99

§ 52.05 TRANSPORTATION OF GARBAGE; PERMIT REQUIRED.

No person or persons shall collect, handle, haul, or transport, on any of the streets, alleys, or public ways or places of the town, any garbage without first having procured a permit therefor from the Town Clerk.

(` 59 Code, Chapter G, Article II, § 6) Penalty, see § 10.99

§ 52.06 HOUR FOR PLACING CANS.

Garbage cans or similar containers containing garbage and trash for removal shall be placed on the premises from which the same are to be removed at or before 7:00 a.m. on the day scheduled for removal.

(` 59 Code, Chapter G, Article II, § 7)

§ 52.07 REMOVAL OF DEAD ANIMALS.

Dead animals will be removed by the town at any time.

(` 59 Code, Chapter G, Article II, § 8)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS**
- 71. TRAFFIC RULES**
- 72. PARKING REGULATIONS**

CHAPTER 70: GENERAL PROVISIONS

Section

- 70.01 Definitions
- 70.02 General violations

- 70.99 Penalty

Cross-reference:

Abandoned Vehicles and Property, see Chapter 94

§ 70.01 DEFINITIONS.

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

AUTHORIZED EMERGENCY VEHICLE. Vehicles of the Fire Department, police vehicles, and ambulances designated or authorized by the Chief of Police.

BLOCK. A portion of any street located between two intersections next adjacent to each other.

BUSINESS DISTRICT. The territory contiguous to a highway when 50% or more of 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 prolongation or connection of the 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. Every person who drives or is in actual physical control of a vehicle.

INTERSECTION. The area embraced within the prolongation of the 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 of these highways crosses the other.

MOTOR VEHICLE. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

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

OFFICIAL TRAFFIC-CONTROL DEVICES. All signs, signals, markings, and devices not inconsistent with this title, placed or erected by authority of the governing body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

OFFICIAL TRAFFIC SIGNAL. 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 municipal 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 driveway 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 fare.

RESIDENCE DISTRICT. The territory contiguous to a highway not comprising a business district when the frontage on that 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.

ROADWAY. The portion of a street improved, designed, or ordinarily used for vehicular travel.

SAFETY ZONE. The area or space officially set apart within a 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**.

SIDEWALK. 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.

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, except devices moved by human power or used exclusively upon stationary rails or tracks; provided, that for the purpose of this title, a bicycle or a ridden animal shall be deemed a **VEHICLE**.

(` 59 Code, Chapter F, Article I, § 1)

§ 70.02 GENERAL VIOLATIONS.

(A) Any person, firm, or corporation receiving citations for violating any of the regulations of the traffic ordinances in division (B) below may, before a warrant is issued, be permitted to pay at the Town Hall to the Town Clerk, or to the officer on duty in the absence of the Clerk, such fines as are set forth in the conditions below. A receipt shall be given for the payment of these fines, and a duplicate of the receipt shall be retained in the Clerk's office.

- (B) (1) U-turn in business block;
- (2) Illegal turn;
- (3) Parking on wrong side of the street;
- (4) Double parking;
- (5) Parking in a no-parking zone;
- (6) Parking in a loading zone;
- (7) Parking in a taxi stand or bus stop;
- (8) Obstructing traffic, vehicular or pedestrian;
- (9) Parking more than 12 inches from the curb;

- (10) Failure to park within a parking space;
- (11) Parking on sidewalk;
- (12) Failure to stop at a stop sign;
- (13) Improper lights;
- (14) Failure to stop at a stop light when red;
- (15) Parking within 15 feet of a fire hydrant;
- (16) Driving too near a fire truck;
- (17) Vehicle entering a block in which fire is in progress;
- (18) Speed limit violators, as described in § 71.080 of this code;

~~(19) No person shall talk on a hand held cellular telephone while operating a motor vehicle in motion within the city limits. (Upon receiving a call, vehicle operator will be allowed ten seconds to pull to the side of the road.)~~

~~(Ord. 0-61-001, passed 6-5-61) Penalty, see § 70.99~~

§ 70.99 PENALTY.

(A) If any person shall violate an ordinance regulating the operation or parking of vehicles, he or she shall be responsible for an infraction and shall be required to pay a penalty of not more than \$50. (G.S. § 14-4(b))

(B) (1) A warrant shall be issued for any person cited for violation of any of the regulations in § 70.02 and who fails to pay the penalties provided.

(2) No state tax shall be paid to the state in cases disposed of by this division.

(3) All penalties collected under this division shall be paid into the General Fund of the town. (Ord. passed 6-5-61)

CHAPTER 71: TRAFFIC RULES

Section

General Provisions

- 71.001 Obedience to traffic ordinances required
- 71.002 Obedience to police officers
- 71.003 Authority of police officers
- 71.004 Application to public employees
- 71.005 Authorized emergency vehicles; application and exemptions
- 71.006 Push carts, bicycles, and animals; application

Traffic-Control Devices

- 71.020 Obedience required
- 71.021 Signal legend
- 71.022 Flashing signals

Stops and Yields

- 71.035 Stop before entering a through street
- 71.036 Stop before entering certain intersections
- 71.037 Stop when traffic obstructed
- 71.038 Emerging from alley or driveway

Turning Movements

- 71.050 Left turns as indicated
- 71.051 Restricted right or left turns
- 71.052 Turning around restricted

Riding Regulations

- 71.065 Boarding and alighting
- 71.066 Non-passenger areas
- 71.067 Riding or entering without permission
- 71.068 Riding fully inside vehicle
- 71.069 Front seat; three persons maximum

Additional Driving Rules

- 71.080 Speed limit
- 71.081 One-way streets
- 71.082 Funeral processions
- 71.083 Backing restricted
- 71.084 Driving on sidewalk prohibited
- 71.085 Driving on laned roadways
- 71.086 Lights on parked vehicles
- 71.087 Moving cars from parked position

Motorcycles, Bicycles, Coasters, and the Like

- 71.100 Clinging to vehicles prohibited
- 71.101 Riding on handlebars prohibited
- 71.102 Handlebar use required
- 71.103 Roller-skates, coasters, and the like

Trains

- 71.115 Blocking crossings restricted
- 71.116 Speed limit

GENERAL PROVISIONS**§ 71.001 OBEDIENCE TO TRAFFIC ORDINANCES REQUIRED.**

It is a misdemeanor for any person to do any act forbidden, or fail to perform any act required, in this title.

(`59 Code, Chapter F, Article II, § 1) Penalty, see § 70.99

§ 71.002 OBEDIENCE TO POLICE OFFICERS.

No person shall wilfully fail or refuse to comply with any lawful order or direction by a police officer.

(`59 Code, Chapter F, Article II, § 2) Penalty, see § 70.99

§ 71.003 AUTHORITY OF POLICE OFFICERS.

In the event of a fire or other emergency, or where necessary to expedite traffic or safeguard pedestrians, police officers may direct traffic as conditions may require, notwithstanding the provisions of this title.

(` 59 Code, Chapter F, Article II, § 3)

§ 71.004 APPLICATION TO PUBLIC EMPLOYEES.

(A) The provisions of this title shall apply to the driver of any vehicle owned by, or used in the service of, the United States government, or this state, county, or town.

(B) It shall be unlawful for any so described driver to violate any of the provisions of this title, except as otherwise permitted in this title, or by state statute.

(` 59 Code, Chapter F, Article II, § 4) Penalty, see § 70.99

§ 71.005 AUTHORIZED EMERGENCY VEHICLES; APPLICATION AND EXEMPTIONS.

(A) The provisions of this title regulating the operation, parking, and standing of vehicles shall apply to authorized emergency vehicles, as defined in this chapter, except as follows. A driver when operating such a vehicle in any emergency, except when otherwise directed by a police officer, may:

(1) Park or stand, notwithstanding the provisions of this title;

(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 it does not endanger life or property; and

(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 authorized emergency vehicle from the consequences of reckless disregard of the safety of others.

(` 59 Code, Chapter F, Article II, § 5)

§ 71.006 PUSH CARTS, BICYCLES, AND ANIMALS; APPLICATION.

Every person propelling any push cart, or riding a bicycle or an animal upon a roadway, and every person driving any animal drawn vehicle, shall be subject to the provisions of this title applicable to the driver of any vehicle, except those provisions which, by their very nature, can have no application.

(` 59 Code, Chapter F, Article II, § 6)

TRAFFIC-CONTROL DEVICES**§ 71.020 OBEDIENCE REQUIRED.****(A) *Obedience to official traffic-control devices.***

(1) 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 this town, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in § 71.005 of this code.

(2) No provision of this title 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, that section shall be effective without signs being placed to give notice thereof.

(B) *Obedience to 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 any such sign, and 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 those indications.

(C) *Obedience to no-parking and safety zone markers.* Whenever authorized signs or markings are placed, erected, or installed indicating no-parking zones or safety zones, no driver of a vehicle shall disobey the regulations in connection therewith.

(' 59 Code, Chapter F, Article III, §§ 1 - 3) Penalty, see § 70.99

§ 71.021 SIGNAL LEGEND.

Whenever traffic is controlled by traffic-control signals exhibiting the words "go," "caution," or "stop," or exhibiting differently colored lights, successively, one at a time, the following colors only shall be used, and these 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 that 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 this 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 such other point as may indicated by a clearly visible line, and shall remain standing until green or "go" is shown alone.

(2) No pedestrian facing this 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 this 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 this signal shall enter the roadway unless he or she can do so safely and without interfering with any vehicular traffic.

(` 59 Code, Chapter F, Article III, § 4) Penalty, see § 70.99

§ 71.022 FLASHING SIGNALS.

Whenever flashing red or yellow signals 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.
(` 59 Code, Chapter F, Article III, § 5) Penalty, see § 70.99

STOPS AND YIELDS**§ 71.035 STOP BEFORE ENTERING A THROUGH STREET.**

(A) Those streets and parts of streets as may be so designated by the Board of Commissioners, are hereby declared to be through streets for the purpose of this section.

(B) When stop signs are placed, erected, or installed upon highways intersecting a through street at the entrance thereto, or at the entrance to any intersection, every driver of a vehicle or street car shall stop in obedience to those signs before entering the intersection and shall not proceed into or across the through street until he or she has first determined that no conflict with traffic will be involved.

(` 59 Code, Chapter F, Article V, § 1) Penalty, see § 70.99

§ 71.036 STOP BEFORE ENTERING CERTAIN INTERSECTIONS.

Those intersections as may be so designated by the Board of Commissioners, are hereby declared to be stop intersections when entered from the streets so named, and when stop signs are placed, erected, or installed at those intersections every driver of a vehicle or street car shall stop in obedience to those signs before entering the intersection, and shall not proceed into or across the through street until he or she has first determined that no conflict will be involved.

(` 59 Code, Chapter F, Article V, § 2) Penalty, see § 70.99

§ 71.037 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, notwithstanding any traffic-control signal indication to proceed.

(` 59 Code, Chapter F, Article V, § 3) Penalty, see § 70.99

§ 71.038 EMERGING FROM ALLEY OR DRIVEWAY.

The driver of a vehicle emerging from an alley, driveway, or building shall stop that vehicle immediately prior to driving onto a sidewalk or into the sidewalk areas extending across any alleyway, and upon entering the roadway he or she shall yield the right-of-way to all vehicles approaching on that roadway.

(` 59 Code, Chapter F, Article V, § 10)

TURNING MOVEMENTS**§ 71.050 LEFT TURNS AS INDICATED.**

In making left turns at those street intersections as may be so designated by the Board of Commissioners, all traffic shall travel to the left of the center of those intersections as may be indicated by buttons, markers, or other directing signs.

(`59 Code, Chapter F, Article V, § 6)

§ 71.051 RESTRICTED RIGHT OR LEFT TURNS.

(A) No vehicle shall make a left turn at any street intersection as may be so designated by the Board of Commissioners.

(B) No vehicle shall make a right turn at any intersection as may be so designated by the Board of Commissioners.

(`59 Code, Chapter F, Article V, § 7) Penalty, see § 70.99

§ 71.052 TURNING AROUND RESTRICTED.

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, as may be so designated by the Board of Commissioners.

(`59 Code, Chapter F, Article V, § 8) Penalty, see § 70.99

RIDING REGULATIONS**§ 71.065 BOARDING AND ALIGHTING.**

No person shall board or alight from any public conveyance or other vehicle, while that conveyance or vehicle is in motion.

(`59 Code, Chapter F, Article VI, § 1) Penalty, see § 70.99

§ 71.066 NON-PASSENGER AREAS.

No person shall ride on any public conveyance or vehicle, or any portion thereof, not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the

necessary discharge of a duty, or to persons riding within a truck body in spaces intended for merchandise.

(`59 Code, Chapter F, Article VI, § 2) Penalty, see § 70.99

§ 71.067 RIDING OR ENTERING WITHOUT PERMISSION.

No person shall enter, jump on, or ride any automobile or other vehicle without the consent of the owner or driver.

(`59 Code, Chapter F, Article VI, § 3) Penalty, see § 70.99

§ 71.068 RIDING FULLY INSIDE VEHICLE.

No person when riding shall allow any part of his or her body to protrude beyond the limits of the vehicle in which he or she is riding, except to give signals as are by law required, and no person shall hang on to any vehicle whatsoever.

(`59 Code, Chapter F, Article VI, § 4) Penalty, see § 70.99

§ 71.069 FRONT SEAT; THREE PERSONS MAXIMUM.

It shall be unlawful for the driver or the person in charge of any motor vehicle to permit more than three persons, including the driver, to ride in the front or driver's seat of a motor vehicle.

(`59 Code, Chapter F, Article VI, § 5) Penalty, see § 70.99

ADDITIONAL DRIVING RULES

§ 71.080 SPEED LIMIT.

A vehicle may be operated on any street of this town designated as a business section, at a rate of speed not exceeding 20 miles per hour; provided, however, that at no time shall the speed be greater than is reasonable and prudent under the conditions then existing. The speed limit on state highways in residential sections shall be 35 miles per hour, and 25 miles per hour on all other streets unless otherwise posted.

(`59 Code, Chapter F, Article V, § 18) Penalty, see § 70.99

§ 71.081 ONE-WAY STREETS.

Upon those streets and parts of streets as may be so designated by the Board of Commissioners, 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.
(`59 Code, Chapter F, Article V, § 4) Penalty, see § 70.99

§ 71.082 FUNERAL PROCESSIONS.

No vehicle shall be driven through a funeral procession, except Fire Department vehicles, police patrols, and ambulances, when the same are responding to calls.
(`59 Code, Chapter F, Article V, § 5) Penalty, see § 70.99

§ 71.083 BACKING RESTRICTED.

The driver of a vehicle shall not back the same into any intersection, or over a crosswalk, and shall not in any event, or at any place, back a vehicle unless that movement can be made in safety, and he or she shall have given ample warning to those who may be behind, by hand and horn or other signal.
(`59 Code, Chapter F, Article V, § 9) Penalty, see § 70.99

§ 71.084 DRIVING ON SIDEWALK PROHIBITED.

The driver of a vehicle shall not drive within any sidewalk area.
(`59 Code, Chapter F, Article V, § 11) Penalty, see § 70.99

§ 71.085 DRIVING ON LANED ROADWAYS.

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 that lane until the driver has first ascertained that this movement can be made with safety.
(`59 Code, Chapter F, Article V, § 19) Penalty, see § 70.99

§ 71.086 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 title, shall not be required when there is sufficient light to reveal any person within a distance of 200 feet upon that street.
(`59 Code, Chapter F, Article V, § 16)

§ 71.087 MOVING CARS FROM PARKED POSITION.

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.

(` 59 Code, Chapter F, Article V, § 17)

MOTORCYCLES, BICYCLES, COASTERS, AND THE LIKE**§ 71.100 CLINGING TO VEHICLES PROHIBITED.**

Any person riding upon any bicycle, motorcycle, coaster, sled, roller-skates, or any toy vehicle, shall not attach the same, or himself or herself, to any public conveyance or moving vehicle upon any roadway.

(` 59 Code, Chapter F, Article V, § 12) Penalty, see § 70.99

Cross-reference:

Bicycles on sidewalks prohibited, see § 90.05

§ 71.101 RIDING ON HANDLEBARS PROHIBITED.

The operator of motorcycle or bicycle, when upon a street, shall not carry any person upon the handlebar, frame, or tank of that vehicle, nor shall any person so ride upon any so described vehicle.

(` 59 Code, Chapter F, Article V, § 13) Penalty, see § 70.99

§ 71.102 HANDLEBAR USE REQUIRED.

No person shall ride a bicycle or motorcycle on any street without having his or her hands upon the handlebars.

(` 59 Code, Chapter F, Article V, § 14) Penalty, see § 70.99

§ 71.103 ROLLER-SKATES, COASTERS, AND THE LIKE.

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.

(` 59 Code, Chapter F, Article V, § 15) Penalty, see § 70.99

TRAINS**§ 71.115 BLOCKING CROSSINGS RESTRICTED.**

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 five minutes at any time.

(` 59 Code, Chapter F, Article VI, § 6) Penalty, see § 70.99

§ 71.116 SPEED LIMIT.

It shall be unlawful for any person, firm, or corporation to operate any locomotive engine or train or railroad car within the corporate limits of the town at any speed in excess of 35 miles per hour.

(` 59 Code, Chapter F, Article VI, § 7) Penalty, see § 70.99

CHAPTER 72: PARKING REGULATIONS

Section

General Parking and Stopping Restrictions

- 72.01 Stopping in streets prohibited; exceptions
- 72.02 Obstruction of traffic prohibited
- 72.03 Taxicabs parking in one block; restrictions
- 72.04 Park parallel to curb; exceptions
- 72.05 Parking backed to curb prohibited
- 72.06 Parking with left side to curb restricted
- 72.07 Marked parking spaces; park within lines
- 72.08 Unlawful parking purposes
- 72.09 Stopping, standing, or parking prohibited; no signs required
- 72.10 Moving vehicle to unlawful location by non-owner prohibited

Parking Restrictions in Designated Areas

- 72.20 Designated no-parking zones
- 72.21 Designated restricted hours parking zones
- 72.22 Designated limited time parking zones
- 72.23 Reserved stands for specific vehicles
- 72.24 Designated double diagonal parking
- 72.25 Designated forty-five degree angle parking
- 72.26 Town parking lots; hours of operation
- 72.27 Town parking lots; unlawful assembly

Cross-reference:

Lights on parked vehicles, see § 71.86

Moving cars from parked position, see § 71.87

GENERAL PARKING AND STOPPING RESTRICTIONS**§ 72.01 STOPPING IN STREETS PROHIBITED; EXCEPTIONS.**

No vehicle shall stop in any street except for the purpose of parking as prescribed in this chapter, unless that 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 the lowering of railway gates, by the giving of traffic signals, by the passing of some other vehicle or pedestrian, or by some emergency; and in any case covered by these exceptions, vehicles shall stop so as not to obstruct any footway, pedestrian aisle, safety zone, crossing, or street intersection if that can be avoided.

(`59 Code, Chapter F, Article IV, § 1) Penalty, see § 70.99

§ 72.02 OBSTRUCTION OF TRAFFIC PROHIBITED.

No vehicle shall so stand on any street as to interrupt or interfere with the passage of public conveyances or other vehicles.

(`59 Code, Chapter F, Article IV, § 2) Penalty, see § 70.99

§ 72.03 TAXICABS PARKING IN ONE BLOCK; RESTRICTIONS.

Not more than two taxicabs owned by the same company shall be parked in one block at the same time, except taxicabs as may be parked in established taxi stands as set out in § 72.23 of this code.

(`59 Code, Chapter F, Article IV, § 9) Penalty, see § 70.99

Cross-reference:

Taxicabs, see Chapter 112

§ 72.04 PARK PARALLEL TO CURB; EXCEPTIONS.

Where not otherwise indicated by this title, 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.

(`59 Code, Chapter F, Article IV, § 10) Penalty, see § 70.99

§ 72.05 PARKING BACKED TO CURB PROHIBITED.

In no case shall a vehicle remain backed up to a curb, except when actually loading or unloading. If the vehicle be horse-drawn, the horse or horses shall stand parallel to the curb and face the direction of traffic.

(`59 Code, Chapter F, Article IV, § 11) Penalty, see § 70.99

§ 72.06 PARKING WITH LEFT SIDE TO CURB RESTRICTED.

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.

(` 59 Code, Chapter F, Article IV, § 12) Penalty, see § 70.99

§ 72.07 MARKED PARKING SPACES; PARK WITHIN LINES.

On any street which is marked off with lines indicating the parking spaces for cars, the same shall be parked between those lines.

(` 59 Code, Chapter F, Article IV, § 13)

§ 72.08 UNLAWFUL PARKING PURPOSES.

(A) No person shall stand or park a vehicle upon any street for the principal purposes of:

(1) Displaying it for sale;

(2) Washing, greasing, or repairing the vehicle, except repairs necessitated by an emergency;

(3) Storage thereof by garages, dealers, or other persons when that storage is not incident to the bona fide use and operation of the automobile or other vehicles; or

(4) Storage of any detached trailer or van, when the towing unit has been disconnected, or for the purpose of transferring merchandise or freight from one vehicle to another.

(B) No person shall stand or park on any street any vehicle for the primary purpose of advertising.

(` 59 Code, Chapter F, Article IV, §§ 16, 17) Penalty, see § 70.99

§ 72.09 STOPPING, STANDING, OR PARKING PROHIBITED; NO SIGNS REQUIRED.

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 the sidewalk;

(B) On a crosswalk;

(C) Within 30 feet of any flashing beacon, stop sign, or traffic-control signal located at the side of a street or roadway;

(D) Alongside or opposite any street excavation or obstruction, when stopping, standing, or parking would obstruct traffic;

(E) Upon any bridge or other elevated structure or within any underpass structure;

(F) Within 15 feet in either direction of the entrance to a hotel, theater, hospital, sanatorium, or any public building; or

(G) On the roadway side of any vehicle stopped, standing, or parked at the edge or curb of a street.
(` 59 Code, Chapter F, Article IV, § 18) Penalty, see § 70.99

§ 72.10 MOVING VEHICLE TO UNLAWFUL LOCATION BY NON-OWNER PROHIBITED.

No person shall move a vehicle not owned by that person into any prohibited area, or sufficiently away from the curb to make that distance unlawful.

(` 59 Code, Chapter F, Article IV, § 19) Penalty, see § 70.99

PARKING RESTRICTIONS IN DESIGNATED AREAS

§ 72.20 DESIGNATED NO-PARKING ZONES.

When signs are placed, erected, or installed giving notice thereof, or the curbing has been painted yellow in lieu of signs, no person shall park a vehicle at any time upon any of the streets as may be so designated by the Board of Commissioners.

(` 59 Code, Chapter F, Article IV, § 3) Penalty, see § 70.99

§ 72.21 DESIGNATED RESTRICTED HOURS PARKING ZONES.

When signs are placed, erected, or installed in each block giving notice thereof, no person shall park a vehicle between the hours of 1:00 a.m. and 6:00 a.m. upon any of the streets as may be so designated by the Board of Commissioners, unless other hours are designated; provided that this section shall not apply to automobiles or other vehicles parked on those streets between the hours of 1:00 a.m. and 6:00 a.m. when the owners thereof are at work in the building or on the premises in front of which, or near which, the automobiles or other vehicles are parked.

(` 59 Code, Chapter F, Article IV, § 4) Penalty, see § 70.99

§ 72.22 DESIGNATED LIMITED TIME PARKING ZONES.

(A) *Two-hour parking.* 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 6:00 a.m. and 6:30 p.m. on any day, except Sundays and public holidays, upon any of the streets as may be so designated by the Board of Commissioners, 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.

(B) *One-hour parking.* 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. of any day, except Sundays and public holidays, upon any of the streets as may be so designated by the Board of Commissioners, 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.

(C) *Ten-minute parking.* When signs are placed, erected, or installed in each block giving notice thereof, no person shall park a vehicle for longer than ten minutes at any time upon any streets as may be so designated by the Board of Commissioners, 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.
(`59 Code, Chapter F, Article IV, §§ 5 - 7) Penalty, see § 70.99

§ 72.23 RESERVED STANDS FOR SPECIFIC VEHICLES.

Those streets or parts of streets as may be so designated by the Board of Commissioners, shall be reserved as stands for the specific purpose and at the exact location named thereby, and no automobile or other vehicle shall park therein except those for which the space or stand has been designated.
(`59 Code, Chapter F, Article IV, § 8) Penalty, see § 70.99

Cross-reference:

Taxicabs, see Chapter 113

§ 72.24 DESIGNATED DOUBLE DIAGONAL PARKING.

Double diagonal parking, at an angle of approximately 45 degrees, shall be allowed in the center of designated streets or portions of streets.
(`59 Code, Chapter F, Article IV, § 14)

§ 72.25 DESIGNATED FORTY-FIVE DEGREE ANGLE PARKING.

Automobiles and other vehicles shall be parked at an angle of approximately 45 degrees with the curb on those streets or parts of streets as may be so designated by the Board of Commissioners.
(`59 Code, Chapter F, Article IV, § 15)

§ 72.26 TOWN PARKING LOTS; HOURS OF OPERATION.

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

TOWN PARKING LOT. Any parking lot owned or controlled by the town and maintained for public use.

(B) The hours of operation for the town parking lot(s) shall be from 6:00 a.m. to 6:00 p.m., seven days per week, for public parking.

(C) The town parking lot(s) shall be closed and not available for public parking or use during the hours of 6:01 p.m. to 5:59 a.m., seven days per week.

(D) The town shall cause signs to be constructed and placed at the entrance of the parking lot(s) at locations that are clearly visible.

(E) It shall be unlawful for a person to enter upon and/or remain on the town parking lot(s) during the hours of non-operation as defined in division (C) hereof.

(F) Violation shall be a misdemeanor as provided by G.S. § 14-4.
(Ord. O-98-002, passed 3-2-98) Penalty, see § 70.99

§ 72.27 TOWN PARKING LOTS; UNLAWFUL ASSEMBLY.

(A) *Town parking lot.* It shall be unlawful for any person to assemble with one or more other persons on a town owned or controlled parking lot except for the purpose of lawfully parking a vehicle in the lot. It shall not be a violation of this section to lawfully park a vehicle in a town parking lot and leave the lot without delay, or go upon a town parking lot and without delay proceed to a lawfully parked vehicle and then leave during the hours of operation set forth in § 72.26.

(B) *Constitutional exception.* The prohibition in division (A) shall not apply to a congregation of persons pursuant to any lawfully issued permit for a parade, demonstration, picketing, or other event or congregation protected under the Constitution of the United States or of the state.

(C) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

TOWN PARKING LOT. Any parking lot owned or controlled by the town and maintained for public or public and leased space parking.

(D) *Violations.* Violation shall be a misdemeanor as provided by G.S. § 14-4.
(Ord. O-98-002, passed 3-2-98) Penalty, see § 70.99

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. STREETS AND SIDEWALKS**
- 91. HEALTH AND SANITATION; NUISANCES**
- 92. FIRE PREVENTION**
- 93. CEMETERIES**
- 94. ABANDONED VEHICLES AND PROPERTY**
- 95. ANIMALS**

CHAPTER 90: STREETS AND SIDEWALKS

Section

General Provisions

- 90.01 Damaging implements prohibited on streets
- 90.02 House moving
- 90.03 Damage to bridges and culverts
- 90.04 Damage to lights, signs, and the like
- 90.05 Bicycles on sidewalks prohibited
- 90.06 Playing ball in street prohibited

Excavations and Construction

- 90.20 Excavation; permit required
- 90.21 Sidewalk construction; permit required
- 90.22 Excavation; restoration
- 90.23 Excavation; barricades and lights

Obstructions

- 90.35 Assembling on sidewalk
- 90.36 Display of goods
- 90.37 Placing objects on streets and sidewalks
- 90.38 Construction near sidewalk; passageway
- 90.39 Sheds and awnings; restrictions

Maintenance

- 90.50 Depositing or burning trash prohibited
- 90.51 Tree trimmings
- 90.52 Snow and ice removal

GENERAL PROVISIONS**§ 90.01 DAMAGING IMPLEMENTS PROHIBITED ON STREETS.**

It shall be unlawful for any person, firm, or corporation to drag or run, or cause to be dragged or run any harrow or other implement, engine, machine, or tool upon any asphalt, bithulitic, warrenite, or other permanently paved street of the town which shall be liable in any way to injure or cut the surface thereof. It shall also be unlawful to injure any dirt street in the same manner.

(`59 Code, Chapter D, Article I, § 5) Penalty, see § 10.99

§ 90.02 HOUSE MOVING.

No person shall move any house or building upon or across the public streets or sidewalks without the written consent of the Board of Commissioners and the deposit of a good and sufficient bond in the sum of \$500 to cover damage done to a street or sidewalk or to any property of any person.

(`59 Code, Chapter D, Article I, § 6) Penalty, see § 10.99

§ 90.03 DAMAGE TO BRIDGES AND CULVERTS.

No person shall injure or misplace any part of any bridge, culvert, ditch, and drain, or other property belonging to or used by the town, or shall place any obstruction in any culvert, ditch, or drain, to prevent the free flow of water on or over the streets of the town.

(`59 Code, Chapter D, Article I, § 7) Penalty, see § 10.99

§ 90.04 DAMAGE TO LIGHTS, SIGNS, AND THE LIKE.

No person shall injure, tamper with, remove, or paint upon or deface any sign, signpost, street light, traffic signal, or bulletin board, or other municipal property upon the streets and sidewalks, except employees of the town in performance of their duties.

(`59 Code, Chapter D, Article I, § 8) Penalty, see § 10.99

§ 90.05 BICYCLES ON SIDEWALKS PROHIBITED.

It shall be unlawful for any person to ride a bicycle on any sidewalk in the business district of the town.

(`59 Code, Chapter D, Article III, § 4) Penalty, see § 10.99

§ 90.06 PLAYING BALL IN STREET PROHIBITED.

No person shall play ball or bat or catch a ball on any of the streets of the town.
(`59 Code, Chapter D, Article III, § 5) Penalty, see § 10.99

EXCAVATIONS AND CONSTRUCTION

§ 90.20 EXCAVATION; PERMIT REQUIRED.

It shall be unlawful for any person, firm, or corporation to dig any hole, ditch, or excavation of any kind whatsoever, on any street in the town, without first securing a permit therefor in writing from the Water and Sewer Commissioner or Street Commissioner.
(`59 Code, Chapter D, Article I, § 1) Penalty, see § 10.99

§ 90.21 SIDEWALK CONSTRUCTION; PERMIT REQUIRED.

No sidewalk of any description shall be built by any individual, firm, or corporation, of any brick, wood, or other material, without a written permit from the town.
(`59 Code, Chapter D, Article I, § 2) Penalty, see § 10.99

§ 90.22 EXCAVATION; RESTORATION.

It shall be the duty of every person, firm, or corporation, who shall open or dig a ditch, trench, or hole in any street, public alley, or sidewalk of the town, to put that street, public alley, or sidewalk in as good condition in all respects as it was before, and every person, firm, or corporation violating or failing to observe the provisions of this section shall be guilty of a misdemeanor.
(`59 Code, Chapter D, Article I, § 3) Penalty, see § 10.99

§ 90.23 EXCAVATION; BARRICADES AND LIGHTS.

It shall be unlawful for any person, firm, or corporation making any excavation for any purpose whatsoever in any of the streets or sidewalks to fail to securely cover those excavations with plank or place ropes around the same three feet from the ground, or to fail to place a sufficient number of red lights around the excavation before dark and to keep that light burning all night every night the excavation shall be open.
(`59 Code, Chapter D, Article I, § 4) Penalty, see § 10.99

OBSTRUCTIONS**§ 90.35 ASSEMBLING ON SIDEWALK.**

(A) No person or group of persons shall assemble, gather, or stand, or cause, direct, invite, or in any way induce any person or group of persons to assemble, gather, or stand so as to obstruct any public sidewalk to pedestrian traffic or any public street or alley to vehicular traffic, or pedestrian traffic at designated crosswalks.

(B) At any place of business where it is necessary for patrons awaiting entry or service to wait on the sidewalks at the place of business or for entry to service, it shall be the responsibility of the owner or proprietor, or his or her agents or employees, to see that the patrons are lined in a way so that pedestrian traffic is not blocked because of the line of patrons. In no event may any patrons awaiting service line up, gather, assemble, stand, or wait in the public streets or alleys of the town. Violation shall be a misdemeanor as provided by G.S. § 14-4.

(Ord. O-98-001, passed 3-2-98) Penalty, see § 10.99

Cross-reference:

Loitering, see §§ 130.07, 132.03

§ 90.36 DISPLAY OF GOODS.

No person shall place for display or sale any goods, wares, or merchandise of any kind upon any of the sidewalks of the town in a manner which shall obstruct the free and safe passage of persons.

(` 59 Code, Chapter D, Article II, § 2) (Am. Ord. O-83-002, passed 3-7-83) Penalty, see § 10.99

§ 90.37 PLACING OBJECTS ON STREETS AND SIDEWALKS.

No brick, stone, or wood, or other substances obstructing the free passage of persons and vehicles shall be placed or suffered to lie in any of the alleyways, streets, or other routes of the town, nor shall any person place on or in any of the streets, sidewalks, or alleyways of the town any boxes, crates, casks, or barrels of any description, or any other obstruction of any kind; provided, that any person erecting a building may, with permission, place building material for immediate use on the streets in such a way as to not interfere with the usual traffic.

(` 59 Code, Chapter D, Article II, § 3) Penalty, see § 10.99

§ 90.38 CONSTRUCTION NEAR SIDEWALK; PASSAGEWAY.

Before building or remodeling at any place where the same is in close proximity to the sidewalk, a passageway shall be constructed so as to leave the sidewalk unobstructed and provide safe and easy passage.

(` 59 Code, Chapter D, Article II, § 4) Penalty, see § 10.99

§ 90.39 SHEDS AND AWNINGS; RESTRICTIONS.

No person shall erect or repair over any sidewalk or street any wooden shed or awning or any wooden shed for the support of an 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. Provided that this shall not construed to prevent the erection over the sidewalk of cloth or metal awnings supported upon metallic frames firmly suspended from the building, and at least seven feet above the level of the sidewalk.

(`59 Code, Chapter D, Article II, § 5) Penalty, see § 10.99

MAINTENANCE**§ 90.50 DEPOSITING OR BURNING TRASH PROHIBITED.**

No paper, straw, lemon peel, banana peel, watermelon rind, or any trash of any kind shall be thrown or swept upon any sidewalk or street of the town, nor shall any trash, refuse, or rubbish be burned thereon.

(`59 Code, Chapter D, Article III, § 1) Penalty, see § 10.99

§ 90.51 TREE TRIMMINGS.

It shall be unlawful for any person to place or allow to be placed any tree trimmings or shrubbery on any street or sidewalk.

(`59 Code, Chapter D, Article III, § 2) Penalty, see § 10.99

§ 90.52 SNOW AND ICE REMOVAL.

Every occupant of a store building in front of which the sidewalk is paved with stone, brick, asphalt, or cement, shall remove snow, ice, or other obstruction from that sidewalk at the earliest possible time and as soon as the weather permits.

(`59 Code, Chapter D, Article III, § 3) Penalty, see § 10.99

CHAPTER 91: HEALTH AND SANITATION; NUISANCES

Section

Nuisances

- 91.01 Posting bills; permission required
- 91.02 Noise restrictions

Health and Sanitation

- 91.15 Enforcement; hindrance unlawful; right of entry
- 91.16 Property to be kept clean; notice and abatement
- 91.17 Weeds and noxious growth
- 91.18 Human waste
- 91.19 Stagnant water
- 91.20 Sale of food; eating establishments
- 91.21 Construction debris
- 91.22 Septic tanks restricted
- 91.23 Removal and deposit of trees, logs and the like

Cross-reference:

Firearms; discharge restrictions, see § 132.01

Garbage and Refuse, see Chapter 52

NUISANCES

§ 91.01 POSTING BILLS; PERMISSION REQUIRED.

No person shall stick, paint, brand, stamp, write, or put upon any house, fence, wall, pavement, post, or upon any property, owned by any person, firm, or corporation, or owned by the town, any printed, written, painted, or other advertisement, bill, notice, sign, or poster, without first having obtained the written permission of the owner of that property and having received a permit from the Town Clerk.

(`59 Code, Chapter I, Article II, § 4) Penalty, see § 10.99

§ 91.02 NOISE RESTRICTIONS.

(A) *Excessive noise prohibited.* It shall be unlawful for any person, firm, or corporation to create or assist in creating, permit, continue, or permit the continuance of any unreasonably loud, disturbing, and unnecessary noise in the town. Noise of a character, intensity, and duration so 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 this enumeration shall not be deemed to be exclusive, namely:

(1) The sounding of any horn or signal device or any device on any automobile, motorcycle, bus, or other 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 any such signal device of any unreasonably loud or harsh sound; and the sounding of such a device for an unnecessary and unreasonable period of time;

(2) The use of any gong or siren upon any vehicle, other than police, fire, or other emergency vehicle;

(3) The use or operation of any piano, manual or automatic, phonograph, radio, loudspeaker, or any other instrument or sound amplifying devices, so loudly as to disturb persons in the vicinity thereof, or in a manner which renders the same a public nuisance; provided, however, that upon application to the Mayor, 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 causing frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity;

(5) The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded, or in a manner so as to create loud or unnecessary grating, grinding, rattling, or other noise;

(6) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger;

(7) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;

(8) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced;

(9) The erection (including excavation), demolition, alteration, or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in the case of urgent necessity in the interest of public safety and then only with a permit from the Town Clerk, which permit may be renewed for a period of three days or less while the emergency continues;

(10) The creation of any 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, which unreasonably interferes with the working of that institution, provided, conspicuous signs are displayed in those streets indicating that the same is a school, court, or hospital street;

(11) The creation of any excessive noise on Sundays on any street adjacent to any church, provided, conspicuous signs are displayed in the streets adjacent to churches indicating that the same is a church street;

(12) The creation of loud and excessive noise in connection with loading or unloading any vehicle, or the opening and destruction of bales, boxes, crates, and containers;

(13) The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof;

(14) The shouting and crying of peddlers, barkers, hawkers, and vendors which disturbs the quiet and peace of the neighborhood;

(15) The use of any drum, loudspeaker, or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, or sale or display of merchandise;

(16) The use of any mechanical loudspeakers or amplifiers on trucks or other moving vehicles for advertising purposes or other purposes except where specific license is received from the Board of Commissioners;

(17) The conducting, operating, or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m.; and

(18) The firing or discharging of squibs, crackers, gunpowder, or other combustible substance in the streets or elsewhere for the purpose of making noise or disturbance, except by permit from the Board of Commissioners.

(' 59 Code, Chapter I, Article 11, §§ 1, 2) Penalty, see § 10.99

HEALTH AND SANITATION**§ 91.15 ENFORCEMENT; HINDRANCE UNLAWFUL; RIGHT OF ENTRY.**

(A) The enforcement of this subchapter shall be under the supervision of the County Health Officer.

(B) It shall be unlawful for any person to hinder, obstruct, or delay the Health Officer or any of his or her assistants in the lawful discharge of their duties.

(C) The Health Officer or any of his or her assistants shall have the right to enter at any reasonable time any premises for the purpose of making inspections or investigations as required by this subchapter. ('59 Code, Chapter G, Article I, §§ 1 - 3) Penalty, see § 10.99

§ 91.16 PROPERTY TO BE KEPT CLEAN; NOTICE AND ABATEMENT.

(A) *Owners or occupants required to keep premises clean.* Every person owning or occupying any premises in the corporate limits shall keep the premises free from noxious weeds, trash, and all other forms of animal or vegetable refuse which may be dangerous or prejudicial to the public health, or which may constitute a public nuisance. No owner or occupant of any premises shall bury therein any animal or vegetable matter which, upon decaying, may become dangerous or prejudicial to the public health, or may constitute a nuisance.

(B) *Notice of violation; abatement.* If any person shall violate the provisions of the preceding division it shall be the duty of the Chief of Police or the Sanitary Inspector or his or her associates to give notice to the owner or person in possession of the premises that within 15 days or sooner from the date of that notice, all weeds, trash, and other offensive animal or vegetable matter, be removed from that lot. Should any owner or occupant fail to comply with this notice, the Chief of Police or Sanitary Inspector shall proceed to have the matter removed, and the owner or occupant shall be responsible to the town for the cost thereof.

('59 Code, Chapter G, Article I, § 4) Penalty, see § 10.99

§ 91.17 WEEDS AND NOXIOUS GROWTH.

Every owner or person in possession of a vacant lot within the corporate limits shall shrub down, within four inches of the ground, all weeds, grass, or other noxious growth from that lot at least twice each year; the first not later than June 15, and the second, not later than August 15 of each and every year. If the weeds or other noxious growth are not cut in compliance with this section, the Chief of Police or Sanitary Inspector shall proceed to have the weeds or other noxious growth cut, and the owner or person in possession of the lot shall be responsible to the town for the cost thereof.

('59 Code, Chapter G, Article I, § 4) Penalty, see § 10.99

§ 91.18 HUMAN WASTE.

No person shall urinate or deposit any human waste of any kind on any street, lot, or premises except in approved sanitary facilities.

(`59 Code, Chapter G, Article I, § 5) Penalty, see § 10.99

§ 91.19 STAGNANT WATER.

No person or occupant of any property shall allow stagnant water to accumulate or remain in cellars or anywhere on the property.

(`59 Code, Chapter G, Article I, § 6) Penalty, see § 10.99

§ 91.20 SALE OF FOOD; EATING ESTABLISHMENTS.

All persons, firms, or corporations selling food of any kind or serving prepared meals shall comply with all requirements pertaining thereto of the state Board of Health.

(`59 Code, Chapter G, Article I, § 7) Penalty, see § 10.99

§ 91.21 CONSTRUCTION DEBRIS.

All refuse, lumber, and debris, remaining both as a result of the repair of any new buildings, or of the erection and completion of any new buildings, shall be removed by the property owner within ten days from the completion of the aforementioned work.

(`59 Code, Chapter G, Article I, § 8) Penalty, see § 10.99

§ 91.22 SEPTIC TANKS RESTRICTED.

Septic tanks may be installed where a sewer is not reasonably accessible; provided, the tank is constructed in accordance with the specifications of the state Board of Health, and a permit therefor is issued by the Halifax County Building Inspector.

(`59 Code, Chapter G, Article III, §§ 1, 2) Penalty, see § 10.99

Cross-reference:

Private Sewage Disposal, see §§ 50.035 - 50.040

Use of available public sewers required, § 50.015

§ 91.23 REMOVAL AND DEPOSIT OF TREES, LOGS AND THE LIKE.

The town will not remove any trees, logs, lap, limbs, stumps or roots from any vacant lot, and it shall be unlawful for any person to deposit upon any street, alley or sidewalk any trees, logs, laps, limbs, stumps or roots.

CHAPTER 92: FIRE PREVENTION

Section

Burning Regulations

- 92.01 Fire limits
- 92.02 Burning trash
- 92.03 Bonfire; permit required
- 92.04 Certain fires to be guarded

Building Fire Hazards; Exit Requirements

- 92.15 Fire exits; encumbrances prohibited
- 92.16 Exit signs
- 92.17 Passageways and exit doors
- 92.18 Fire hazard accumulation

Fireworks

- 92.30 Pyrotechnics defined
- 92.31 Possession by minors restricted
- 92.32 Sale restricted
- 92.33 Distribution restricted
- 92.34 Places of public assembly; possession prohibited
- 92.99 Penalty

BURNING REGULATIONS

§ 92.01 FIRE LIMITS.

No construction or alterations of any kind or description shall be made within the fire limits without a building permit and full compliance with ordinances governing construction in the town.

(`59 Code, Chapter C, Article III, § 2) Penalty, see § 92.99

§ 92.02 BURNING TRASH.

(A) *Burning trash within fire limits 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 or in any street, sidewalk, alley, lot, or yard within the fire limits of the town.

(B) *Burning trash outside fire limits.* Trash or rubbish shall not be burned on any private lot outside the fire limits except within a safely constructed enclosure made of wire mesh or in a similar safety device.

(` 59 Code, Chapter C, Article II, §§ 1, 2) Penalty, see § 92.99

§ 92.03 BONFIRE; PERMIT REQUIRED.

(A) No person shall kindle or maintain any bonfire, or shall knowingly furnish the material for any bonfire, or authorize any bonfire to be kindled or maintained, on or in any street, avenue, road, or 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 Board of Commissioners.

(B) Nothing in this section shall be construed to prohibit the burning of trash and rubbish on private lots of residences without a permit when that burning is done in conformity with the provisions of § 92.02(B) of this code.

(` 59 Code, Chapter C, Article II, § 3) Penalty, see § 92.99

§ 92.04 CERTAIN FIRES TO BE GUARDED.

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 that 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.

(` 59 Code, Chapter C, Article II, § 8) Penalty, see § 92.99

BUILDING FIRE HAZARDS; EXIT REQUIREMENTS**§ 92.15 FIRE EXITS; ENCUMBRANCES PROHIBITED.**

No person shall at any time place any encumbrances of any kind whatsoever before or upon any 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 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 the encumbrance shall thereupon be immediately removed.

(` 59 Code, Chapter C, Article II, § 4) Penalty, see § 92.99

§ 92.16 EXIT SIGNS.

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.

(` 59 Code, Chapter C, Article II, § 5) Penalty, see § 92.99

§ 92.17 PASSAGEWAYS AND EXIT DOORS.

(A) 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, be 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 this type of buildings while occupied shall not be fastened so that they cannot easily be opened by anyone from within.

(B) No person shall sit or stand or remain seated or standing, nor shall the owner or operator of such a 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.

(C) Clear passage from all exits and on outside sidewalks of all theaters and other places of public assemblage shall be maintained at all times.

(D) No aisle, passageway, or stairway in any store shall be obstructed with tables, showcases, or other obstructions during the hours the store is open to the public.

(` 59 Code, Chapter C, Article II, § 6) Penalty, see § 92.99

§ 92.18 FIRE HAZARD ACCUMULATION.

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.

(` 59 Code, Chapter C, Article II, § 7) Penalty, see § 92.99

FIREWORKS**§ 92.30 PYROTECHNICS DEFINED.**

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

PYROTECHNICS. Is and includes any and all kinds of fireworks and explosives, which are used for exhibitions or amusement purposes.

(B) *Exception.* Nothing herein contained shall prevent the manufacture, purchase, sale, transportation, and use of explosive and signaling flares used in the course of ordinary business or industry, or shells or cartridges used as ammunition in firearms, or explosive caps designed to be fired in toy pistols, provided that the explosive mixture of the explosive caps shall not exceed 0.25 gram for each cap.

(Ord. O-94-006, passed 8-1-94) Penalty, see § 92.99

Statutory reference:

*Deregulation of certain pyrotechnics at the state level by exclusion from the definition,
see G.S. § 14-414*

Regulation of explosive substances, see G.S. § 153A-128

§ 92.31 POSSESSION BY MINORS RESTRICTED.

It shall be unlawful for any person in the town who is less than 16 years of age to manufacture, sell, possess, store, or use the following pyrotechnic devices:

(A) Snakes and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a large, snake-like ash when burning;

(B) Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke;

(C) Trick noisemakers which produce a small report designed to surprise the user and which include:

(1) A party popper, which is a small plastic or paper item containing not in excess of 16 mg of explosive mixture. A string protruding from the device is pulled to ignite the device, expelling paper streamers and producing a small report; and

(2) A snapper or drop pop, which is a small, paper-wrapped item containing no more than 16 mg of explosive mixture coated on small bits of sand. When dropped, the device produces a small report.

(D) Wire sparklers consisting of wire or stick coated with nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition. These items must not exceed 100 grams of mixture per item; and

(E) Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, do not spin, are hand-held or ground-based, cannot propel themselves through the air, and contain not more than 75 grams of chemical compound per tube, or not more than a total of 200 grams if multiple tubes are used.

(Ord. O-94-006, passed 8-1-94) Penalty, see § 92.99

§ 92.32 SALE RESTRICTED.

It shall be unlawful for any merchant in the town to sell any pyrotechnic device, as defined herein, to anyone under 16 years of age. Determination of age for this purpose shall be made in like manner to that for the purchase of alcoholic beverages by those 21 years of age and older.

(Ord. O-94-006, passed 8-1-94) Penalty, see § 92.99

§ 92.33 DISTRIBUTION RESTRICTED.

It shall be unlawful to distribute any pyrotechnic device, as set out herein, to anyone under 16 years of age without parental permission and adult supervision of their use.

(Ord. O-94-006, passed 8-1-94) Penalty, see § 92.99

§ 92.34 PLACES OF PUBLIC ASSEMBLY; POSSESSION PROHIBITED.

It shall be unlawful for anyone to possess or use any of the pyrotechnic devices as set out herein, in any school, theater, shopping mall, church, public building, or other place of public assembly.

(Ord. O-94-006, passed 8-1-94) Penalty, see § 92.99

§ 92.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no other specific penalty has been provided shall be subject to the penalties described in § 10.99 of this code.

(B) Any person violating any provision of §§ 92.30 - 92.34 of this code shall be guilty of a misdemeanor and shall be punishable by a fine and/or imprisonment, as set out in G.S. § 14-4.

(Ord. O-94-006, passed 8-1-94)

CHAPTER 93: CEMETERIES

Section

General Regulations

- 93.01 Application
- 93.02 Superintendent; powers and duties
- 93.03 Deed for lot
- 93.04 Transfer or sale of lots
- 93.05 Lot charges
- 93.06 Use; graves

Structures; Maintenance

- 93.20 Monuments and markers
- 93.21 Plantings
- 93.22 Landscaping and improvements
- 93.23 Structures

Rules of Conduct

- 93.35 Personal conduct
- 93.36 Vehicles
- 93.37 Rubbish and waste prohibited

GENERAL REGULATIONS

§ 93.01 APPLICATION.

(A) All lots within the Town Cemetery, and within any extension of the cemetery at any time hereafter made, whether owned by the town or by any other person or persons, shall be subject to and regulated and controlled by the provisions of this chapter.

(B) In all deeds of conveyance by the town to any person or persons for any lot, the following provisions shall be included therein as a covenant running with the land: "This conveyance is made

subject to an ordinance adopting rules and regulations for the control of Littleton Cemetery and providing penalties in relation thereto duly of record up to the minute of the proceedings of the Board of Commissioners of the Town of Littleton, and the grantee herein, his or her heirs and assigns, agree that upon the breach of any of its provisions, the title to this property shall revert to the Town of Littleton."

(`59 Code, Chapter E, Article II, § 13)

§ 93.02 SUPERINTENDENT; POWERS AND DUTIES.

(A) It shall be the duty of the Board of Commissioners to appoint some suitable person as the superintendent of the Town Cemetery, who shall serve at the will of the Board.

(B) The superintendent shall have those powers and duties as shall be conferred upon him or her by this section, and any ordinance, resolution, or order of the Board at any time hereafter adopted or made.

(C) The superintendent shall have charge of the upkeep, protection, and preservation of the cemetery; he or she shall supervise the digging of all graves, the interment and disinterment of bodies, the erection of monuments and markers, supervise the planting of any and all shrubbery, trees, and flowers, and make provision for the entrance and exit of persons and vehicles to and from the cemetery; provided, however, the superintendent shall not contract any debt or expend any money without first having obtained the consent and approval of the Board of Commissioners.

(`59 Code, Chapter E, Article II, § 2) Penalty, see § 10.99

§ 93.03 DEED FOR LOT.

All persons desiring to purchase a lot in the town shall apply to the Town Clerk, who, upon payment of the fixed price for each lot, shall cause a deed or other instrument of receipt therefor to be given the purchaser.

(`59 Code, Chapter E, Article II, § 1)

§ 93.04 TRANSFER OR SALE OF LOTS.

In the event any purchaser or owner shall desire to dispose of said lot, only the town shall have the right to purchase such lot and shall pay the full price which was originally paid for the lot. No person shall transfer ownership of any lot except upon written permission of the Board of Commissioners.

(`59 Code, Chapter E, Article II, § 9) Penalty, see § 10.99

§ 93.05 LOT CHARGES.

The cost of lots in the Town Cemetery for residents and non-residents of the town are available at the Town Clerk's Office.

(` 59 Code, Chapter E, Article II, § 15)

§ 93.06 USE; GRAVES.

(A) The Town Cemetery shall be used exclusively for the burial of human beings, and no person shall be interred or disinterred therein without lawful authority and permission first had and obtained.

(B) All graves shall be at least four feet in depth, and all graves shall be dug under the supervision of the superintendent.

(` 59 Code, Chapter E, Article II, § 3) Penalty, see § 10.99

STRUCTURES; MAINTENANCE

§ 93.20 MONUMENTS AND MARKERS.

(A) Only one central or family monument shall be allowed on a family lot.

(B) Markers shall be laid flush with the ground and shall not exceed two feet in length and one foot in width, and shall be placed at the end of the grave farthest from the monument.

(C) No coping, curb, fencing, hedging, grave mounds, boarders, or curb of any kind shall be allowed on any burial lot.

(` 59 Code, Chapter E, Article II, § 5) Penalty, see § 10.99

§ 93.21 PLANTINGS.

No person shall plant or set any tree, shrub, flower, grass, or other plant of any kind in the cemetery except with the approval of and under the supervision of a representative of the town.

(` 59 Code, Chapter E, Article II, § 4) Penalty, see § 10.99

§ 93.22 LANDSCAPING AND IMPROVEMENTS.

All grading, landscaping, pruning or cutting of all trees and shrubbery, and improvements of every kind shall be made or done by the town only.

(` 59 Code, Chapter E, Article II, § 7) Penalty, see § 10.99

§ 93.23 STRUCTURES.

(A) No mausoleum, tomb, building, or other structure of any kind shall be erected on any lot within the cemetery, or within any extension of the cemetery; provided, however, mausoleums and tombs may be constructed on lots which may be designated on the plat and plan of the cemetery from time to time by the Board of Commissioners as lots to be used exclusively for mausoleums and tombs.

(B) Should any mausoleum, monument, or tomb at any time become unsafe, unsightly, or in need of repair or re-setting, the superintendent shall so notify the owner of that lot, or any person having an interest in that lot, and shall request the person to make the needed repairs under his or her supervision, and if the person shall fail to make the repairs within 30 days thereafter, the Board of Commissioners may order the repairs to be made, or remove the same from that lot, as the Board may elect.

(` 59 Code, Chapter E, Article II, § 8) Penalty, see § 10.99

RULES OF CONDUCT**§ 93.35 PERSONAL CONDUCT.**

(A) No person shall disturb the quiet, repose, and good order of the cemetery, nor shall any person deface, remove, disturb, injure, or destroy any tree, plant, or shrub therein except in the manner herein provided.

(B) Trespassing within the cemetery is hereby prohibited.

(C) No person shall commit any immoral act therein under penalty of the law herein prescribed.

(` 59 Code, Chapter E, Article II, § 10) Penalty, see § 10.99

§ 93.36 VEHICLES.

Vehicles shall be driven only upon the roadways within the cemetery and at a rate of speed not in excess of 15 miles per hour. No vehicles shall enter the cemetery except for the purpose of attending funerals, visiting graves, or other lawful mission.

(` 59 Code, Chapter E, Article II, § 11) Penalty, see § 10.99

§ 93.37 RUBBISH AND WASTE PROHIBITED.

No person shall deposit any rubbish, filth, waste, or other unclean or unsightly substance in the cemetery, and all materials carried within the cemetery and not used in the erection of monuments, markers, or other lawful structures authorized herein, shall be promptly removed therefrom by the owner of the lot upon which that monument, marker, or structure shall be located.

('59 Code, Chapter E, Article II, § 12) Penalty, see § 10.99

AN ORDINANCE AMENDING/REPLACING AND RENAMING, FROM ABANDONED VEHICLES AND PROPERTY TO ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES, CHAPTER 94, OF THE CODE OF ORDINANCES OF THE TOWN OF LITTLETON

(O-07-003)

WHEREAS, Chapter 94, Abandoned Vehicles and Property, needs to be replaced with an updated Abandoned, Nuisance and Junked Motor Vehicles Ordinance.

SECTION I. NOW, THEREFORE BE IT RESOLVED By the Board of Commissioners of the Town of Littleton that Chapter 94 is amended by deleting all existing language and inserting the following in its place:

CHAPTER 94: ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES

Section

- 94.01 Administration
- 94.02 Definitions
- 94.03 Abandoned vehicle unlawful
- 94.04 Nuisance vehicle unlawful
- 94.05 Junked motor vehicle unlawful
- 94.06 Pre-towing notice requirements
- 94.07 Exceptions to pre-towing notice requirements
- 94.08 Removal of vehicles; post-towing requirements
- 94.09 Hearing
- 94.10 Redemption of vehicle during proceedings
- 94.11 Sale and disposition of unclaimed vehicle
- 94.12 Conditions on removal of vehicles from private property
- 94.13 Protection against criminal or civil liability
- 94.14 Exceptions.
- 94.15 Unlawful removal of impounded vehicle
- 94.16 Towing rotation list
- 94.17 Towing business – qualifications
- 94.18 Towing business – contracts
- 94.19 Towing business - fees
- 94.99 Penalties

94.01 ADMINISTRATION.

The Police Department and the Building Inspector shall be responsible for the administration and enforcement of this chapter. The Town may contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or powers of

officers of the town police department and fire department in enforcing other laws or in otherwise carrying out their duties.

94.02 DEFINITIONS.

(A) For the purposes 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 section G.S. §160A-303, an **ABANDONED VEHICLE** is one that:

- (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking; or
- (2) Is left on a public street or highway for longer than seven days; or
- (3) Is left on property owned or operated by the Town for longer than twenty-four (24) hours; or
- (4) Is left on private property without the consent of the owner, occupant or lessee thereof, for longer than two (2) hours.

AUTHORIZING OFFICIAL: The Police Officer Building Inspector, respectively, designated to authorize the removal of vehicles under the provisions of this chapter.

JUNKED MOTOR VEHICLE: As authorized and defined in section G.S. §160A-303.2, the term **JUNKED MOTOR VEHICLE** means a vehicle that does not display a current license plate upon that vehicle and that:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move.
- (3) Is more than five years old and appears to be worth less than \$100.

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 or other pests; or
- (2) A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height; or
- (3) A point of collection of pools or ponds of water; or
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor; or

(5) One which has areas of confinement, such as trunks, hoods, etc., which cannot be operated from inside the area of confinement; or

(6) One so situated or located that there is a danger of it falling or turning over; or

(7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or

(8) One which has sharp parts thereof which are jagged or contain sharp edges of metal, glass; or

(9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Board.

94.03 ABANDONED VEHICLE UNLAWFUL.

(A) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, to cause or allow such vehicle to be an abandoned vehicle.

(B) Upon investigation, the authorizing official may determine that a vehicle is an abandoned vehicle as defined in this chapter and order the vehicle removed.

94.04 NUISANCE VEHICLE UNLAWFUL.

(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 authorizing official may determine and declare that a vehicle is a health and safety hazard and a nuisance vehicle as defined in this chapter, and order the vehicle removed.

94.05 JUNKED MOTOR VEHICLE UNLAWFUL.

(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 ordered removed.

(B) Upon investigation, the authorizing official may order the removal of a junked motor vehicle as defined in this chapter after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following, among other relevant factors, may be considered:

(1) Protection of property values;

(2) Promotion of tourism and other economic development opportunities;

- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community; or
- (5) Promotion of the comfort, happiness and emotional stability of area residents.

94.06 PRE-TOWING NOTICE REQUIREMENTS.

(A) Except as set forth in section 94.07 below, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail.. The person who mails the notice shall retain a written record to show the name and address to which mailed and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the Town on a specific date no sooner than seven days after the notice is affixed. The notice shall state that the vehicle will be removed by the Town on specified date, no sooner than seven days after the notice is affixed or mailed unless the vehicle is moved by the owner or legal possessor prior to that time.

(B) With respect to an abandoned vehicle on private property, nuisance vehicle and junked motor vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the Town Manager in writing within 72 hours upon receipt of notice and heard as soon as possible: further proceedings to remove the vehicle shall be stated until the appeal is heard and decided.

94.07 EXCEPTIONS TO PRETOWING NOTICE REQUIREMENT.

The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is special need for prompt action to eliminate traffic, obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily recorded. Circumstances justifying the removal of vehicles without proper notice include

(A) *Vehicles abandoned on the public streets.* For vehicles left on the public streets and highways, the Town Board hereby determines that immediate removal of such vehicles may be warranted when they are:

1. Obstructing traffic;
2. Parking 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.

(B) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on town-owned property other than the streets and highways and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, or vehicles causing damage to public or private property.

94.08 REMOVAL OF VEHICLES; POSTTOWING NOTICE REQUIREMENTS.

(A) Any abandoned, nuisance or junked vehicle which has been ordered removed may, as directed by the Town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the town. Whenever such a vehicle is removed, the authorizing town official shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the vehicle; and

(5) The procedure the owner must follow to request a probable cause hearing on the removal.

(B) The town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (A)(1) through (5) above, shall also be mailed to the registered owner's last known address, unless the notice is waived in writing by the vehicle owner or his agent.

(C) If the vehicle is registered in North Carolina, 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 of the removal of the vehicle.

(D) Whenever an abandoned, nuisance or junked motor vehicle is removed and such vehicle has no valid registration or registration plates, the authorizing town official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information set forth in subsections (A)(1) through (5) above.

94.09 HEARING.

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the County Magistrate designated by the Chief District Court Judge to receive such hearing request. 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.

94.10 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 charged, or by posting a bond for double the amount of such fees and charged to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this chapter.

94.11 SALE AND DISPOSITION OF UNCLAIMED VEHICLE.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such vehicle shall be carried out in accordance with G.S Ch. 44A.

94.12 CONDITIONS ON REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

As a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the authorizing official. The Town may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage, or sale thereof.

94.13 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle for disposing of such vehicle as provide in this chapter.

94.14 EXCEPTIONS.

Nothing in this article shall apply to any vehicle which is:

(A) Located in a bone fide automobile graveyard or junkyard as defined in section G.S. § 136-143, in accordance with the *Junkyard Control Act*, being G.S. § 136-141 et seq;

(B) In an enclosed building;

(C) On the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or

(D) In an appropriate storage place or depository maintained in a lawful place and manner by the town.

94.15 UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provisions of this chapter unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

94.16 TOWING ROTATION LIST.

A. The Police Department shall annually prepare and maintain an eligible list of those persons, firms and corporations who apply and qualify to tow and store vehicles at the request of the authorizing official pursuant to this chapter. The owner or principal must either reside, own property, or maintain a business within the corporate limits of the city, to qualify for the eligible list. The Chief of Police shall prepare rules in accordance with the provisions of this chapter for the qualifications of private tow truck operators or businesses for the eligible list.

B. Any private tow truck operator or business on the eligible list that violates any provision of this chapter or the rules established in accordance herewith shall be subject to removal from the eligible list after written notice. Any private tow truck operator or business removed from the eligible list may, within five working days of the date of the notice of removal, request a hearing before the Chief of Police to show cause why he should not be removed from the list.

90.17 TOWING BUSINESS – QUALIFICATIONS.

(A) To qualify for the eligible list, a private tow truck operator or business must:

(1) Keep the towing operation either open or available by a telephone number between the hours of 9:00 AM to 4:00 PM;

(2) Have available at all times a factory built wrecker consisting of a one-ton chassis with dual rear wheels and having the necessary equipment to tow vehicles from the streets and other public or private places in the town when called upon to do so;

(3) Have, at or in the immediate vicinity of the location of his towing operation, sufficient fenced storage space and facilities to protect both damaged and undamaged vehicles and have a facility to store a vehicle out of exposure to the elements overnight;

(B) The private tow truck operator or business must also agree to assume the obligation to;

(1) Promptly tow and store all vehicles to be removed from the public streets or other public places or private property upon the request of the authorizing official.

(2) Issue a receipt to the authorizing official for each vehicle towed and stored and keeps the vehicle until its release is authorized by the authorizing official;

(3) Store vehicles in a secured, fenced storage space;

(4) Collect towing and storage fees from the owner or the vehicle by the sale of the vehicle without recourse to the town unless it is found that no probable cause existed for the towing pursuant to G.S. § 20-219.11;

(5) Pay all damage to vehicles entrusted to his custody as the result of his negligence and to maintain for the protection of the vehicle owner the garage keeper's legal liability insurance while performing any of the services provided for in this chapter;

(6) Indemnify and save the city harmless from all liability for damages sustained by vehicles being towed or stored and all personal injuries occurring as a result of the towing or storage;

(7) Remove from the scene of a vehicle accident in which the vehicle to be towed was involved all glass, metal or debris caused by the accident;

(8) Maintain a liability insurance policy covering the operation of the business, equipment, tow truck and other vehicles for any bodily injury or property damage with minimum liability of \$100,000 for any one person injured or killed and a minimum of \$300,000 for more than one person killed or injured in any accident and an additional \$50,000 for property damage. The policy must contain an endorsement by carriers providing ten days notice to the city in the event of any change in coverage under the policy.

(9) Cooperate with the investigation of the criminal record and character of the owner of the business and each tow truck operator. No such person shall have been convicted of any felony or of a crime involving fraud, theft or receiving or possession of stolen property with ten years.

94.17 TOWING BUSINESS – CONTRACTS.

A private tow truck operator or business on the eligible list shall contract with the town to remove the vehicles described in this chapter from the public streets or other public places or private property upon the request of the authorizing official. The contract shall be in writing, shall specify the charges to be made for towing and shall require the person entering into the contract for the towing of such vehicles to perform the service in a manner consistent with the provisions of this chapter and the rules prepared thereunder and shall provide for the forfeiture of the contract in the event of a violation of any of the provisions of the contract or of the provisions of this chapter. The contract shall further provide that the town shall not be obligated to the person undertaking the towing and storage of such vehicles for any damages which may be incurred in the performance of the obligation assumed by him that probable cause existed for the towing of any vehicle involved unless it is found that no probable cause existed for the towing of any vehicle pursuant to G.S. §20-219-11.

94.19 TOWING BUSINESS – FEES.

Unless written authorization is received as provided in this section, the amount which a private towing operator or business may charge for the towing of a motor vehicle at the

request of an authorizing official pursuant to the provisions of this chapter shall not exceed \$65.00. For the purposes of this section, towing occurs at the time the city contracts the private towing operator or business. In the event that the towing requires extraordinary measures in order to be completed, the Chief of Police may authorize in writing a greater charge in order to compensate the private towing operator or business for the expense of such extraordinary measures.

94.99 PENALTIES

(A) Any person who violates any provision of this chapter for which no other specific penalty has been provided shall be subject to the penalties described in § 10.99 of this code.

SECTION 2. That this Ordinance shall be in full force and effect from and after the date of its adoption.

SECTION 3. This Ordinance adopted this 7th day of January, 2008.

(Municipal Seal)

TOWN OF LITTLETON

BY: B. Mason Hawfield
B. Mason Hawfield, Mayor

Attest:
Sheila R. Taylor
Sheila R. Taylor, Clerk

CHAPTER 95: ANIMALS

Section

General Regulations

- 95.01 Cruelty to animals prohibited
- 95.02 Impoundment of at large or improperly hitched animals

Care and Keeping

- 95.15 Chickens and other fowl; restrictions
- 95.16 Fowl at large
- 95.17 Pigeons; confinement required
- 95.18 Grazing prohibited
- 95.19 Hitching restricted
- 95.20 Hogs prohibited
- 95.21 Stables

Dogs

- 95.35 Unvaccinated or untagged dogs a nuisance; impoundment
- 95.36 Prowling bitches and vicious dogs at large prohibited
- 95.37 Habitual barking, chasing, yard damage
- 95.38 Running at large prohibited; impoundment

Bird Sanctuary

- 95.50 Town declared a bird sanctuary
- 95.51 Hunting certain birds unlawful
- 95.99 Penalty

GENERAL REGULATIONS**§ 95.01 CRUELTY TO ANIMALS PROHIBITED.**

(A) It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, poison, abandon or subject to conditions detrimental to its health or general welfare of any animal or to cause or procure such action.

(B) The words **TORTURE**, **TORMENT** or **CRUELTY** shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; however, nothing in this chapter shall be construed to prohibit the Chief of Police or veterinarians from destroying dangerous, unwanted or injured animals in a humane manner.

(Ord. O-86-003, passed 10-6-86) Penalty, see § 95.99

§ 95.02 IMPOUNDMENT OF AT LARGE OR IMPROPERLY HITCHED ANIMALS.

Any animal which is found running at large or staked, hitched, or fastened in violation of the provisions of this chapter shall be seized and impounded by the Chief of Police or any person finding same. The impounder may demand the same fee as is allowed by state law.

(Ord. O-86-003, passed 10-6-86) Penalty, see § 95.99

CARE AND KEEPING**§ 95.15 CHICKENS AND OTHER FOWL; RESTRICTIONS.**

(A) The raising or keeping of chickens and other fowl within the corporate limits of the town shall be unlawful except in the following instances.

(1) Any household (persons residing in one dwelling) may have for domestic purposes not more than 25 chickens or other fowl on a lot, provided they are:

- (a) Not located within 25 feet of the property line of another residence lot;
- (b) Kept confined or penned at all times in a manner so as to prevent escape and running at large; and
- (c) Kept in a clean, sanitary, and properly maintained pen or enclosure at all times.

(2) The keeping of not more than 25 chickens or other fowl shall not be deemed the keeping of the same for commercial purposes.

(B) The violation of this section shall constitute a misdemeanor.
(Ord. 1974-10, passed - -74) Penalty, see § 95.99

§ 95.16 FOWL AT LARGE.

No person shall permit ducks, geese, or chickens to remain on or in any of the streets or public places at night, or to run at large in the daytime.
(Ord. O-86-003, passed 10-6-86) Penalty, see § 95.99

§ 95.17 PIGEONS; CONFINEMENT REQUIRED.

It shall be unlawful to keep pigeons, except when those pigeons are properly kept in a cage or enclosure at all times.
(Ord. O-86-003, passed 10-6-86) Penalty, see § 95.99

§ 95.18 GRAZING PROHIBITED.

No person shall graze or tie up on any vacant lot, within 50 feet of any dwelling or street, any cattle, sheep, or other animal.
(Ord. O-86-003, passed 10-6-86) Penalty, see § 95.99

§ 95.19 HITCHING RESTRICTED.

No person shall hitch any horse or other animal to any of the trees; lampposts; electric light, power, telephone, or telegraph poles; mailboxes; or hydrants owned by the town or permitted by the town to be erected on or in any of the streets, sidewalks, squares, or parks.
(Ord. O-86-003, passed 10-6-86) Penalty, see § 95.99

§ 95.20 HOGS PROHIBITED.

No person shall keep any pigs or hogs within the corporate limits.
(Ord. O-86-003, passed 10-6-86) Penalty, see § 95.99

§ 95.21 STABLES.

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

(Ord. O-86-003, passed 10-6-86) Penalty, see § 95.99

DOGS**§ 95.35 UNVACCINATED OR UNTAGGED DOGS A NUISANCE; IMPOUNDMENT.**

(A) *Dogs not inoculated, registered, or tagged declared a nuisance.* The keeping of dogs that have not been inoculated, registered, and tagged, as herein set forth, within the corporate limits of the town, is hereby declared a nuisance and a menace to the public and the same is hereby prohibited, and any person permitting any dog that has not been so inoculated, registered, and tagged and equipped with a collar to be or to remain in the town shall be subject to a penalty for each offense.

(B) *Provision for impoundment.* Any dog found in the town that has not been inoculated, registered, and tagged as hereinbefore set forth shall be impounded by the police for three days, at the expiration of which time, unless claimed by its owner, inoculated, registered, and tagged, it shall be destroyed by the police or a person acting under the direction of the Police Department. Any person interfering with the catching, impounding, or destruction of any dog as herein authorized or attempting to release any such dog from the pound shall be subject to the penalties provided by this chapter.

(Ord. O-86-003, passed 10-6-86) Penalty, see § 95.99

§ 95.36 PROWLING BITCHES AND VICIOUS DOGS AT LARGE PROHIBITED.

It shall be unlawful for any owner or keeper of a prowling bitch or vicious dog to permit that animal to run at large within the town, and any such animal found running at large within the town may be destroyed by the police or a person acting under the direction of the Police Department.

(Ord. O-86-003, passed 10-6-86) Penalty, see § 95.99

§ 95.37 HABITUAL BARKING, CHASING, YARD DAMAGE.

It shall be unlawful for any owner or keeper of any dog to have within the town a dog that habitually or repeatedly barks in a manner so as to disturb the neighborhood, or a dog that habitually or repeatedly chases, snaps at, attacks, or barks at pedestrians, bicycles, or vehicles, or turns over garbage pails, or damages gardens, flowers, or vegetables.

(Ord. O-86-003, passed 10-6-86) Penalty, see § 95.99

§ 95.38 RUNNING AT LARGE PROHIBITED; IMPOUNDMENT.

(A) It shall be unlawful for any owner or keeper of any dog to permit that animal to run at large in the town. Proof of finding a dog off the premises of the owner or keeper, unless under the control of its owner, shall constitute a prima facie case. Any dog found running at large within the town except upon the premises of the owner or his or her agent shall be impounded by the police and a charge of \$15 made, plus \$5 each day so impounded for feed and care. At the expiration of three days, unless claimed by its owner and the impounding and care charges paid, it shall be destroyed. The owner of any dog found in violation of this section shall be served with a summons for the violation thereof by any town police officer or dog warden duly appointed by the Board of Commissioners.

(B) The Chief of Police or the Dog Catcher shall have the authority under this section to notify owners of dogs that are running loose and not in control of the owner, that the dog cannot be caught, and after a second notification by the Chief of Police or Dog Catcher the owner of the dog shall be subject to criminal prosecution.

(C) If the Dog Catcher or other duly appointed officer shall duly impound any dog on a second or subsequent occasion under the provisions of this section, there shall be imposed a charge of \$25 for the recovery of the dog from the dog pound, plus \$5 per day for each day so impounded for feeding and care.

(Ord. O-86-003, passed 10-6-86) Penalty, see § 95.99

BIRD SANCTUARY

§ 95.50 TOWN DECLARED A BIRD SANCTUARY.

All the territory embraced within the corporate limits of the town shall be a bird sanctuary.
(Ord. O-86-003, passed 10-6-86)

§ 95.51 HUNTING CERTAIN BIRDS UNLAWFUL.

It shall be unlawful for any person to hunt, kill, or trap any bird within the corporate limits of the town except pigeons, crows, starlings, English sparrows, domesticated fowl, and birds classed as predatory by the Wildlife Resources Commission or by the General Statutes of the state.

(Ord. O-86-003, passed 10-6-86) Penalty, see § 95.99

§ 95.99 PENALTY.

(A) Except as otherwise provided, any person violating the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$50 or imprisoned for not more than 30 days, or both.

(B) Any person violating § 95.35(A) of this code shall be subject to a penalty of \$50 for each offense.

(Ord. O-86-003, passed 10-6-86)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. GENERAL LICENSING REGULATIONS

111. AMUSEMENTS

112. TAXICABS

CHAPTER 110: GENERAL LICENSING REGULATIONS

Section

- 110.01 Definitions
- 110.02 License required
- 110.03 License tax on certain businesses; terms
- 110.04 License required for each separate business
- 110.05 License required for each business location
- 110.06 Display required
- 110.07 No tax abatement
- 110.08 Schedule of licenses adopted by reference

§ 110.01 DEFINITIONS.

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

AGENT. The person having the agency for the manufacturer, producer, or distributor.

BUSINESS. Any business, trade, occupation, profession, avocation, or calling of any kind, subject, by the provision of this title, to a license.

ENGAGED IN BUSINESS. Engaged in the business as owner or operator.

FISCAL YEAR. The period beginning with July 1 and ending with the June 30 next following.

PERSON. Any person, firm, partnership, company, or corporation.

QUARTER. Any three consecutive months.

(' 59 Code, Chapter H, Article I, § 1)

§ 110.02 LICENSE REQUIRED.

It shall be unlawful for any person or his or her agent or servant to engage in or carry on a business in the town for which there is required a license, without first having paid the license fee and obtained the license. For the purpose of this section the opening of a place of business or offering to sell,

followed by a single sale or the doing of any act or thing in furtherance of the business shall be construed to be engaging in or carrying on that business; and each day that a person, firm, or corporation shall engage in or carry on a business as described above shall be construed to be a separate offense.

(` 59 Code, Chapter H, Article I, § 3) Penalty, see § 10.99

§ 110.03 LICENSE TAX ON CERTAIN BUSINESSES; TERMS.

(A) In addition to the tax on property and polls, as otherwise provided for, and under the power and authority conferred in the laws of the state, there shall be levied and collected annually or oftener, where provided for, a privilege license tax on trades, professions, business operations, exhibitions, circuses, and all subjects authorized to be licensed, as set out in the following sections and schedule. All licenses shall be a personal privilege and shall not be transferable. Nothing herein contained shall be construed to prevent the Board of Commissioners from imposing from time to time, as they may see fit, license taxes that are not specifically herein defined, or from increasing or decreasing the amount of any special license tax, or from prohibiting or regulating the business or acts licensed, and all licenses are granted subject to the provisions of existing ordinances, or those hereafter enacted.

(B) All taxes provided for and fixed in the following sections and schedule shall be for 12 months, unless otherwise specified, and shall so remain for 12 months beginning July 1 and ending June 30; provided, that where the license is issued after January 1 then the licensee shall be required to pay one-half the tax prescribed, except where otherwise specifically provided for.

(` 59 Code, Chapter H, Article I, §§ 2, 4) Penalty, see § 10.99

§ 110.04 LICENSE REQUIRED FOR EACH SEPARATE BUSINESS.

The payment of any particular tax imposed by this title shall not relieve the person paying the same from the payment of any other tax imposed by this title for any other business he or she may carry on, unless so provided by the section imposing that tax; it being the intent of this title that license taxes prescribed by various sections or divisions of this title applicable to any business shall be cumulative except where otherwise specifically provided.

(` 59 Code, Chapter H, Article I, § 5)

§ 110.05 LICENSE REQUIRED FOR EACH BUSINESS LOCATION.

A license issued for the privilege of conducting a business is only valid for the business conducted at the place and by the licensed named therein. Every person doing business in more than one factory, mill, warehouse, store, stall, or stand, or other place of business, shall secure a separate license for each place of business, unless those places of business are contiguous to each other, communicate directly with an opening into each other, and are operated as a unit. If the business is moved or if the licensee sells to another, then a new license is necessary, unless a special permit to continue business under the original license is obtained from the Board of Commissioners.

(` 59 Code, Chapter H, Article I, § 6)

§ 110.06 DISPLAY REQUIRED.

Every license must be kept prominently displayed at the place of business of the licensee named in the license, or, if the licensee has no fixed place of business, the licensee must keep the same wherever that business is being operated and where it can be inspected at any time by the proper municipal official.
(`59 Code, Chapter H, Article I, § 7)

§ 110.07 NO TAX ABATEMENT.

No license tax shall be abated nor shall any refund of any part thereof be made, in any case where the licensee discontinues his or her business before the end of the period for which the license was issued.
(`59 Code, Chapter H, Article I, § 8)

§ 110.08 SCHEDULE OF LICENSES ADOPTED BY REFERENCE.

The current schedule of annual privilege licenses, on file in the office of the Town Clerk, is hereby adopted by reference.
(`59 Code, Chapter H, Article I, § 9)

CHAPTER 111: AMUSEMENTS

Section

Game Rooms

- 111.01 Definition
- 111.02 License required
- 111.03 Grounds for license denial
- 111.04 Prohibited conduct
- 111.05 Rules of operation
- 111.06 License revocation

GAME ROOMS

§ 111.01 DEFINITION.

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

GAME ROOM. Any place of business that principally operates mechanical games or pay devices or tables for which charge is made either directly or indirectly. Examples of **GAME ROOMS**, by way of illustration and not limitation, are pool rooms, bowling alleys, billiard halls, amusement centers, and the like.

(Ord. O-82-003, passed 12-6-82)

§ 111.02 LICENSE REQUIRED.

(A) Every operator of a game room shall be required to pay a privilege license tax in accordance with the privilege license regulations of the town in Chapter 110 of this code.

(B) In addition, every operator of a game room shall apply for and obtain a license from the Board of Commissioners to operate a game room. Application for this license shall be made upon forms provided by the Town Clerk in which the applicant shall declare under the penalty of perjury that the applicant:

- (1) Has not been convicted of unlawfully selling intoxicating liquors or narcotic drugs;
- (2) Is a resident of this state;
- (3) Is not of immoral character; and
- (4) Is not an habitual user of alcoholic beverages or narcotic drugs.

(C) It shall be unlawful to operate a game room within the town without first having filed an application and obtained a license as required by this subchapter.

(Ord. O-82-003, passed 12-6-82) Penalty, see § 10.99

§ 111.03 GROUNDS FOR LICENSE DENIAL.

The Board of Commissioners shall not issue a license to any applicant who:

- (A) Has been convicted of unlawfully selling intoxicating liquors or narcotic drugs;
- (B) Is not a resident of this state;
- (C) Is of immoral character; or

(D) Is an habitual user of alcoholic beverages or narcotic drugs.

(Ord. O-82-003, passed 12-6-82) Penalty, see § 10.99

§ 111.04 PROHIBITED CONDUCT.

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

(A) Suffer or permit any gambling on the licensed premises at any time, nor the sale or use of any racing, football, or other parlay cards or gambling boards or devices;

(B) Suffer or permit the licensed premises to become disorderly, or permit any profane, obscene, or indecent language thereon; or

(C) Employ in carrying on the business any person who has been convicted of unlawfully selling alcoholic beverages or narcotic drugs.

(Ord. O-82-003, passed 12-6-82) Penalty, see § 10.99

Cross-reference:

Pool rooms; minors restricted, see § 130.08

§ 111.05 RULES OF OPERATION.

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

(A) All game rooms shall be closed from 11:00 p.m. until 7:00 a.m. Monday through Saturday.

(B) No play on any game shall be allowed during the times when game rooms are required by this subchapter to remain closed.

(C) Game rooms may be open on Sunday only between the hours of 1:00 p.m. and 6:00 p.m.

(D) All game rooms shall be operated only on the ground floor of a building.

(E) No loud noises shall be allowed to emanate beyond the licensed premises.

(Ord. O-82-003, passed 12-6-82) Penalty, see § 10.99

§ 111.06 LICENSE REVOCATION.

After giving the operator of a game room adequate notice and an opportunity to be heard, the Board of Commissioners may revoke the license of any game room operator who:

(A) Violates the provisions of §§ 111.04 or 111.05;

(B) Is convicted of unlawfully selling alcoholic beverages or narcotic drugs; or

(C) Is found to have obtained a license based upon a false or incorrect application.

(Ord. O-82-003, passed 12-6-82)

CHAPTER 112: TAXICABS

Section

General Provisions

112.01 Definitions

Certificate of Convenience and Necessity

- 112.15 Certificate required
- 112.16 Application
- 112.17 Issuance
- 112.18 Approval procedure; burden of proof
- 112.19 Failure to begin operations
- 112.20 Transfer restricted
- 112.21 Revocation
- 112.22 Vehicle substitution
- 112.23 Multiple certificates prohibited

Cross-reference:

Reserved stands for specific vehicles, see § 72.23

Taxicabs parking in one block; restrictions, see § 72.03

GENERAL PROVISIONS

§ 112.01 DEFINITIONS.

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

PERSONS. Includes both singular and plural, and shall also mean and include persons, individuals, firms, corporations, partnerships, and associations.

TAXICAB. Any motor vehicle seating nine or fewer passengers, operated upon any street or highway on call or on demand, accepting or soliciting passengers indiscriminately for hire between

points along streets or highways as may be directed by the passenger or passengers so being transported, and shall not include motor vehicles or motor vehicle carriers as defined in G.S. § 62-103(k).
(` 59 Code, Chapter H, Article II, § 1)

CERTIFICATE OF CONVENIENCE AND NECESSITY

§ 112.15 CERTIFICATE REQUIRED.

It shall be unlawful for any person to operate a taxicab upon and over the streets of the town without first having applied for and secured from the Board of Commissioners a certificate of convenience and necessity as hereinafter set forth.

(` 59 Code, Chapter H, Article II, § 2) Penalty, see § 10.99

§ 112.16 APPLICATION.

Every person desiring to operate a taxicab upon and over the streets of the town shall file on forms supplied by the Town Clerk an application for a certificate of convenience and necessity.

(` 59 Code, Chapter H, Article II, § 3)

§ 112.17 ISSUANCE.

The Town Board shall have power and it will be its duty to order certain certificates issued or refuse to issue certain certificates or to issue certificates for partial exercise of the rights granted only if such certificate includes such terms and conditions as in its judgment the public convenience and necessity may require.

(` 59 Code, Chapter H, Article II, §§ 4, 5)

§ 112.18 APPROVAL PROCEDURE; BURDEN OF PROOF.

(A) In determining whether the public convenience and necessity require the franchising of a taxicab or taxicabs, the Board of Commissioners shall, among other things, take into consideration the following factors:

(1) Whether or not the public convenience and necessity require the proposed or additional taxicab service within the town;

(2) The financial responsibility of the applicant and the likelihood of this proposed service being permanent, responsible, and satisfactory;

- (3) The number and condition of equipment;
- (4) The schedule of proposed rates, if required by the Board of Commissioners to be charged;
- (5) The number of taxicabs now operated and the demand for increased service, if any, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved, and whether or not adequate provision has been made for off-street parking of these taxicabs;
- (6) The experience of the applicant in the taxicab business; and
- (7) Other relevant facts as may be deemed necessary and advisable.

(B) Before making any decision with respect to the issuance of a certificate of convenience and necessity, the Board of Commissioners, or a committee thereof, shall make a full and complete investigation of all facts, if it so desires, subpoena witnesses, and utilize the services of the Chief of Police or any other officer or employee of the town.

(C) The burden of proof shall be upon the applicant to establish the existence of public convenience and necessity for the operation of the taxicab or taxicabs specified in his or her application, and all other facts required for the granting of a certificate.

(` 59 Code, Chapter H, Article II, §§ 6 - 8)

§ 112.19 FAILURE TO BEGIN OPERATIONS.

If a certificate is granted to an applicant, and that applicant shall fail, in accordance with the provisions of the certificate, to begin operations within 60 days after the date of the certificate, then that certificate shall become null and void, and no refund of any amount paid by the applicant will be made by the town.

(` 59 Code, Chapter H, Article II, § 9)

§ 112.20 TRANSFER RESTRICTED.

A certificate is not transferable without the consent and approval of the Board of Commissioners. Applications for a permit to transfer shall be filed in the same manner as an application for a certificate of convenience and necessity. The proceedings upon the application for a transfer shall be the same as those prescribed for the issuance of a certificate, except that the question of public convenience and necessity need not be proved. No certificate will be issued to any applicant unless that applicant be the holder in due course and for value of the title to that taxicab, and the holder of that certificate only shall be permitted to operate that taxicab, and that applicant shall not be allowed to engage the services of any person to operate his or her taxicab for him or her or in his or her stead at any time.

(` 59 Code, Chapter H, Article II, § 10) Penalty, see § 10.99

§ 112.21 REVOCATION.

(A) The Board of Commissioners may at any time after a public hearing revoke any certificate issued by authority of this chapter for any one, or more, of the following causes:

(1) Failure to operate the taxicab specified in the certificate in a manner so as to serve the public adequately and efficiently;

(2) Failure to maintain motor equipment in good repair;

(3) Failure to carry liability insurance or bond as required by law;

(4) Failure to pay to the town taxes or license fees of \$15 imposed upon these taxicabs;

(5) Repeated and persistent violation by the taxicab driver of traffic and safety ordinances, or state laws relating to alcoholic beverages or prostitution;

(6) Failure to report accidents; or

(7) Wilful failure to comply with any provision of this chapter or other ordinances or state laws relating to the operation of taxicabs, whether those ordinances and laws are now in force or are hereafter enacted into ordinances and into laws.

(B) No certificate shall be revoked until the owner has had at least five days notice by personal service or registered mail of the charges against him or her, and of the time and place of the hearing. If, after the hearing, it is found that the owner is guilty of one or more of the offenses listed herein, the Board shall have the power to revoke the certificate, or to condition a revocation upon compliance of its order within any time fixed by it.

(' 59 Code, Chapter H, Article II, § 11)

§ 112.22 VEHICLE SUBSTITUTION.

The person to whom a certificate has been issued may, by proper endorsement thereon by the Town Clerk, substitute another vehicle, or other vehicles, for the vehicle or vehicles for which the certificate was granted. In this instance, the liability insurance or bonds shall also be transferred to the substitute vehicle or vehicles.

(' 59 Code, Chapter H, Article II, § 12)

§ 112.23 MULTIPLE CERTIFICATES PROHIBITED.

The Board of Commissioners reserves the right to issue only one certificate of convenience and necessity to any one person, and the person holding such a certificate shall be required to operate his or her taxicab himself or herself and shall have no power or authority by virtue of the certificate to delegate the operation of that taxicab to any person.

(`59 Code, Chapter H, Article II, § 13) Penalty, see § 10.99

TITLE XIII: GENERAL OFFENSES

Chapter

130. OFFENSES AGAINST PUBLIC MORALS

131. OFFENSES AGAINST PUBLIC PEACE

132. OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

THE UNIVERSITY OF CHICAGO

CHAPTER 130: OFFENSES AGAINST PUBLIC MORALS

Section

- 130.01 Occupant not to permit disorderly conduct or loitering
- 130.02 Vagrants
- 130.03 House of ill fame
- 130.04 Profanity and boisterous conduct
- 130.05 Public drunkenness
- 130.06 Beer and wine
- 130.07 Loitering at night
- 130.08 Pool rooms; minors restricted

130.99 Penalty

Cross-reference:

Assembling on sidewalk, see § 90.35

§ 130.01 OCCUPANT NOT TO PERMIT DISORDERLY CONDUCT OR LOITERING.

No occupant of any house, whether residence or business, shall permit the same to be kept in an indecent and offensive or disorderly manner or permit loafers or idle persons to congregate therein or in front of the same to the annoyance of persons passing by or living in the vicinity.

(`59 Code, Chapter I, Article I, § 1) Penalty, see § 130.99

§ 130.02 VAGRANTS.

Any and all tramps, vagrants, or persons under suspicion, who shall be found with no visible means of support, either male or female, shall not be allowed on the streets or other public places.

(`59 Code, Chapter I, Article I, § 2) Penalty, see § 130.99

§ 130.03 HOUSE OF ILL FAME.

No person shall keep a house or other place of ill fame in the town, and no person shall knowingly rent any house to be used as a house of ill fame. All adult persons living in such a house shall be considered as keepers thereof and be subject to the penalties of this code.

(`59 Code, Chapter I, Article I, § 3) Penalty, see § 130.99

§ 130.04 PROFANITY AND BOISTEROUS CONDUCT.

It shall be unlawful for any person to use loud and boisterous language so as to become a nuisance, or to use any form of profanity or indecent language on the street or in a gathering, audience, or assembly, or in any public place whatsoever, or to indecently expose themselves within the corporate limits.

(` 59 Code, Chapter I, Article I, § 4) Penalty, see § 130.99

§ 130.05 PUBLIC DRUNKENNESS.

It shall be unlawful for any intoxicated person to be on or upon any public street or other public place.

(` 59 Code, Chapter I, Article I, § 5) Penalty, see § 130.99

§ 130.06 BEER AND WINE.

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

ALCOHOLIC BEVERAGES. Shall include:

(a) Beer, lager beer, ale, porter, and other brewed or fermented beverages containing 0.5% of alcohol by volume but not more than 5% of alcohol by weight as authorized by the laws of the United States of America; and

(b) **UNFORTIFIED WINES.** Wine of an alcoholic content produced only by natural fermentation or by the addition of pure cane, beet, or dextrose sugar and having an alcoholic content of not less than 5% and not more than 14% of absolute alcohol, the percentage of alcohol to be reckoned by volume, which wine has been approved as to identity, quality, and purity by the state Board of Alcoholic Control as provided by law.

PERSON. Any individual, firm, partnership, association, corporation, or other groups or combinations acting as a unit.

(B) *Unlawful acts.* It shall be unlawful for:

(1) Any person to drink alcoholic beverages or to offer a drink to another person on any public road, street, alley, parking lot, sidewalk, or other publicly owned or leased place within the town;

(2) Any person to make public display of alcoholic beverages at any athletic contest in the town; or

(3) Any person to possess or consume any alcoholic beverages upon any premises except where expressly permitted by the General Statutes of the state.
(Ord. passed 7-1-74) Penalty, see § 130.99

§ 130.07 LOITERING AT NIGHT.

It shall be unlawful for any person or persons to loaf, loiter, or congregate on the streets or sidewalks, or in the alleys, or any public place in the town after 11:00 p.m. Anyone violating this section shall, upon conviction, be guilty of a misdemeanor.
(Ord. passed 11-3-69) Penalty, see § 130.99

§ 130.08 POOL ROOMS; MINORS RESTRICTED.

No person or owner of any pool room or billiard room shall allow any person under 18 years of age to play at games or to loiter in public pool rooms in the town.
(59 Code, Chapter H, Article II, § 14) Penalty, see § 130.99

Cross-reference:

Game Rooms, see §§ 112.01 - 112.06

§ 130.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no other specific penalty has been provided shall be subject to the penalties described in § 10.99 of this code.

(B) The violation of § 130.06 shall constitute a misdemeanor and shall be punishable by a fine not exceeding \$50 or imprisonment for not more than 30 days in the discretion of the court.
(Ord. passed 7-1-74)

CHAPTER 131: OFFENSES AGAINST PUBLIC PEACE

Section

Restrictions on Picketing and Demonstrations

- 131.01 Noise restrictions
- 131.02 Sidewalk use
- 131.03 Numbers and spacing
- 131.04 One location within a block
- 131.05 Placards
- 131.06 Prohibited locations
- 131.07 Notice requirement
- 131.08 Right-of-way obstruction; dispersal requirement

- 131.99 Penalty

RESTRICTIONS ON PICKETING AND DEMONSTRATIONS

§ 131.01 NOISE RESTRICTIONS.

Any or all assemblies and picketing shall be peaceful and unattended by boisterousness or excessive noise, and there shall be no shouting, clapping, or singing of a nature so as to disturb the peace and tranquility of the community.

(Ord. O-63-002, passed 9-6-63) Penalty, see § 131.99

§ 131.02 SIDEWALK USE.

Picketing and demonstrations shall be conducted only on public sidewalks maintained by the town, and only the outside half of the sidewalks next to the nearest street edge shall be used by the pickets or demonstrators. No picketing or demonstrating shall be conducted on the remaining portion of the sidewalks or on that portion of the streets used primarily for vehicular traffic or parking.

(Ord. O-63-002, passed 9-6-63) Penalty, see § 131.99

§ 131.03 NUMBERS AND SPACING.

The marching of pickets and demonstrators shall be in single file and they shall be spaced a distance of not less than 15 feet apart, and not more than six pickets shall picket or demonstrate before any given place of business or public facility. No vehicle or animal shall be used in any picket or demonstrating line, and all pickets or demonstrators shall be afoot.

(Ord. O-63-002, passed 9-6-63) Penalty, see § 131.99

§ 131.04 ONE LOCATION WITHIN A BLOCK.

(A) Pickets or demonstrators promoting the same objective may picket or demonstrate in front of only one place of business or public facility within a town block at any one time.

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

BLOCK. The portion of a street lying between intersections.

(Ord. O-63-002, passed 9-6-63) Penalty, see § 131.99

§ 131.05 PLACARDS.

Pickets or demonstrators shall carry only cardboard or paper placards or signs and the words used thereon shall not be defamatory in nature and shall not be such that they would tend to produce violence. No metal, wood, or other hard material may be attached to the placards or signs, and placards or signs shall not be more than 24 inches in length nor more than 24 inches in width. No picket, demonstrator, or person supervising or accompanying the picket or demonstration shall make any statement which is inflammatory in nature or which would tend to produce violence or incite riot.

(Ord. O-63-002, passed 9-6-63) Penalty, see § 131.99

§ 131.06 PROHIBITED LOCATIONS.

There shall be no picketing or demonstrating in front of any building in which the following are located:

- (A) A church;
- (B) A fraternal order;
- (C) A school; or

(D) A hospital, nursing home, or rest home.
(Ord. O-63-002, passed 9-6-63) Penalty, see § 131.99

§ 131.07 NOTICE REQUIREMENT.

The Chief of Police of the town is to be given at least eight hours notice by any person or persons planning to picket or demonstrate. This notice shall include the name of the organization or organizations planning to picket and also shall include the names of the places of business or public facilities which will be picketed and the date and the hours that the picketing or demonstrating will be conducted.

(Ord. O-63-002, passed 9-6-63) Penalty, see § 131.99

§ 131.08 RIGHT-OF-WAY OBSTRUCTION; DISPERSAL REQUIREMENT.

Whenever the free passage of any street or sidewalk in the town shall be obstructed for any reason by a crowd, the persons composing that crowd shall disperse or move on when directed to do so by a police officer. It shall be unlawful for any person to refuse to so disperse or move on when so directed by a police officer as herein provided.

(Ord. O-63-002, passed 9-6-63) Penalty, see § 131.99

§ 131.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no other specific penalty has been provided shall be subject to the penalties described in § 10.99 of this code.

(B) Violation of the regulations in §§ 131.01 - 131.08 shall constitute a misdemeanor, and shall be punishable by a fine not exceeding \$50 or imprisonment not exceeding 30 days.

(Ord. O-63-002, passed 9-6-63)

CHAPTER 132: OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

Section

- 132.01 Firearms discharge
- 132.02 Public urination or defecation
- 132.03 Loitering for drug-related activity

§ 132.01 FIREARMS DISCHARGE.

It shall be unlawful for any person to discharge any firearm of any type within the corporate limits, except a peace officer in the performance of his or her duty.

(`59 Code, Chapter I, Article II, § 3) Penalty, see § 10.99

§ 132.02 PUBLIC URINATION OR DEFECATION.

(A) *Purpose and intent.* The purpose of this section is to prohibit urinating or defecating in public, in order to allow public property to be used more enjoyably and to promote the good health of the public.

(B) *Authority.* This section is adopted under the authority granted by G.S. § 160A-174.

(C) *Jurisdiction.* This section applies to all property accessible to the general public.

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

DEFECATE. The act of expelling solid waste from the human body..

PERSON. Any individual, firm, partnership, association, corporation, other organizations or groups, or a combination of persons acting as a unit.

PUBLIC PLACE. Any building, street, alley, parking lot, or any other place that is easily accessible to the general public.

(E) *Enforcement.* Any person violating this section will be charged by citation, criminal summons, or by physical arrest for this violation. Violation shall be a misdemeanor as provided by G.S. § 14-4. (Ord. O-99-01, passed 10-4-99) Penalty, see § 10.99

§ 132.03 LOITERING FOR DRUG-RELATED ACTIVITY.

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

PUBLIC PLACE. Any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot, or transportation facility, or the doorways and entranceways to any building which fronts on any of those places, or a motor vehicle in or on any of those places, or any property owned by the town.

(B) It shall be unlawful for a person to remain or wander about in a public place in a manner and under circumstances manifesting the purpose to engage in a violation of any subdivision of the state Controlled Substance Act, G.S. Chapter 90, Article 5. This type of circumstances shall include:

- (1) Repeatedly beckoning to, stopping, or attempting to stop passersby, or repeatedly attempting to engage passersby in conversation;
- (2) Repeatedly stopping or attempting to stop motor vehicles;
- (3) Repeatedly interfering with the free passage of other persons;
- (4) Repeatedly passing to or receiving from passersby, whether on foot or in a vehicle or by courier, money or objects; or
- (5) Taking flight upon the approach of a police officer.

(C) Violation of any provision of this section shall be a misdemeanor as provided by G.S. § 14-4. (Ord. O-98-001, passed 3-2-98) Penalty, see § 10.99

Cross-reference:

Assembling on sidewalk, see § 90.35

TITLE XV: LAND USAGE

Chapter

150. FLOOD DAMAGE PREVENTION

151. BUILDING CODES

152. MINIMUM HOUSING STANDARDS

153. ZONING

CHAPTER 150: FLOOD DAMAGE PREVENTION

Section

General Regulations

- 150.01 Statutory authorization
- 150.02 Findings of fact
- 150.03 Statement of purpose
- 150.04 Objectives
- 150.05 Definitions

General Provisions

- 150.20 Lands to which this ordinance applies
- 150.21 Basis for establishing the areas of special flood hazard
- 150.22 Establishment of development permit
- 150.23 Compliance
- 150.24 Abrogation and greater restrictions
- 150.25 Interpretation
- 150.26 Warning and disclaimer of liability
- 150.27 Penalties for violation

Administration

- 150.40 Designation of administrator
- 150.41 Development permit and certification requirements
- 150.42 Duties and responsibilities of the administrator
- 150.43 Administrative procedures
- 150.44 Variance procedures

Provisions for Flood Hazard Reduction

- 150.55 General standards
- 150.56 Specific standards
- 150.57 Standards for streams without established baseflood elevations and/or floodways
- 150.58 Standards for subdivision proposals and major

Legal Status Provisions

150.70 Effect on rights and liabilities under the existing flood damage prevention ordinance

150.71 Effect upon outstanding building permits

GENERAL REGULATIONS**§ 150.01 STATUTORY AUTHORIZATION.**

Municipal: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

§ 150.02 FINDINGS OF FACT.

(A) The flood hazard areas of the Town of Littleton 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 hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

§ 150.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(A) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(D) Control filling, grading, dredging, and other development which may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

§ 150.04 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 interruptions;

(E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;

(F) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and

(G) To insure that potential home buyers are notified that property is in a flood area.

§ 150.05 DEFINITIONS.

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

ACCESSORY STRUCTURE. structures which are 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. Additions to existing buildings shall comply with the requirements for new construction, unless the addition, renovation or reconstruction to any building, that was constructed prior

to the initial Flood Insurance Study for that area, and the addition, renovation or reconstruction does not equal 50% of the present market value of the structure. Where a fire wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.

APPEAL. A request for a review of the administrator's interpretation of any provision of this chapter.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a one percent or greater chance of being flooded in any given year.

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

BASEMENT. For floodplain management purposes, any area of the building having its floor subgrade (below ground level) on all sides.

BUILDING. Any structure built for support, shelter, or enclosure for any occupancy or storage.

DEVELOPMENT. For floodplain management purposes, any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

ELEVATED BUILDING. For floodplain management purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

EXISTING CONSTRUCTION. For the purposes of determining rates, structures for which the **START OF CONSTRUCTION** commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as **EXISTING STRUCTURES**.

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 completed before July 1, 2002.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

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 HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

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.

FLOOD INSURANCE STUDY. The engineering study performed by the Federal Emergency Management Agency to identify flood hazard areas, flood insurance risk zones, and other flood data in a community. The study includes Flood Boundary and Floodway Maps (FBFMs), Flood Hazard Boundary Maps (FHBMs), and/or Flood Insurance Rate Map (FIRMs).

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. The top surface of an enclosed area in a building (including basement), such as top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

HIGHEST ADJACENT GRADE. 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 US 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;

(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 FLOOR. For floodplain management and flood insurance purposes, the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or 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**.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL. For purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a FIRM are referenced.

NEW CONSTRUCTION. For floodplain management purposes, structures for which the **START OF CONSTRUCTION** commenced on or after the effective date of this chapter and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR 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 slabs) is completed on or after July 1, 2002.

NONCONFORMING BUILDING OR USE. Any legally existing building or use which fails to comply with the provisions of the chapter.

RECREATIONAL VEHICLE. 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.

REMEDY A VIOLATION. To bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the chapter or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

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, or improvement was within 180 days of the permit date. The actual start means 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. For floodplain management purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank, or other man-made facility or infrastructure that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure 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 repair, reconstruction, rehabilitation, addition, or other improvement of a structure, 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 project of improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local 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.

SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.

VARIANCE. A grant of relief to a person from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §§ 150.40 *et seq.* and §§ 150.55 *et seq.* is presumed to be in violation until such time as that documentation is provided.

GENERAL PROVISIONS

§ 150.20 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Littleton.

§ 150.21 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

(A) The Areas of Special Flood Hazard are those identified by the Federal Emergency Management Agency (FEMA) in its Flood Hazard Boundary Map or Flood Insurance Study and Flood Insurance Rate Map(s), Halifax County, 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. The areas of special flood hazard 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. This includes detailed flood information generated as a requirement of § 150.42(J).

(B) Municipal: In addition, upon annexation to the Town of Littleton, or inclusion in the Extra-territorial Jurisdiction, the Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Hazard Boundary Map or Flood Insurance Study and Flood Insurance Rate Map(s) for Unincorporated Halifax 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.

§ 150.22 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A Development Permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities.

§ 150.23 COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

§ 150.24 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.

§ 150.25 INTERPRETATION.

In the interpretation and application of this chapter all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes.

§ 150.26 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. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Littleton 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.

§ 150.27 PENALTIES FOR VIOLATION.

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 such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Littleton from taking such other lawful action as is necessary to prevent or remedy any violation.

ADMINISTRATION.**§ 150.40 DESIGNATION OF ADMINISTRATOR.**

The Halifax County Building Inspector, hereinafter referred to as the "administrator", is hereby appointed to administer and implement the provisions of this chapter.

§ 150.41 DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS.

(A) Application for a Development Permit shall be made to the administrator on forms furnished by the administrator prior to any development activities. The Development Permit shall include, but not be limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities.

(B) Specifically, the following information is required:

(1) A plot plan that shows the 100-year floodplain contour or a statement that the entire lot is within the floodplain must be provided by the development permit applicant when the lot is within or

appears to be within the floodplain as mapped by the Federal Emergency Management Agency or the floodplain identified pursuant to either § 150.42(J) or § 150.57 and § 150.58. The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

(2) The plot plan required by division(B)(1) above must show the floodway as identified by the Federal Emergency Management Agency or pursuant to either § 150.42(J) or § 150.57, or the setback required for streams without designated floodways as required by § 150.57(B).

(3) Where base flood elevation data is provided as set forth in § 150.22, or § 150.42(J), the application for a Development Permit within the flood hazard area shall show:

(a) The elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, and

(b) If the non-residential structure will be floodproofed in accordance with § 150.56(B), the elevation (in relation to mean sea level) to which the structure will be floodproofed.

(4) Where the base flood elevation data is not provided, the application for a development permit must show construction of the lowest floor at least two feet above the highest adjacent grade.

(5) Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include: 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.

(6) When a structure is floodproofed, the applicant shall provide a Floodproofing Certificate (FEMA Form 81-65) from a registered professional engineer or architect that the non- residential floodproofed structure meets the floodproofing criteria in § 150.56(B).

(7) An Elevation Certificate (FEMA Form 81-31) or a Floodproofing Certificate (FEMA Form 81-65) is required after the lowest floor is completed. Within 21 calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the administrator a certification of the elevation of the lowest floor, or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. Said 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 for a particular building, said 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 administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the

permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

§ 150.42 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR.

Duties of the administrator shall include, but not be limited to:

(A) Review all development permits to assure that the requirements of this chapter have been satisfied.

(B) Advise permittee that additional Federal or State permits may be required, and if specific Federal or State permits are known, require that copies of such permits be provided and maintained on file with the development permit.

(C) Notify adjacent communities and the North Carolina 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 such notification to the Federal Emergency Management Agency.

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(E) Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of §§ 150.55 *et seq.* are met.

(F) Obtain actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 150.41(B)(7).

(G) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with § 150.41(B)(7).

(H) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with § 150.56(B).

(I) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (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 in this article.

(J) When base flood elevation data or floodway data has not been provided in accordance with § 150.21, obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a Federal, State, or other source, including data developed pursuant to § 150.58 in order to administer the provisions of this chapter.

(K) When the exact location of boundaries of the areas special flood hazards 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 administrator in the permit file.

(L) Make on-site inspections of projects in accordance with Article § 150.43.

(M) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with § 150.43.

(N) Maintain all records pertaining to the administration of this chapter and make these records available for public inspection.

§ 150.43 ADMINISTRATIVE PROCEDURES.

(A) *Inspections of work in progress.* As the work pursuant to a permit progresses, the 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 administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(B) *Stop-work orders.* Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the 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 reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(C) *Revocation of permits.* The administrator may revoke and require the return of the development permit by notifying the permit holder in writing stating the reason 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 permit mistakenly issued in violation of an applicable State or local law may also be revoked.

(D) *Periodic inspections.* The administrator and each member of his 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.

(E) *Violations to be corrected.* When the administrator finds violations of applicable State and local laws, it shall be his 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 in the property he owns.

(F) *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 administrator shall give him written notice, by certified or registered mail to his last known address or by personal service,

(1) That the building or property is in violation of the Flood Damage Prevention Ordinance;

(2) That a hearing will be held before the 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) That following the hearing, the administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(G) (1) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, the administrator may prescribe; provided that where the administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

(2) *Appeal.* Any owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the administrator and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the 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.

(H) *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 shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

§ 150.44 VARIANCE PROCEDURES.

(A) The Town of Littleton Board of Adjustments as established by the Town of Littleton, 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 such decision to the Court, as provided in G.S. Chapter 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 such 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 such 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 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, 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 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 lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

(5) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

PROVISIONS FOR FLOOD HAZARD REDUCTION**§ 150.55 GENERAL STANDARDS.**

In all areas of special flood hazard 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;

(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; and,

(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 buildings or uses. Non-conforming buildings or uses may not be enlarged, replaced, or rebuilt unless such 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 or stream setback, provided that the bulk of the building or structure below base flood elevation in the floodway or stream setback is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.

§ 150.56 SPECIFIC STANDARDS.

In all areas of special flood hazard where base flood elevation data has been provided, as set forth in § 150.21 or § 150.42(J), the following provisions are required:

(A) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than two feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided.

(B) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential structure shall have the lowest floor, including basement, elevated no lower than two feet above the level of the base flood elevation. Structures located in A Zones may be floodproofed to the flood protection level in lieu of elevation provided that all areas of the structure below the required elevation are watertight 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 subsection are satisfied. Such certification shall be provided to the official as set forth in § 150.41(B)(7).

(C) *Manufactured homes.*

(1) Manufactured homes that are placed or substantially improved on sites (i) outside a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; or, (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than two feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(2) Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of § 150.56(C)(1) of this chapter must be elevated on reinforced piers or other structural elements so that the lowest floor of the manufactured home is no lower than two feet above the base flood elevation and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.

(3) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with the *State of North Carolina Regulations for Manufactured/Mobile Homes, 1995 Edition*, and any revision thereto adopted by the Commissioner of Insurance pursuant to NCGS x143-143.15. 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.

(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 administrator and the local Emergency Management coordinator.

(D) *Recreational vehicles.* A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. Recreation vehicles placed on sites shall either:

- (1) Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use; or
- (2) Meet the requirements of §§ 150.41, 150.55 and 150.56(C).

(E) *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to preclude finished living space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

(1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(a) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all required openings shall be no higher than one foot above grade; and,

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(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).

(3) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.

(F) *Temporary structures.* Prior to the issuance of a development permit for a temporary structure the following requirements must be met:

(1) All applicants must submit to the administrator prior to the issuance of the development permit a plan for the removal of such 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 (such as 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 insure the availability of removal equipment when needed; and
- (e) Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.

(2) The above information shall be submitted in writing to the administrator for review and written approval.

(G) *Accessory structure.* When accessory structures (sheds, detached garages, and the like) with a value of \$3,000 or less, are to be placed in the floodplain 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 floodwaters;
- (4) Accessory structures shall be firmly anchored in accordance with § 150.55(A);
- (5) Service facilities such as electrical and heating equipment shall be installed in accordance with § 150.55(D); and
- (6) Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with § 150.36(E).

(H) *Floodways.* Located within areas of special flood hazard established in § 150.21 are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:

(1) 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. Such certification and technical data shall be presented to the administrator.

(2) If § 150.56(H)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §§ 150.55 *et seq.*

(3) No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and the elevation standards of 150.56(C) and the encroachment standards of § 150.56(H)(1) are met.

§ 150.57 STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASEFLOOD ELEVATIONS AND/OR FLOODWAYS.

Located within the areas of special flood hazard established in § 150.21 are small streams where no base flood data has been provided or where no floodways have been identified. The following provisions apply within such areas:

(A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty 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 such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) If division (A) above is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard chapter provisions of §§ 150.55 *et seq.* and shall be elevated or floodproofed in accordance with elevations established in accordance with § 150.42(J). When base flood elevation data is not available from a Federal, State, or other source, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade.

§ 150.58 STANDARDS FOR SUBDIVISION PROPOSALS AND MAJOR DEVELOPMENTS.

(A) Proposals for subdivisions and major developments shall be consistent with the need to minimize flood damage;

(B) Proposals for subdivisions and major developments shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(C) Proposals for subdivisions and major developments shall have adequate drainage provided to reduce exposure to flood hazards; and

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or five acres.

LEGAL STATUS PROVISIONS

§ 150.70 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 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder 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 of Littleton enacted on July 1, 2002, as amended, which are not reenacted herein are repealed.

§ 150.71 EFFECT UPON OUTSTANDING BUILDING PERMITS.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Chief Building Inspector or his authorized agents before the time of passage of this chapter; provided, however, that when construction is not begun under such outstanding permit within a period of 60 days subsequent to passage of this chapter, construction or use shall be in conformity with the provisions of this chapter.

CHAPTER 151: BUILDING CODES

Section

- 151.01 Building Inspector
- 151.02 Building permit required
- 151.03 National Building Code adopted
- 151.04 Gasoline storage tank
- 151.05 Inspection of dangerous buildings or structures
- 151.06 Owner to correct hazard

- 151.99 Penalty

§ 151.01 BUILDING INSPECTOR.

Such officer or employee as the Board may appoint shall be the Building Inspector of the town and he or she shall possess all the powers conferred and perform all the duties prescribed by G.S. 160-117 and other statutes applicable thereto. He shall possess such further power and perform such further duties as may be prescribed by this chapter. He or she shall receive the fees allowed by statute. The Inspector or his or her deputy shall have the right to enter, at all reasonable times, any building structure or premises, within the town, for the purpose of inspecting, or in the performance of his or her duties. He or she shall make, or cause to be made, such inspection of all chimneys, flues, steam and fire openings within the town. He or she may, when occasion requires, appoint a deputy or deputies, to perform any part of his or her duties.

§ 151.02 BUILDING PERMIT REQUIRED.

It shall be unlawful for any person, firm or corporation to hereafter erect, construct or build, or cause or authorize the same on any lot or parcel of land within the corporate limits any building or structure of any kind or description, without and until such person, firm or corporation first submits to the Building Inspector through the office of the Town Clerk, a duly signed and completed application for a building permit for such a building or structure, such application to be accompanied by plans and specifications for such a building or structure, the material to be used in such building or structure, the proposed location thereof, the purposes for which such building or structure is to be used, the cost of such building or structure, and such other information concerning the same that will enable the Building Inspector to properly pass upon the application of such person, firm or corporation, to erect, build or

construct such a building or structure within the corporate limits and until such person, firm or corporation obtains such a permit to erect, build or construct such a building or structure as described in the application for permit, it shall be unlawful for such person, firm or corporation to proceed with the erection, building or construction of such a building or structure as herein provided.

§ 151.03 NATIONAL BUILDING CODE ADOPTED.

The North Carolina State Building Code, 1958 edition, and the uniform Residential Building Code found therein is hereby adopted as the official Building Code of the Town of Littleton.

§ 151.04 GASOLINE STORAGE TANK.

It shall be unlawful for any person to construct or erect any storage tank for gasoline, oil or other combustible or inflammable materials, containing or capable of containing more than 100 gallons, unless the top of such tank or container is buried at least two feet below the surface of the ground at that point, and unless a permit for such construction or erection shall be first obtained upon application from the Town Clerk. The Clerk shall not issue such permit unless directed by the Board.

§ 151.05 INSPECTION OF DANGEROUS BUILDINGS OR STRUCTURES.

Whenever the Board of Commissioners is informed that any building, or other structure, within the town is especially dangerous in case of fire, by reason of the bad condition of walls, defective construction, decay, or other causes, or is so situated as to endanger the lives of persons passing by or residing in the vicinity thereof, they shall forthwith require the Building Inspector, together with the Mayor, to make a survey of the building, or structure, and report to them their opinion of the same.

§ 151.06 OWNER TO CORRECT HAZARD.

The building Inspector is instructed to affix a notice of the dangerous character of any building found to be especially dangerous to life because of its liability to fire or in case of fire by reason of bad condition of walls, overloaded floors, defected construction, decay or other causes, to a conspicuous place on the exterior wall of each of the buildings; and the Building Inspector is further instructed to notify the owner of each building which has been condemned as unsafe and dangerous to life, in writing of the unsafe and dangerous character of such building and to advise him or her that if the same is not removed or properly secure within ten days, further legal action will be taken to enforce the same in accordance with G.S. 160-151 *et seq.*; however, where the public safety requires immediate action, the notice to remove or properly secure may be limited to meet the urgency of the case.

§ 151.99 PENALTY.

(A) Any person, firm or corporation violating any of the provisions of any section or subsection of this chapter, or failing or neglecting or refusing to comply with same, shall, upon conviction, be guilty of a misdemeanor and subject to a fine not to exceed \$100 or imprisonment not to exceed 30 days, and each day that any of the provisions of this chapter are violated shall constitute a separate offense.

(B) For penalties provided for certain traffic violations, see § 70.99.

CHAPTER 152: MINIMUM HOUSING STANDARDS

Section

- 152.01 Finding; purpose
- 152.02 Definitions
- 152.03 Minimum standards of fitness for dwellings and dwelling units
- 152.04 Minimum standards for structural condition
- 152.05 Minimum standards for basic equipment and facilities
- 152.06 Minimum standards for ventilation
- 152.07 Minimum standards for space, use and location
- 152.08 Minimum standards for safe and sanitary maintenance
- 152.09 Minimum standards for control of insects, rodents and infestations
- 152.10 Minimum standards applicable to rooming houses; exceptions
- 152.11 Responsibilities of owners and occupants
- 152.12 Duties of inspector
- 152.13 Powers of inspector
- 152.14 Inspections; duty of owners and occupants
- 152.15 Procedure for enforcement
- 152.16 Methods of service of complaints and orders
- 152.17 In rem action by inspector; placarding
- 152.18 Costs, a lien on premises
- 152.19 Alternative remedies
- 152.20 Zoning board of adjustment to hear appeals

- 152.99 Penalty

§ 152.01 FINDING; PURPOSE.

(A) Pursuant to G.S. 160A-441, it is hereby declared that there exist in the Town of Littleton, dwellings which are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents and other calamities; lack of ventilation, light and sanitary facilities; and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the Town of Littleton.

(B) In order to protect the health, safety and welfare of the residents of the Town of Littleton as authorized by G.S. Chapter 160A, Article 19, Part 6, it is the purpose of this chapter to establish

minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444.
(Ord. O-88-005, passed 8-24-88)

§ 152.02 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."

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. That a dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this 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 the 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.

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.

GARBAGE. The organic waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

INFESTATION. The presence, within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

INSPECTOR. The Building Inspector of the Town of Littleton or other person charged with the administration and enforcement of this chapter or his duly authorized representative.

MULTIPLE DWELLING. Any dwelling containing more than two dwelling units.

OCCUPANT. Any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling, dwelling unit or rooming unit.

OPERATOR. Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

OWNER. Any person who alone, jointly, or severally with others:

(1) Shall have title to any dwelling, dwelling unit or rooming unit, with or without accompanying actual possession thereof; or

(2) Shall be a mortgagee of record for any dwelling, dwelling unit or rooming unit; or

(3) Shall have charge, care or control of any dwelling, dwelling unit or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

PARTY or PARTIES IN INTEREST. All persons who have interests of record in a dwelling, dwelling unit or rooming unit and any persons who are in possession thereof.

PERSON. Any individual, corporation, firm, partnership, association, organization or other legal entity.

PLUMBING. Means and shall include 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 closet, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

PUBLIC AUTHORITY. Any officer who is in charge of any department or branch of the government of the town or of Halifax County or the State of North Carolina relating to health, fire, building regulations or other activities concerning dwellings in the town.

ROOMING HOUSE. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother 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 purposes.

RUBBISH. Non-organic waste materials. The term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, and dust.

SUPPLIED. Paid for, furnished, or provided by, or under the control of, the owner or operator.

TEMPORARY HOUSING. Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

UNFIT FOR HUMAN HABITATION. That conditions exist in a dwelling, dwelling unit, rooming house or rooming unit which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this chapter.
(Ord. O-88-005, passed 8-24-88)

§ 152.03 MINIMUM STANDARDS OF FITNESS FOR DWELLINGS AND DWELLING UNITS.

(A) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of §§ 152.04 through 152.09.

(B) No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of §§ 152.04 through 152.09.
(Ord. O-88-005, passed 8-24-88)

§ 152.04 MINIMUM STANDARDS FOR STRUCTURAL CONDITION.

The following standards shall constitute the minimum standards for structural condition of a dwelling or dwelling unit:

(A) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.

(B) Floors or hoofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(C) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.

(D) Steps, stairs, landings, porches, or other parts of appurtenances shall be maintained in such condition that they will not fail or collapse.

(E) Adequate facilities for egress in case of fire or panic shall be provided.

(F) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(G) The roof flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained as to be weather and watertight.

(H) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.

(I) There shall be no use of the ground for floors, or wood floors on the ground.
(Ord. O-88-005, passed 8-24-88)

§ 152.05 MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES.

Plumbing system.

(A) Each dwelling unit shall be connected to a potable water supply and to a public sewer or other approved sewage disposal system.

(B) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(C) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the State Electrical Code.
(Ord. O-88-005, passed 8-24-88)

§ 152.06 MINIMUM STANDARDS FOR VENTILATION.

(A) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of such room. Whenever walls or other portions of structures face a window or any room and such light-obstructing structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least 15% of the total floor area of such room.

(B) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total operable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.

(C) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

(Ord. O-88-005, passed 8-24-88)

§ 152.07 MINIMUM STANDARDS FOR SPACE, USE AND LOCATION.

(A) *Room sizes.*

(1) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the State Residential Building Code.

(2) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant.

(3) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(B) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.

(C) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than 4½ feet shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.

(D) *Cellar.* No cellar shall be used for living purposes.

(E) *Basements.* No basement shall be used for living purposes unless:

(1) The floor and walls are substantially watertight;

(2) The total window area, total openable window area and ceiling height are equal to those required for habitable rooms;

(3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well or accessway.

(Ord. O-88-005, passed 8-24-88)

§ 152.08 MINIMUM STANDARDS FOR SAFE AND SANITARY MAINTENANCE.

(A) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(B) *Interior floors, walls and ceilings.* Every floor interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.

(C) *Window and doors.* Every window, exterior, door, basement or cellar door and hatchway shall be substantially weathertight, watertight and rodent proof and shall be kept in sound working condition and good repair.

(D) *Stairs, porches and appurtenances.* Every outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in sound condition and good repair.

(E) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit such floor to be easily kept in a clean and sanitary condition.

(F) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(G) *Drainage.* Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.

(H) *Noxious weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

(I) *Egress.* Every dwelling unit shall be provided adequate means of egress as required by the State Residential Building Code.
(Ord. O-88-005, passed 8-24-88)

§ 152.09 MINIMUM STANDARDS FOR CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

(A) *Screens.* In every dwelling unit, for protection against mosquitoes, flies and other insects, every door, opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device. Every window or other device with openings to outdoor spaces used or intended to be used for ventilation, shall likewise be equipped with screens.

(B) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be equipped with screens or such other approved device as will effectively prevent their entrance.

(C) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(D) *Rubbish storage and disposal.* Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by town ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(E) *Garbage storage and disposal.* Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit, or an approved outside garbage can as required by town ordinances.

(Ord. O-88-005, passed 8-24-88)

§ 152.10 MINIMUM STANDARDS APPLICABLE TO ROOMING HOUSES; EXCEPTIONS.

All of the provisions of this chapter, and all of the minimum standards and requirements of this chapter, shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following:

(A) *Water closet, hand lavatory and bath facilities.* At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition shall be supplied for each four rooms within a rooming house wherever these facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(B) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(C) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house. He shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained, leased or occupied by the operator.

(D) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by division (A) above shall be located within the rooming house and within a room or rooms which afford privacy, are separate from the habitable rooms, are accessible from a common hall, and are accessible without going outside the rooming house or through any other room therein.

(Ord. O-88-005, passed 8-24-88)

§ 152.11 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

(A) *Public areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(B) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he or she occupies and controls.

(C) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his or her rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(E) *Care of facilities, equipment and structure.* No occupant shall willingly destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

(F) *Care of premise.*

(1) It shall be unlawful for the owner or occupant of a residential building, structure or property to utilize the premises of such residential property for the open storage of any icebox, refrigerator, stove, glass, building material, building rubbish or similar items.

(2) It shall be the duty and responsibility of every such owner or occupant to keep the premises of such residential property clean and to remove from the premises all such abandoned items, as listed above, including but not limited to weeds, dead trees, trash, garbage, and the like upon notice from the Inspector.

(3) Yards and courts shall be kept clean and free of physical hazards, rubbish, trash, garbage, junked vehicles, vehicle parts and other similar material.

(4) Every premises shall be provided with vehicular access to and from the premises at all times by an abutting public and private street.

(5) No occupant shall obstruct in any manner any means of egress from any portion of the premises.

(6) No occupant shall place on the premises any material which causes a fire hazard or otherwise endangers the health or safety of any occupants of such building.

(7) No occupant shall place on the premises for use any oil or gas fired portable or non-vented cook stove or heater.
(Ord. O-88-005, passed 8-24-88)

§ 152.12 DUTIES OF INSPECTOR.

The Inspector is hereby designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. It shall be the duty of the Inspector:

(A) To investigate the dwelling conditions, and to inspect dwellings and dwelling units, located in the Town in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this chapter with respect to such dwellings and dwelling units;

(B) To investigate any structures located in the town in order to determine which structures are abandoned structures by reason of constituting a health or safety hazard, and for the purpose of carrying out the objectives of this chapter with respect to such abandoned structures;

(C) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(D) To keep a record of the results of inspections made under this chapter and an inventory of abandoned structures and of those dwellings that do not meet the minimum standards of fitness herein prescribed; and

(E) To perform such other duties as may be herein prescribed.
(Ord. O-88-005, passed 8-24-88)

§ 152.13 POWERS OF INSPECTOR.

The inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter including the following powers in addition to others herein granted:

(A) To investigate the dwelling conditions in the town in order to determine which dwellings are unfit for human habitation;

(B) To investigate structures in the town to determine which structures are abandoned structures;

(C) To administer oaths and affirmations, examine witnesses, and receive evidence;

(D) To enter upon premises for the purpose of making examinations and inspections, provided such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and

(E) To appoint and fix the duties of such officers agents and employees as he or she deems necessary to carry out the purposes of this chapter.

(Ord. O-88-005, passed 8-24-88)

§ 152.14 INSPECTIONS; DUTY OF OWNERS AND OCCUPANTS.

For the purpose of making inspections, the Inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, rooming house or rooming unit, or the person in charge, thereof, shall give the Inspector free access to such dwellings, dwelling unit, rooming house or rooming unit and its premises at all reasonable times for the purposes of such inspections, examination and survey. Every occupant of a dwelling, dwelling unit, rooming house or rooming unit shall give the owner thereof, or his or her agent or employee, access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

(Ord. O-88-005, passed 8-24-88)

§ 152.15 PROCEDURE FOR ENFORCEMENT.

(A) *Preliminary investigation; notice; hearing.* Whenever a petition as filed with the Inspector by a Public Authority or by at least five residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis, for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten nor more than 30 days after serving the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

(B) *Procedure after hearing.*

(1) After such notice and hearing, the Inspector shall state in writing his determination whether the dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

(2) If the Inspector determines that the dwelling is dilapidated, he or she shall state in writing his or her findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed 90 days. Such order may also direct and require the owner to vacate and close such dwellings or dwelling unit until such repairs, alterations, and improvements have been made.

(3) If the Inspector determines that the dwelling is dilapidated, he or she shall state in writing his or her findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter, or else to vacate and remove or demolish the same within a specified period of time not to exceed 90 days.

(C) *Procedure after hearing on abandoned structure.*

(1) After such notice and hearing, the Inspector shall state in writing his or her determination whether such structure is an abandoned structure.

(2) If the Inspector determines that the structure is an abandoned structure, he or she shall state in writing his or her findings of facts to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such structure to correct those conditions which constitute a hazard to health or safety, or else remove or demolish the same within a specified period of time not to exceed 90 days.

(D) *Failure to comply with order.*

(1) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter, or improve or to vacate and close the same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve or to vacate and close and remove or demolish the same within the time specified therein, the Inspector shall submit to the Town Commissioners at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Inspector, as authorized by G.S. 160-A-446(g).

(2) *In rem remedy.* After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding subsection (1) above, the Inspector shall submit to the Town Commissioners an ordinance ordering the Inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the Inspector, and pending removal or demolition, to place a placard on such dwelling as provided by G.S. 160A-443 and § 152.17.

(E) *Appeals from orders of Inspector.*

(1) An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby. Any appeal from the Inspector shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the Inspector and with the Zoning Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his or her decision shall remain in force until modified or reversed. When an appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of 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. Such restraining order may be granted for due cause shown upon not less than one day's written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and division (F) below.

(2) The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the Inspector. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(3) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(F) *Petition of Superior Court by owner.* Any person aggrieved by an order issued by the Inspector or a decision rendered by the Board shall have the right, within 30 days after issuance of the order or

rendering of the decision, to petition the superior court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. 160-446(f).
(Ord. O-88-005, passed 8-24-88)

§ 152.16 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

(A) Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered or certified mail. If the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence; the Inspector shall make an affidavit to that effect and the serving of such complaint or order upon such person may be made by publishing the same at least once no later than the time at which personal service would be required under the provisions of this chapter in a newspaper having general circulation in the town. Where service is made by publication, a notice of pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

(B) Failure on the part of any owner or party in interest to receive or have served upon him or her any complaints notice, or order herein provided for shall not affect or invalidate the proceedings with respect to any other owner or party in interest or any other person, firm or corporation.

(C) Removal of complaint; notice of 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 code. Any person violating or failing to comply with the provisions of this section shall be guilty of a misdemeanor.

(Ord. O-88-005, passed 8-24-88)

§ 152.17 IN REM ACTION BY INSPECTOR; PLACARDING.

(A) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Inspector issued pursuant to the provisions of this chapter, and upon adoption by the Town Commissioners of an ordinance authorizing and directing him or her to do so, as provided by G.S. 160A-443(5) and § 152.15(D), the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Town Commissioners, and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of the building so posted shall constitute a misdemeanor.

(B) Each such ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-443(5).

(Ord. O-88-005, passed 8-24-88)

§ 152.18 COSTS, A LIEN ON PREMISES.

As provided by G.S. 160A-446(6), the cost of any repairs, alterations, or improvements, or of vacating and closing, or removal or demolition, caused to be made or done by the Inspector pursuant to § 152.17 shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have priority, and be collected in the same manner as the lien for special assessments established by G.S. Chapter 160A, Article 10.
(Ord. O-88-005, passed 8-24-88)

§ 152.19 ALTERNATIVE REMEDIES.

Neither this chapter nor any of its provision shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process as authorized by G.S. 14-4, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.
(Ord. O-88-005, passed 8-24-88)

§ 152.20 ZONING BOARD OF ADJUSTMENT TO HEAR APPEALS.

All appeals which may be taken from decisions or orders of the Inspector pursuant to § 152.15(E) shall be heard and determined by the Zoning Board of Adjustment. As the appeals body, the Board shall have the power to fix the times and places of its meeting, to adopt necessary rules of procedures and any other rules and regulations which may be necessary for the proper discharge of its duties. The Board shall perform the duties prescribed by § 152.15(E) and shall keep an accurate journal of all its proceedings.
(Ord. O-88-005, passed 8-24-88)

§ 152.99 PENALTY.

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit with respect to which an order has been issued pursuant to § 152.15, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(B) The violation of any provision of this chapter shall constitute a misdemeanor, as provided by G.S. 14-4.

(Ord. O-88-005, passed 8-24-88)

CHAPTER 153: ZONING

Section

153.01 Zoning code adopted by reference

153.02 Mobile homes and trailers prohibited in residential district

§ 153.01 ZONING CODE ADOPTED BY REFERENCE.

The zoning code for the town is hereby adopted by reference and shall be a part of this code as if set forth in full herein.

§ 153.02 MOBILE HOMES AND TRAILERS PROHIBITED IN RESIDENTIAL DISTRICT.

(A) In order to promote the safety and welfare of its citizens, there shall not hereafter be placed upon any lot within the residential district of the town, as shown upon its zoning map, any trailer or mobile home of any description to be used as a residence; provided, however, this shall not make unlawful the continued occupancy and use of a trailer or mobile home which is now being used for that purpose, where that use is otherwise lawful at this time.

(B) No town official shall hereafter receive or accept on behalf of the town any fee for connecting to the town's water and sewer system except upon declaration by the applicant, if within a residential district, that the connection is not to be and will not be used for the purpose of connecting a trailer or mobile home to the system.

(Ord. O-72-004, passed 9-4-72) Penalty, see § 10.99

TABLE OF SPECIAL ORDINANCES

Table

I. CONTRACTS AND AGREEMENTS

TABLE I: CONTRACTS AND AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
Res. -	10-19-70	Authorizing town participation in the Region "K" Council of Local Governments; Council bylaws attached

PARALLEL REFERENCES

References to North Carolina General Statutes

References to 1959 Code

References to Resolutions

References to Ordinances

REFERENCES TO NORTH CAROLINA GENERAL STATUTES

<i>G.S. Cite</i>	<i>Code Section</i>
Chapter 7A	150.42
14-4	51.99, 72.26, 72.27, 90.35, 92.99, 132.02, 132.03, 152.19, 152.99
14-4(a)	10.99
14-4(b)	70.99
14-414	92.30
20-137.7	94.01
62-103(k)	112.01
Chapter 90, Article 5	132.03
105-350	Charter § 4.4
Chapter 143, Article 8	33.08
143-128 <i>et seq.</i>	33.06
143-129(a)	33.07, 33.08
143-129(e)	33.03
143-129(f)	33.08
143-129(g)	33.03, 33.08
143-213(18)	50.002
143-215.1	50.002, 50.092, 50.094
143-215.1(b)	50.093
143-215.3(a)(14)	50.002
143-215.6B	50.137
143-318.9 <i>et seq.</i>	32.17
150B	50.092
153A-123	51.99
153A-128	92.30
160-117	151.01
160.151 <i>et seq.</i>	151.06
160A	50.001
160A, Article 7, Part 3	Charter § 4.1
160A, Article 10	152.18
160A, Article 19, Part 6	152.01
160A-1	Charter § 1.2
160A-73	Charter § 2.7
160A-74	Charter § 2.6

<i>G.S. Cite</i>	<i>Code Section</i>
160A-75	Charter § 2.6
160A-174	132.02
160A-175	10.99
160A-265—160A-279	33.21
160A-266(c)	33.23
160A-360 <i>et seq.</i>	32.15
160A-362	32.16
160A-441	152.01
160A-443	152.15
160A-443(5)	152.17
160A-444	152.01
160A-446(6)	152.18
160A-446(f)	152.15
160A-446(g)	152.15
162A-88	51.07
163-292	Charter § 3.1

REFERENCES TO 1959 CODE

<i>1959 Code Section</i>	<i>2003 Code Section</i>
Chapter A, Article I, § 1	30.01
Chapter A, Article I, § 2	30.01
Chapter A, Article I, § 3	30.02
Chapter A, Article I, § 4	30.02
Chapter A, Article I, § 5	30.02
Chapter A, Article I, § 6	30.02
Chapter A, Article I, § 7	30.03
Chapter A, Article II, § 2	30.15
Chapter A, Article II, § 3	30.16
Chapter A, Article II, § 4	30.17
Chapter A, Article III, § 1	31.01
Chapter A, Article III, § 2	31.02
Chapter A, Article III, § 3	31.03
Chapter A, Article III, § 4	31.04
Chapter B, § 1	32.01
Chapter B, § 2	32.02
Chapter B, § 3	32.03
Chapter B, § 4	32.04
Chapter B, § 5	32.05
Chapter C, Article II, § 1	92.02
Chapter C, Article II, § 2	92.02
Chapter C, Article II, § 3	92.03
Chapter C, Article II, § 4	92.15
Chapter C, Article II, § 5	92.16
Chapter C, Article II, § 6	92.17
Chapter C, Article II, § 7	92.18
Chapter C, Article II, § 8	92.04
Chapter C, Article III, § 2	92.01
Chapter D, Article I, § 1	90.20
Chapter D, Article I, § 2	90.21
Chapter D, Article I, § 3	90.22
Chapter D, Article I, § 4	90.23
Chapter D, Article I, § 5	90.01
Chapter D, Article I, § 6	90.02

<i>1959 Code Section</i>	<i>2003 Code Section</i>
Chapter D, Article I, § 7	90.03
Chapter D, Article I, § 8	90.04
Chapter D, Article II, § 2	90.36
Chapter D, Article II, § 3	90.37
Chapter D, Article II, § 4	90.38
Chapter D, Article II, § 5	90.39
Chapter D, Article III, § 1	90.50
Chapter D, Article III, § 2	90.51
Chapter D, Article III, § 3	90.52
Chapter D, Article III, § 4	90.05
Chapter D, Article III, § 5	90.06
Chapter E, Article II, § 1	93.03
Chapter E, Article II, § 2	93.02
Chapter E, Article II, § 3	93.06
Chapter E, Article II, § 4	93.21
Chapter E, Article II, § 5	93.20
Chapter E, Article II, § 7	93.22
Chapter E, Article II, § 8	93.23
Chapter E, Article II, § 9	93.04
Chapter E, Article II, § 10	93.35
Chapter E, Article II, § 11	93.36
Chapter E, Article II, § 12	93.37
Chapter E, Article II, § 13	93.01
Chapter E, Article II, § 15	93.05
Chapter F, Article I, § 1	70.01
Chapter F, Article II, § 1	71.001
Chapter F, Article II, § 2	71.002
Chapter F, Article II, § 3	71.003
Chapter F, Article II, § 4	71.004
Chapter F, Article II, § 5	71.005
Chapter F, Article II, § 6	71.006
Chapter F, Article III, § 1	71.020
Chapter F, Article III, § 2	71.020
Chapter F, Article III, § 3	71.020
Chapter F, Article III, § 4	71.021
Chapter F, Article III, § 5	71.022
Chapter F, Article IV, § 1	72.01
Chapter F, Article IV, § 2	72.02
Chapter F, Article IV, § 3	72.20

<i>1959 Code Section</i>	<i>2003 Code Section</i>
Chapter F, Article IV, § 4	72.21
Chapter F, Article IV, § 5	72.22
Chapter F, Article IV, § 6	72.22
Chapter F, Article IV, § 7	72.22
Chapter F, Article IV, § 8	72.23
Chapter F, Article IV, § 9	72.03
Chapter F, Article IV, § 10	72.04
Chapter F, Article IV, § 11	72.05
Chapter F, Article IV, § 12	72.06
Chapter F, Article IV, § 13	72.07
Chapter F, Article IV, § 14	72.24
Chapter F, Article IV, § 15	72.25
Chapter F, Article IV, § 16	72.08
Chapter F, Article IV, § 17	72.08
Chapter F, Article IV, § 18	72.09
Chapter F, Article IV, § 19	72.10
Chapter F, Article V, § 1	71.035
Chapter F, Article V, § 2	71.036
Chapter F, Article V, § 3	71.037
Chapter F, Article V, § 4	71.081
Chapter F, Article V, § 5	71.082
Chapter F, Article V, § 6	71.050
Chapter F, Article V, § 7	71.051
Chapter F, Article V, § 8	71.052
Chapter F, Article V, § 9	71.083
Chapter F, Article V, § 10	71.038
Chapter F, Article V, § 11	71.084
Chapter F, Article V, § 12	71.100
Chapter F, Article V, § 13	71.101
Chapter F, Article V, § 14	71.102
Chapter F, Article V, § 15	71.103
Chapter F, Article V, § 16	71.086
Chapter F, Article V, § 17	71.087
Chapter F, Article V, § 18	71.080
Chapter F, Article V, § 19	71.085
Chapter F, Article VI, § 1	71.065
Chapter F, Article VI, § 2	71.066
Chapter F, Article VI, § 3	71.067
Chapter F, Article VI, § 4	71.068

<i>1959 Code Section</i>	<i>2003 Code Section</i>
Chapter F, Article VI, § 5	71.069
Chapter F, Article VI, § 6	71.115
Chapter F, Article VI, § 7	71.116
Chapter G, Article I, § 1	91.15
Chapter G, Article I, § 2	91.15
Chapter G, Article I, § 3	91.15
Chapter G, Article I, § 4	91.16, 91.17
Chapter G, Article I, § 5	91.18
Chapter G, Article I, § 6	91.19
Chapter G, Article I, § 7	91.20
Chapter G, Article I, § 8	91.21
Chapter G, Article II, § 1	52.01
Chapter G, Article II, § 2	52.02
Chapter G, Article II, § 4	52.03
Chapter G, Article II, § 5	52.04
Chapter G, Article II, § 6	52.05
Chapter G, Article II, § 7	52.06
Chapter G, Article II, § 8	52.07
Chapter G, Article III, § 1	91.22
Chapter G, Article III, § 2	91.22
Chapter H, Article I, § 1	110.01
Chapter H, Article I, § 2	110.03
Chapter H, Article I, § 3	110.02
Chapter H, Article I, § 4	110.03
Chapter H, Article I, § 5	110.04
Chapter H, Article I, § 6	110.05
Chapter H, Article I, § 7	110.06
Chapter H, Article I, § 8	110.07
Chapter H, Article I, § 9	110.08
Chapter H, Article II, § 1	112.01
Chapter H, Article II, § 2	112.15
Chapter H, Article II, § 3	112.16
Chapter H, Article II, § 4	112.17
Chapter H, Article II, § 5	112.17
Chapter H, Article II, § 6	112.18
Chapter H, Article II, § 7	112.18
Chapter H, Article II, § 8	112.18
Chapter H, Article II, § 9	112.19
Chapter H, Article II, § 10	112.20

<i>1959 Code Section</i>	<i>2003 Code Section</i>
Chapter H, Article II, § 11	112.21
Chapter H, Article II, § 12	112.22
Chapter H, Article II, § 13	112.23
Chapter H, Article II, § 14	130.08
Chapter I, Article I, § 1	130.01
Chapter I, Article I, § 2	130.02
Chapter I, Article I, § 3	130.03
Chapter I, Article I, § 4	130.04
Chapter I, Article I, § 5	130.05
Chapter I, Article II, § 1	91.02
Chapter I, Article II, § 2	91.02
Chapter I, Article II, § 3	132.01
Chapter I, Article II, § 4	91.01

REFERENCES TO RESOLUTIONS

<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
—	10-19-70	T.S.O. I

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
—	--	94.03
—	--	94.99
1974-10	- -74	95.15
O-00-001	2-24-00	50.001—50.005, 50.015—50.025, 50.035—50.040, 50.050—50.056, 50.070—50.079, 50.090—50.097, 50.110—50.124, 50.135—50.141, 50.999
O-01-001	5-7-01	33.08
—	6-5-61	70.99
O-61-001	6-5-61	70.02
O-63-002	9-6-63	131.01—131.08, 131.99
—	11-3-69	130.07
O-72-004	9-4-72	153.02
O-72-006	9-4-72	94.01, 94.02, 94.04, 94.15—94.20
—	7-1-74	130.06, 130.99
O-80-003	9-8-80	32.15—32.20
O-82-003	12-6-82	111.01—111.06
O-83-002	3-7-83	90.36
O-86-003	10-6-86	95.01, 95.02, 95.16—95.21, 95.35—95.38, 95.50, 95.51, 95.99
O-88-003	8-1-88	51.01—51.07, 51.99
O-88-005	8-24-88	152.01—152.20, 152.99
O-94-006	8-1-94	92.30—92.34, 92.99
O-98-004	2-23-98	33.01—33.07
O-98-005	2-23-98	33.20—33.23
O-98-001	3-2-98	90.35, 132.03
O-98-002	3-2-98	72.26, 72.27
O-99-001	10-4-99	132.02

INDEX

INDEX

ABANDONED VEHICLES AND PROPERTY (See also PARKING; TRAFFIC)

- Abandonment, 94.02
- Definitions, 94.01
- Immunity, 94.04
- Penalty, 94.99
- Removal and Disposition
 - Costs of removal; notice to owner, 94.17
 - Disposition of proceeds, 94.19
 - Disposition of unsold vehicles and property, 94.20
 - Duty of owner to remove, 94.15
 - Removal by town, 94.16
 - Unclaimed property and vehicles; sale, 94.18
- Unattended property on streets and sidewalks unlawful, 94.03

ALCOHOLIC BEVERAGES

- Beer and wine, 130.06
- Public drunkenness, 130.05

ANIMALS

- Bird Sanctuary
 - Hunting certain birds unlawful, 95.51
 - Town declared a bird sanctuary, 95.50
- Care and Keeping
 - Chickens and other fowl; restrictions, 95.15
 - Fowl at large, 95.16
 - Grazing prohibited, 95.18
 - Hitching restricted, 95.19
 - Hogs prohibited, 95.20
 - Pigeons; confinement required, 95.17
 - Stables, 95.21
- Cruelty to animals prohibited, 95.01
- Dogs
 - Habitual barking, chasing, yard damage, 95.37
 - Prowling bitches and vicious dogs at large prohibited, 95.36
 - Running at large prohibited; impoundment, 95.38
 - Unvaccinated or untagged dogs a nuisance; impoundment, 95.35
- Impoundment of at large or improperly hitched animals, 95.02
- Penalty, 95.99

BOARD OF COMMISSIONERS**Board Meetings**

Committees, 30.03

Rules of procedure, 30.02

Time and location, 30.01

Ordinances

Appropriations, 30.17

Confined to one subject, 30.15

Official copy, 30.16

BUILDING CODES

Building Inspector, 151.01

Building permit required, 151.02

Gasoline storage tank, 151.04

Inspection of dangerous buildings or structures, 151.05

National Building Code adopted, 151.03

Owner to correct hazard, 151.06

Penalty, 151.99

BUSINESS LICENSING

Definitions, 110.01

Display required, 110.06

License required, 110.02

License required for each business location, 110.05

License required for each separate business, 110.04

License tax on certain businesses; terms, 110.03

No tax abatement, 110.07

Schedule of licenses adopted by reference, 110.08

CEMETERIES

Application, 93.01

Deed for lot, 93.03

Lot charges, 93.05

Rules of Conduct

Personal conduct, 93.35

Rubbish and waste prohibited, 93.37

Vehicles, 93.36

Structures; Maintenance

Landscaping and improvements, 93.22

Monuments and markers, 93.20

Plantings, 93.21

Structures, 93.23

CEMETERIES (Cont'd)

Superintendent; powers and duties, 93.02

Transfer or sale of lots, 93.04

Use; graves, 93.06

CHARTER**Elections**

Election of Commissioners, Charter Section 3.3

Election of Mayor, Charter Section 3.2

Regular municipal elections, Charter Section 3.1

Special elections and referenda, Charter Section 3.4

Governing Body

Compensation; qualifications for office; vacancies, Charter Section 2.7

Mayor Pro Tempore, Charter Section 2.4

Mayor; term of office; duties, Charter Section 2.3

Meetings, Charter Section 2.5

Quorum; voting, Charter Section 2.6

Town Board of Commissioners; composition; terms of office, Charter Section 2.2

Town governing body; composition, Charter Section 2.1

Incorporation, Corporate Powers and Boundaries

Corporate limits, Charter Section 1.3

Incorporation, Charter Section 1.1

Powers, Charter Section 1.2

Organization and Administration

Form of government, Charter Section 4.1

Other administrative officers and employees, Charter Section 4.5

Tax Collector, Charter Section 4.4

Town Attorney, Charter Section 4.2

Town Clerk, Charter Section 4.3

CODE OF ORDINANCES; GENERAL PROVISIONS

Application to future ordinances, 10.03

Captions, 10.04

Definitions, 10.05

Effective date of ordinances, 10.15

Errors and omissions, 10.10

General penalty, 10.99

Interpretation, 10.02

Official time, 10.11

Ordinances repealed, 10.13

Ordinances unaffected, 10.14

Ordinances which amend or supplement code, 10.17

Reasonable time; computing time, 10.12

CODE OF ORDINANCES; GENERAL PROVISIONS (Cont'd)

- Reference to offices, 10.09
- Reference to other sections, 10.08
- Repeal or modification of ordinances, 10.16
- Rules of interpretation, 10.06
- Section histories; statutory references, 10.18
- Severability, 10.07
- Title of code, 10.01

CONTRACTS AND AGREEMENTS, T.S.O. I**DEMONSTRATIONS (See PICKETING AND DEMONSTRATIONS)****FINANCE**

- Disposal of Surplus Property
 - Authority of Town Clerk, 33.20
 - Methods; greatest value, 33.21
 - Records, 33.22
 - Statutory authority, 33.23
- Purchasing
 - Application, 33.03
 - Appropriation required, 33.05
 - Authority of Town Clerk, 33.01
 - General Statutes apply, 33.06
 - Manager, McPherson Business Complex, 33.08
 - Other authority not limited, 33.04
 - Report, 33.02
 - Statutory authority, 33.07

FIRE PREVENTION

- Building Fire Hazards; Exit Requirements
 - Exit signs, 92.16
 - Fire exits; encumbrances prohibited, 92.15
 - Fire hazard accumulation, 92.18
 - Passageways and exit doors, 92.17
- Burning Regulations
 - Bonfire; permit required, 92.03
 - Burning trash, 92.02
 - Certain fires to be guarded, 92.04
 - Fire limits, 92.01
- Fireworks
 - Distribution restricted, 92.33
 - Places of public assembly; possession prohibited, 92.34

FIRE PREVENTION (Cont'd)**Fireworks**

Possession by minors restricted, 92.31

Pyrotechnics defined, 92.30

Sale restricted, 92.32

Penalty, 92.99

FIREARMS, 132.01**FLOOD DAMAGE PREVENTION**

Abrogation and greater restrictions, 150.24

Administration

Administrative procedures, 150.43

Designation of administrator, 150.40

Development permit and certification requirements, 150.41

Duties and responsibilities of the administrator, 150.42

Variance procedures, 150.44

Basis for establishing the areas of special flood hazard, 150.21

Compliance, 150.23

Definitions, 150.05

Establishment of development permit, 150.22

Findings of fact, 150.02

Interpretation, 150.25

Lands to which this ordinance applies, 150.20

Legal Status Provisions

Effect on rights and liabilities under the existing flood damage prevention ordinance, 150.70

Effect upon outstanding building permits, 150.71

Objectives, 150.04

Penalties for violation, 150.27

Provisions for Flood Hazard Reduction

General standards, 150.55

Specific standards, 150.56

Standards for subdivision proposals and major, 150.58

Standards for streams without established baseflood elevations and/or floodways, 150.57

Statement of purpose, 150.03

Statutory authorization, 150.01

Warning and disclaimer of liability, 150.26

GAME ROOMS

Definition, 111.01

Grounds for license denial, 111.03

License required, 111.02

License revocation, 111.06

GAME ROOMS (Cont'd)

Prohibited conduct, 111.04

Rules of operation, 111.05

GARBAGE AND REFUSE

Definition, 52.01

Deposit of garbage on public or private property prohibited, 52.04

Hour for placing cans, 52.06

Prompt removal required, 52.02

Removal of dead animals, 52.07

Transportation of garbage; permit required, 52.05

Wet garbage, 52.03

HEALTH AND SANITATION

Construction debris, 91.21

Enforcement; hindrance unlawful; right of entry, 91.15

Human waste, 91.18

Property to be kept clean; notice and abatement, 91.16

Removal and deposit of trees, logs and the like, 91.23

Sale of food; eating establishments, 91.20

Septic tanks restricted, 91.22

Stagnant water, 91.19

HOUSE OF ILL FAME, 130.03**LOITERING**

Loitering at night, 130.07

Loitering for drug-related activity, 132.03

Disorderly conduct or loitering, 130.01

MINIMUM HOUSING STANDARDS

Alternative remedies, 152.19

Costs, a lien on premises, 152.18

Definitions, 152.02

Duties of inspector, 152.12

Finding; purpose, 152.01

In rem action by inspector; placarding, 152.17

Inspections; duty of owners and occupants, 152.14

Methods of service of complaints and orders, 152.16

Minimum standards applicable to rooming houses; exceptions, 152.10

Minimum standards for basic equipment and facilities, 152.05

Minimum standards for control of insects, rodents and infestations, 152.09

Minimum standards for safe and sanitary maintenance, 152.08

MINIMUM HOUSING STANDARDS (Cont'd)

- Minimum standards for space, use and location, 152.07
- Minimum standards for structural condition, 152.04
- Minimum standards for ventilation, 152.06
- Minimum standards of fitness for dwellings and dwelling units, 152.03
- Penalty, 152.99
- Powers of inspector, 152.13
- Procedure for enforcement, 152.15
- Responsibilities of owners and occupants, 152.11
- Zoning board of adjustment to hear appeals, 152.20

NOISE, 91.02**PARKING (See also ABANDONED VEHICLES; TRAFFIC)****General Parking and Stopping Restrictions**

- Marked parking spaces; park within lines, 72.07
- Moving vehicle to unlawful location by non-owner prohibited, 72.10
- Obstruction of traffic prohibited, 72.02
- Park parallel to curb; exceptions, 72.04
- Parking backed to curb prohibited, 72.05
- Parking with left side to curb restricted, 72.06
- Stopping in streets prohibited; exceptions, 72.01
- Stopping, standing, or parking prohibited; no signs required, 72.09
- Taxicabs parking in one block; restrictions, 72.03
- Unlawful parking purposes, 72.08

Parking Restrictions in Designated Areas

- Designated double diagonal parking, 72.24
- Designated forty-five degree angle parking, 72.25
- Designated limited time parking zones, 72.22
- Designated no-parking zones, 72.20
- Designated restricted hours parking zones, 72.21
- Reserved stands for specific vehicles, 72.23
- Town parking lots; hours of operation, 72.26
- Town parking lots; unlawful assembly, 72.27

PICKETING AND DEMONSTRATIONS

- Noise restrictions, 131.01
- Notice requirement, 131.07
- Numbers and spacing, 131.03
- One location within a block, 131.04
- Penalty, 131.99
- Placards, 131.05
- Prohibited locations, 131.06

PICKETING AND DEMONSTRATIONS (Cont'd)

- Right-of-way obstruction; dispersal requirement, 131.08
- Sidewalk use, 131.02

PLANNING BOARD

- Annual report; budget, 32.20
- Compensation, 32.18
- Established, 32.15
- Membership; terms; vacancies, 32.16
- Organization; rules; meetings; records, 32.17
- Powers and duties, 32.19

POLICE DEPARTMENT

- Board to control, 32.02
- Chief of Police, 32.05
- Duties, 32.04
- Organization, 32.01
- Uniforms, 32.03

POOL ROOMS, 130.08**POSTING BILLS, 91.01****PROFANITY AND BOISTEROUS CONDUCT, 130.04****PURCHASING (See FINANCE)****SEWER (See WATER AND SEWER)****STREETS AND SIDEWALKS**

- Bicycles on sidewalks prohibited, 90.05
- Damage to bridges and culverts, 90.03
- Damage to lights, signs, and the like, 90.04
- Damaging implements prohibited on streets, 90.01
- Excavations and Construction
 - Excavation; barricades and lights, 90.23
 - Excavation; permit required, 90.20
 - Excavation; restoration, 90.22
 - Sidewalk construction; permit required, 90.21
- House moving, 90.02
- Maintenance
 - Depositing or burning trash prohibited, 90.50
 - Snow and ice removal, 90.52
 - Tree trimmings, 90.51

STREETS AND SIDEWALKS (Cont'd)**Obstructions**

- Assembling on sidewalk, 90.35
- Construction near sidewalk; passageway, 90.38
- Display of goods, 90.36
- Placing objects on streets and sidewalks, 90.37
- Sheds and awnings; restrictions, 90.39

Playing ball in street prohibited, 90.06

TAXICABS**Certificate of Convenience and Necessity**

- Application, 112.16
- Approval procedure; burden of proof, 112.18
- Certificate required, 112.15
- Failure to begin operations, 112.19
- Issuance, 112.17
- Multiple certificates prohibited, 112.23
- Revocation, 112.21
- Transfer restricted, 112.20
- Vehicle substitution, 112.22

Definitions, 112.01

TOWN OFFICERS AND EMPLOYEES

- Bond, 31.04
- Mayor, 31.01
- Other officers and employees, 31.03
- Town Clerk, 31.02

TRAFFIC (See also ABANDONED VEHICLES; PARKING)**Additional Driving Rules**

- Backing restricted, 71.083
- Driving on laned roadways, 71.085
- Driving on sidewalk prohibited, 71.084
- Funeral processions, 71.082
- Lights on parked vehicles, 71.086
- Moving cars from parked position, 71.087
- One-way streets, 71.081
- Speed limit, 71.080

Application to public employees, 71.004

Authority of police officers, 71.003

Authorized emergency vehicles; application and exemptions, 71.005

Definitions, 70.01

General violations, 70.02

TRAFFIC (Cont'd)**Motorcycles, Bicycles, Coasters, and the Like**

Clinging to vehicles prohibited, 71.100

Handlebar use required, 71.102

Riding on handlebars prohibited, 71.101

Roller-skates, coasters, and the like, 71.103

Obedience to police officers, 71.002

Obedience to traffic ordinances required, 71.001

Penalty, 70.99

Push carts, bicycles, and animals; application, 71.006

Riding Regulations

Boarding and alighting, 71.065

Front seat; three persons maximum, 71.069

Non-passenger areas, 71.066

Riding fully inside vehicle, 71.068

Riding or entering without permission, 71.067

Trains

Blocking crossings restricted, 71.115

Speed limit, 71.116

Stops and Yields

Emerging from alley or driveway, 71.038

Stop before entering a through street, 71.035

Stop before entering certain intersections, 71.036

Stop when traffic obstructed, 71.037

Traffic-Control Devices

Flashing signals, 71.022

Obedience required, 71.020

Signal legend, 71.021

Turning Movements

Left turns as indicated, 71.050

Restricted right or left turns, 71.051

Turning around restricted, 71.052

URINATION OR DEFECATION, PUBLIC, 132.02**VAGRANTS, 130.02****WATER AND SEWER****Administration and Enforcement**

Additional remedies, 50.137

Administrative remedies, 50.136

Confidential information, 50.135

Discharge violations; affirmative defenses, 50.140

WATER AND SEWER (Cont'd)**Administration and Enforcement (Cont'd)**

Enforcement procedures; termination of service; hearings; reinstatement, 50.141

Publication of significant noncompliance, 50.139

Rates and charges adopted by reference, 50.142

Remedies not exclusive, 50.138

Application of regulations, 50.005**Board of Commissioners to control; Administrator, 50.004****Construction and Connections**

Common connections on one lot; requirements, 50.022

Connection permit required; application; rejection; inspection, 50.016

Costs borne by owner, 50.018

Excavation and backfill, 50.024

Minimum standards of sewers, 50.021

Notice to town, 50.025

Old building sewers, 50.020

Separate building sewer required; exception, 50.019

Sewer size and slope; grades; drain elevation; connection angle, 50.023

System alteration; permit required, 50.017

Use of public sewers required, 50.015

Definitions and abbreviations, 50.002**Industrial Users; Reporting Requirements; Compliance Monitoring**

Analysis and sampling techniques; national standards, 50.118

Baseline monitoring reports, 50.110

Categorical pretreatment standard deadline; compliance reports, 50.112

Changed conditions; report required, 50.114

Compliance schedule; progress reports, 50.111

Inspection and sampling; right of entry, 50.123

Monitoring facilities, 50.122

Notice of violation required; repeat sampling and report, 50.117

Periodic compliance reports, 50.113

Potential problems; notification and report required, 50.115

Record keeping requirements, 50.121

Sample collection techniques, 50.119

Search warrants, 50.124

Submission dates, 50.120

Unpermitted users; reporting requirements, 50.116

Industrial Wastewaters; Permits

Conditions, 50.094

Expiration, 50.095

Nontransferable, 50.096

Permit modification procedures, 50.093

Reissuance procedure, 50.097

WATER AND SEWER (Cont'd)**Industrial Wastewaters; Permits (Cont'd)**

Significant industrial user permit, 50.091

Wastewater discharge permit application; evaluation; hearings, 50.092

Wastewater discharger; permit required, 50.090

Interpretation, 50.003

Penalty, 50.999

Private Sewage Disposal

Inspection requirements, 50.036

Operation and maintenance requirements, 50.039

Permit required, 50.035

Public sewer available; connection requirement, 50.038

Requirements not exclusive, 50.040

Standards, 50.037

Purpose and policy; statutory authority, 50.001

Service Line Use Requirements; Discharges

Accidental discharge and sludge control plans, 50.078

Dilution not a pretreatment substitute, 50.076

Disposal of unacceptable waste, 50.074

Hauled wastewater; permit required; analysis and reporting, 50.079

National categorical pretreatment standards; application, 50.072

Prohibited activities, 50.070

Right of rejection; service discontinuance, 50.075

Sanitary sewers; prohibited discharges, 50.071

Wastewater pretreatment; requirements, 50.077

Wastewater; local limits, 50.073

Water and Sewer Service Extensions

Dedication of extensions; town to control, 50.056

Extension to developed property in town, 50.051

Extension within new developments in town, 50.052

Extensions by other than town personnel; requirements; disclaimer, 50.054

Extensions outside of town, 50.053

Service to property in town; general policy, 50.050

Work by others; inspection by town, 50.055

WATER CONSERVATION

Declaration of water shortage, 51.02

Lifting of restrictions, 51.06

Penalty, 51.99

Purpose, 51.01

Stage I water shortage; publication; voluntary measures, 51.03

Stage II water shortage; compliance required; required measures, 51.04

Stage III water shortage; compliance required; additional measures, 51.05

Violations; discontinuance of water service, 51.07

WEEDS, 91.17

ZONING

Mobile homes and trailers prohibited in residential district, 153.02

Zoning code adopted by reference, 153.01

