

**TOWN OF BOONVILLE,
NORTH CAROLINA**

CODE OF ORDINANCES

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PUBLISHER'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 state league, the citizens of this municipality, and members of the business community.

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

AMERICAN LEGAL PUBLISHING CORPORATION

Stephen G. Wolf, Esq.
President

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BOONVILLE, NORTH CAROLINA TABLE OF CONTENTS

CHARTER

Chapter

TITLE I: GENERAL PROVISIONS

- 10. General Provisions

TITLE III: ADMINISTRATION

- 30. Town Officials
- 31. Town Employees
- 32. Town Policies
- 33. Code of Ethics

TITLE V: PUBLIC WORKS

- 50. Garbage and Recycling
- 51. Water
- 52. Sewers; Wastewater Discharge Pollution Abatement

TITLE VII: TRAFFIC CODE

- 70. Speed Regulations
- 71. Traffic Control Signs
- 72. Parking Regulations
- 73. Gasoline Powered Vehicles on Sidewalks
- 74. Traffic Schedules
- 75. Parking Schedules

TITLE IX: GENERAL REGULATIONS

- 90. Noise
- 91. Open Burning
- 92. Weeds
- 93. Streets and Sidewalks
- 94. Animal Control

TITLE XI: BUSINESS REGULATIONS

- 110. Business/Privilege Licensing
- 111. Peddling and Soliciting
- 112. Yard Sales
- 113. Places of Amusement

Boonville - Table of Contents**TITLE XIII: GENERAL OFFENSES**

- 130. General Offenses
- 131. Weapons

TITLE XV: LAND USAGE

- 150. Minimum Housing Code
- 151. Property Numbering System
- 152. Zoning

TABLE OF SPECIAL ORDINANCES

Table

- I. Annexations
- II. Franchises
- III. Streets; Dedications and Closings
- IV. Zoning

PARALLEL REFERENCES

References to North Carolina General Statutes
References to Resolutions
References to Ordinances

INDEX

CHARTER

CHARTER

1895 Private Laws, Chapter 44

An act to incorporate the town of Boonville in Yadkin county.

Section

- | | |
|--------|--|
| 1 | Incorporated; corporate name; corporate restrictions |
| 2 | Corporate limits |
| 3 | Officers; temporary officers |
| 4 | Elections; qualifications of electors |
| 5 | By-laws; taxation |
| 6 | Intoxicating liquors not to be sold except by act of commissioners |
| 7 | Election officers |
| 8 | Collection of taxes |
| 9 | Taxation |
| 10 | Streets; consideration of land |
| 11 | Oath of officers |
| 12 | Power and duty of mayor |
| 13 | Vacancies in office; how filled; mayor pro tem |
| 14 | Unpaid fines to be worked out on streets |
| 14-1/2 | Application of general municipal law to Town of Boonville |
| 15 | Regulating the presentation of claims |
| 16 | Ratified |

§ 1 INCORPORATED; CORPORATE NAME; CORPORATE RESTRICTIONS.

That the town of Boonville in Yadkin county be and the same is hereby incorporated by the name and style of the town "Boonville," and it shall be subject to all the provisions of law corporate now existing in regard to incorporated towns.

§ 2 CORPORATE LIMITS.

The corporate limits of said town shall be as follows: Beginning at a white oak in front of J. H. Fleming's dwelling house at the cross street, one-half mile in every direction from said white oak.

§ 3 OFFICERS; TEMPORARY OFFICERS.

That the officers of said town shall consist of mayor, marshal and five commissioners, and the following named persons shall fill said offices till the first Monday in May, one thousand eight hundred and ninety-five (1895), viz.: Mayor, J. M. Jones; commissioners, M. L. Woodhouse, J. D. Hays, M. M. Crumel, S. H. Wilmoth and E. D. Peck; and for marshal, John Mock.

§ 4 ELECTIONS; QUALIFICATIONS OF ELECTORS.

Sec. 1 (a) At the regular municipal election in the Town of Boonville in 1983, there shall be elected a board of town commissioners consisting of five members. The three persons receiving the highest number of votes shall be elected to four-year terms. The two persons receiving the next highest number of votes shall be elected to two-year terms. In 1985 and quadrennially thereafter, two commissioners shall be elected for four-year terms. In 1987 and quadrennially

thereafter, three commissioners shall be elected for four-year terms.

Sec. 1 (b) At the regular municipal election in 1983, a mayor shall be elected for a two-year term. In 1985 and quadrennially thereafter, a mayor shall be elected for a four-year term.

Sec. 1 (c) Elections in the Town of Boonville shall be conducted in accordance with Chapter 163 of the General Statutes, and the results determined by the plurality method as provided in G.S. 163-292.

Sec. 2 This act shall become effective beginning with the 1983 municipal elections. It shall not affect the current two-year terms of office of the commissioners elected in 1981.

(H.B. 1511, Chapter 1143; ratified by the North Carolina General Assembly (1981 Session) on 6-11-1982)

§ 5 BY-LAWS; TAXATION.

That the said commissioners shall have power to form all by-laws, rules and regulations for the good government of the town, not inconsistent with the laws of the State and United States, and levy and collect a tax on all subjects of State taxation, not to exceed fifty cents on the poll and fifteen cents on the hundred dollars' worth of property, both real and personal, and to impose fines and penalties and collect the same.

§ 6 INTOXICATING LIQUORS NOT TO BE SOLD EXCEPT BY ACT OF COMMISSIONERS.

That there shall be sold no intoxicating liquors of any kind within the corporate limits, except by the act of the commissioners.

§ 7 ELECTION OFFICERS.

The said board of commissioners shall appoint a registrar thirty days preceding each election and three

judges of election. The said registrar shall register all voters within the corporate limits and hold said election in the same manner as elections are held for members of the general assembly.

§ 8 COLLECTION OF TAXES.

That the commissioners shall have power to collect all taxes by levy and sale of property. Taxes shall in no case be allowed to run over one year.

§ 9 TAXATION.

The commissioners shall have power to levy sufficient tax to keep up the public interests of the town.

§ 10 STREETS; CONSIDERATION OF LAND.

That the commissioners shall have power to open, from time to time, all new streets as they may deem necessary, it being for the public good, and shall have power to condemn any land or lands they may deem necessary for the general welfare of the people of said town, first giving the owner or owners five days' notice.

§ 11 OATH OF OFFICERS.

All elected officers shall take the usual oath of office before entering on the duties of the office.

§ 12 POWER AND DUTY OF MAYOR.

That the mayor shall be the chief executive officer and shall have the same jurisdiction as magistrates, and shall have the power to enforce all laws by fines and imprisonments; and he shall keep a minute of all precepts by him issued, and all judicial proceedings held before him, and shall have for his services the same fees allowed a justice of the peace.

§ 13 VACANCIES IN OFFICE; HOW FILLED; MAYOR PRO TEM.

That the commissioners may fill all vacancies in any of the offices in said town. That in case of sickness or absence of the mayor, the commissioners may elect a mayor *pro tempore*, who shall act in place of the mayor during his sickness or absence.

§ 14 UNPAID FINES TO BE WORKED OUT ON STREETS.

That the mayor shall have power to cause all persons failing to pay their fines, to work it out on the streets; the commissioners adopting the price.

§ 14-1/2 APPLICATION OF GENERAL MUNICIPAL LAW TO TOWN OF BOONVILLE.

Except as may be otherwise provided in this Act, all the provisions of Chapter 160 of the General Statutes of North Carolina are made applicable to the Town of Boonville in Yadkin County.
(H.B. 533, Chapter 363; ratified by the North Carolina General Assembly on 3-16-1949)

§ 15 REGULATING THE PRESENTATION OF CLAIMS.

All claims or demands against the Town of Boonville arising in tort shall be presented to the governing body of the Town or the Mayor, in writing, signed by the claimant, his attorney or agent, within ninety days after the claim or demand is due or the cause of action arose. No suit or action shall be brought within ten days or after the expiration of twelve months from the time the claim is presented. If the claim is not presented within ninety days after the claim or demand is due or the cause of action arose, and if suit is not instituted within twelve months thereafter, the claim and action thereon shall be barred.

This act shall apply to claims and actions arising after the ratification of this act.

(H.B. 693, Chapter 223; ratified by the North Carolina General Assembly (1973 Session) on 4-17-1973)

§ 16 RATIFIED.

That this act shall be in force from and after its ratification.

Ratified this the 19th day of February, 1895.

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 code; effect of new ordinances
- 10.18 Section histories; statutory references
- 10.99 General penalty

§ 10.01 TITLE OF CODE.

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

§ 10.02 INTERPRETATION.

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

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

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

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

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

COMPUTATION OF TIME. The time within which an act is to be done shall be computed by

excluding the first and the last day; and if the last day is Saturday, Sunday or a legal holiday, that day shall be excluded.

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

COUNTY. The County of Yadkin, North Carolina.

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

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

GOVERNOR. The Governor of North Carolina.

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

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

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

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

OFFICIAL TIME STANDARD. Whenever certain hours are named in this code, they shall mean

standard time or daylight saving time as may be in current use in this town.

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

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

PERSONAL PROPERTY. Every species of property except real property.

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

PROPERTY. Includes real and personal property.

REAL PROPERTY. Includes lands, tenements and hereditaments.

SHALL. The act referred to is mandatory.

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

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

STATE. The State of North Carolina.

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

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter

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

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

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

TOWN. The Town of Boonville, in the County of Yadkin, North Carolina.

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

YEAR. A calendar year, unless otherwise expressed.

ZONING ENFORCEMENT OFFICER. One designated by the Council.

Statutory reference:

Computation of time, see G.S. § 1-593

§ 10.06 RULES OF INTERPRETATION.

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

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

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

(C) *Gender; singular and plural; tenses*. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the

singular shall include the plural and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

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

§ 10.07 SEVERABILITY.

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

§ 10.08 REFERENCE TO OTHER SECTIONS.

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

§ 10.09 REFERENCE TO OFFICES.

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

§ 10.10 ERRORS AND OMISSIONS.

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

manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.11 OFFICIAL TIME.

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

§ 10.12 REASONABLE TIME; COMPUTING TIME.

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

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

§ 10.13 ORDINANCES REPEALED.

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

§ 10.14 ORDINANCES UNAFFECTED.

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

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

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

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

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

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

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

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

(7) Any appropriation ordinance;

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

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

(10) Any zoning ordinance or zoning map amendment;

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

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

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

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

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

(16) Any personnel ordinance.

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

Statutory reference:

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

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

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

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCES.

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

(B) No suit, proceedings, right, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully

as if the ordinance had continued in force unless it is otherwise expressly provided.

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

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

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

(B) Amendments to any of the provisions of the code shall be made by amending provisions by specific reference to the section number of this code in language substantially similar to the following: "Section _____ of the Code of Ordinances, Town of Boonville, 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 Boonville, 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, chapters or provisions desired to be repealed must be specifically repealed by section or chapter number, as the case may be.

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance and amending ordinances, if any, are listed following the text of the code section.

Example:

(Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(B) (1) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute.

Example:

(G.S. § 160A-11)

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

§ 39.01 PUBLIC RECORDS AVAILABLE.

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

Statutory reference:

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

§ 10.99 GENERAL PENALTY.

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

(G.S. § 14-4(a))

Statutory reference:

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

TITLE III: ADMINISTRATION

Chapter

- 30. TOWN OFFICIALS**
- 31. TOWN EMPLOYEES**
- 32. TOWN POLICIES**
- 33. CODE OF ETHICS**

CHAPTER 30: TOWN OFFICIALS

Section

- 30.01 Police Department and Alcoholic Beverage Control Commission
- 30.02 Adopting Council-Manager form of government

(B) This section shall be effective only upon approval by a vote of the people. A special election for the purpose of submitting the ordinance to a vote shall be held as provided by resolution also adopted this day.
(Ord. 117, passed 8-5-1997)

§ 30.01 POLICE DEPARTMENT AND ALCOHOLIC BEVERAGE CONTROL COMMISSION.

(A) The Police Department shall be authorized to seek state access to SBI/DCI criminal history record information to obtain criminal history information on all persons applying for ABC permits for proposed locations within the town.

(B) Notices to the town should be mailed or delivered to the official designated above at the following address:

P.O. Box 326
110 Carolina Avenue North
Boonville, North Carolina 27011
(Res. passed 3-12-2012; Ord. passed 9-26-2013)

§ 30.02 ADOPTING COUNCIL-MANAGER FORM OF GOVERNMENT.

(A) Pursuant to G.S. §§ 160A-101 and 160A-102, the Charter of the town, as set forth in Chapter 44 of the 1895 Private Laws of North Carolina, as amended, is hereby further amended to provide that the town shall operate under the Council-Manager form of government in accordance with G.S. Chapter 160A, Part 2 of Article 7 and any Charter provisions not in conflict therewith.

CHAPTER 31: TOWN EMPLOYEES

Section

- 31.01 Safety policy
- 31.02 Claims and judgments sought or entered against town officers or employees

good housekeeping practices and safe working conditions. Supervisors should conduct regularly scheduled inspections of their work places to identify hazards. Corrective actions shall be initiated to control unsafe acts, conditions or procedures;

§ 31.01 SAFETY POLICY.

(A) The town considers the safety of its employees a major responsibility. Constant endeavor shall be made to provide safe working habits and conditions. It is recognized that accident control can only be successful when adequate stimulation comes from the Mayor and Town Council, adequate coordination and advice comes from staff members, supervisors accept safety responsibilities, and employees participate in the elimination of unnecessary suffering.

(B) The keys to the safety program are:

(1) The designation of a responsible employee in a position as safety coordinator;

(2) Support from management and supervisory personnel in the prevention of accidents and the implementation of this policy;

(3) Supervisors conducting regularly scheduled safety meetings with employees;

(4) Investigation of all accidents resulting in injuries that require medical attention to determine causes of the accidents and remedial actions required to prevent recurrence;

(5) Supervisors being responsible for the safe condition of assigned equipment and materials,

(6) Accident prevention principles being incorporated in new employee orientation training and being a part of ongoing training programs for all employees. Supervisors will train employees to use safe work practices;

(7) The department heads, with the assistance of the safety coordinator, shall analyze hazardous working conditions and develop standard operating procedures to ensure that the hazardous conditions practices are minimized and that safe work practices are used;

(8) Use of protective equipment by employees to reduce the probability of injury; and

(9) All employees being charged with the responsibility for making safety a daily concern. This responsibility must be accepted by everyone, regardless of their position in the organization.

(C) The safety rules and regulations were developed for the protection of town employees, suppliers and customers and the town will insist on safe methods and practices at all times.

(D) Furthermore, all subcontractors, service contracts and purchase orders issued contain the requirements of the town safety policy, rules and procedures. The town will make every effort to ensure that other parties' activities pose no danger to town employees.

(E) However, all employees are asked to report immediately any such hazardous activities or conditions to their supervisor.

(F) With the adoption of this policy by the Town Council, the Town Council does repeal any other policies which is inconsistent with this policy.

(G) This policy shall be in full force and effect from June 28, 1994.
(Ord. 99, passed 6-28-1994)

§ 31.02 CLAIMS AND JUDGMENTS SOUGHT OR ENTERED AGAINST TOWN OFFICERS OR EMPLOYEES.

(A) It shall be the policy of the town to defend its officers and employees against civil claims and judgments, and to satisfy the same either through insurance or otherwise, unless it is determined that the officer or employee willfully:

(1) Acts or fails to act because of actual fraud, corruption or actual malice;

(2) Acts or fails to act as a result of, or at a time when, his or her own self-indulgence substantially impaired his or her judgment (as, for example, an officer or employee who causes damage or injury while intoxicated or under influence of drugs while on the job);

(3) Acts or fails to act, except in emergencies or the existence of extenuating circumstances, directly contrary to instructions from his or her superiors, or directly contrary to advice of the Town Attorney; or

(4) Acts or fails to act in such manner as to constitute a criminal act involving moral turpitude.

(B) The Town Council or its designee shall determine whether or not a claim or suit filed against an officer or employee meets the requirements specified herein for providing the costs of legal defense for such officer or employee.

(C) The term **OFFICER** as used in this section shall include, but not be limited to, the following (whether paid for their services or not and whether full time or part time):

(1) The Mayor;

(2) The members of the Town Council;

(3) Any other elected officials; and

(4) Any other persons that can reasonably be considered as an officer of the town.

(D) The term **EMPLOYEE** as used in this section shall include, but not be limited to, the following (whether paid for their services or not and whether full time or part time);

(1) The Town Attorney;

(2) Any other attorney that may be employed or retained by the town;

(3) The Town Clerk;

(4) The Zoning Enforcement Officer;

(5) The Chief of Police;

(6) All town police officers (regular or auxiliary);

(7) The Fire Chief;

(8) All town firefighters;

(9) The Building Inspector;

(10) All members of town boards and committees and all individuals that are appointed by the Mayor or the Town Council;

(11) All other parties that are paid salaries for labor or services rendered for the town; and

(12) Any other person that can reasonably be considered as an employee of the town.

(E) This section shall not be interpreted in any way to release any insurance company of its obligations under any insurance policy to protect the interests of any insured under said policy or to reduce or eliminate the rights of any officer or employee of the town against any other party.

(F) The Town Council, pursuant to the standards herein set forth, shall determine whether or not a claim or judgment entered against an officer or employee shall be paid by the town.

(G) The terms *OFFICER* and *EMPLOYEES* as used herein shall mean present or past officers or employees who might hereafter have claims or judgments entered against them.

(H) The policies specified herein shall not be applicable unless notice of the claim or suit is given to the Town Council through the Town Clerk or Town Attorney prior to the time the claim is settled or civil suit is litigated and judgment is entered.

(I) This section shall become effective upon adoption and shall constitute uniform standards under which claims made or civil judgments entered against officers or employees of the town shall be paid and the costs of legal defense for officers and employees of the town shall be paid. A copy of this section shall be maintained in the office of the Town Clerk for public inspection during all normal, business hours.

(Res. 31, passed - -)

CHAPTER 32: TOWN POLICIES

Section

Smoking in Town Buildings

- 32.01 Authority
- 32.02 Smoking prohibited
- 32.03 Smoking areas
- 32.04 No smoking signs

equipment or paraphernalia in any building owned by or leased by the town, its departments or agencies. (Ord. 126, passed 8-4-1998) Penalty, see § 32.99

§ 32.03 SMOKING AREAS.

Smoking will be permitted outside any building owned or leased by the town. (Ord. 126, passed 8-4-1998)

Mutual Aid and Assistance by the Police Department

- 32.15 Policy

Multi-Jurisdictional Hazard Mitigation Plan

- 32.30 Adoption
- 32.99 Penalty

§ 32.04 NO SMOKING SIGNS.

In a town owned or town leased buildings where smoking is prohibited pursuant to this subchapter, there shall be conspicuously displayed in or on such buildings appropriate signs reading "Smoking Prohibited By Law." (Ord. 126, passed 8-4-1998)

SMOKING IN TOWN BUILDINGS

§ 32.01 AUTHORITY.

This subchapter is enacted pursuant to the provisions of G.S. § 160A-174 as an exercise of the police power to protect, promote and preserve the public health, welfare and safety of all town employees who work in town owned or town occupied buildings and of all members of the public who visit those buildings.

(Ord. 126, passed 8-4-1998)

§ 32.02 SMOKING PROHIBITED.

No person shall smoke, carry or possess a lighted cigar, cigarette, pipe or other lighted smoking

MUTUAL AID AND ASSISTANCE BY THE POLICE DEPARTMENT

§ 32.15 POLICY.

(A) The Chief of Police of the town is hereby authorized to enter into mutual assistance arrangements with other municipal and county law enforcement agencies provided that the head of the requesting law enforcement agency requests assistance in writing.

(B) The Chief of Police of the town is hereby authorized to permit officers of the Police Department of the town to work temporarily with officers of the

requesting agency, including in an undercover capacity; and the Chief of Police of the town may lend such equipment and supplies under his or her control to requesting agencies as he or she deems advisable.

(C) All such requests and authorizations shall be in accordance with G.S. § 160A-288, and officers assigned pursuant to such requests shall, for personnel and administrative purposes, and for purposes of pay, remain under the control of the Police Department of the town, and shall be entitled to workers' compensation and the said benefits as though the officer were functioning within the normal scope of duties; and, while working with a requesting agency, the Chief of Police or other police officers of the town shall have the same jurisdiction, powers, rights, privileges and immunities as the officers of the requesting agency.

(D) Pursuant to G.S. §§ 153A-212 and 160A-288, the Chief of Police of the town is hereby authorized to request in writing such assistance from other law enforcement agencies as he or she deems beneficial for the safety of the citizens of the town, including additional officers and supplies as may be agreed upon between the respective heads of such agencies.

(E) All officers who are assigned to the Police Department of the town from another law enforcement agency shall remain under the control of the sending agency for the purpose of personnel and administration and for purposes of pay; however, said officers shall be subject to the lawful commands of any superior officer of the Police Department of the town as provided in G.S. § 160A-288.
(Res. 33, passed - -)

MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN

§ 32.30 ADOPTION.

The Town Council hereby:

(A) Adopts the Yadkin County Multi-Jurisdictional Hazard Mitigation Plan;

(B) Vests the Mayor with the responsibility, authority and the means to:

(1) Inform all concerned parties of this action;

(2) Cooperate with federal, state and local agencies and private firms which undertake to study, survey, map and identify floodplain or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining floodplain and/or flood-related erosion areas in order to prevent aggravation of existing hazards; and

(3) Adjust the boundaries of county and municipal planning jurisdictions whenever a municipal annexation or extraterritorial jurisdiction revision results in a change whereby a municipality assumes or relinquishes the authority to adopt and enforce floodplain management regulations for a particular area in order that all flood hazard boundary maps (FHBMs) and flood insurance rate maps (FIRMs) accurately represent the planning jurisdiction boundaries. Provide notification of boundary revisions along with a map suitable for reproduction, clearly delineating municipal corporate limits and extraterritorial jurisdiction boundaries to all concerned parties.

(C) Appoints the Town Mayor to assure that the Hazard Mitigation Plan is reviewed annually and in greater detail at least once every five years to assure that the Plan is in compliance with all state and federal regulations and that any needed revisions or amendments to the Plan are developed and presented to the Town Council for consideration; and

(D) Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the Hazard Mitigation Plan.
(Res. passed 12-12-2011)

§ 32.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Smoking in town buildings.* Any person violating the provisions of §§ 32.01 through 32.04 shall be guilty of a Class 3 misdemeanor and upon convictions, shall be punished by a fine not to exceed \$50 or imprisonment of not more than 30 days, in the discretion of the court, in accordance with the provisions of G.S. § 14-4(a).
(Ord. 126, passed 8-4-1998)

CHAPTER 33: CODE OF ETHICS

Section

- 33.01 Preamble
- 33.02 General principles
- 33.03 Code of Ethics

independence, yet is responsive to the interests and needs of those they represent.

(D) Council members must always remain aware that at various times they play different roles:

§ 33.01 PREAMBLE.

(A) G.S. § 160A-86 requires local governing boards to adopt a Code of Ethics.

(B) As public officials, town officials are charged with upholding the trust of the citizens of this town, and with obeying the law.

(C) Therefore, in recognition of our blessings and obligations as citizens of the state and as public officials representing the citizens of the town, and acting pursuant to the requirements of G.S. § 160A-86, the Town Council adopts the following general principles and Code of Ethics to guide the Town Council in its lawful decision making.
(Res. passed 1-4-2011)

(1) As advocates, who strive to advance the legitimate needs of their citizens;

(2) As legislators, who balance the public interest and private rights in considering and enacting ordinances, orders and resolutions; and

(3) As decision-makers, who arrive at fair and impartial quasi-judicial and administrative determinations.

(E) Council members must know how to distinguish among these roles, to determine when each role is appropriate and to act accordingly.

(F) Council members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.
(Res. passed 1-4-2011)

§ 33.02 GENERAL PRINCIPLES.

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

(B) Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.

(C) Council members must be able to act in a manner that maintains their integrity and

§ 33.03 CODE OF ETHICS.

(A) The purpose of this Code of Ethics is to establish guidelines for an ethical standard of conduct for the Town Council and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a Council member's best judgment.

(B) (1) Council members should obey all laws applicable to their official actions as members of the Council. Council members should be guided by the spirit as well as the letter of the law in whatever they do.

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

(3) Council members should endeavor to keep up to date, through the Town Attorney and other sources, about new or ongoing legal or ethical issues they may face in their official positions. This educational function is in addition to the day to day legal advice the Council may receive concerning specific situations that arise.

(C) Council members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

(1) Adhering firmly to a code of sound values;

(2) Behaving consistently and with respect toward everyone with whom they interact;

(3) Exhibiting trustworthiness;

(4) Living as if they are on duty as elected officials regardless of where they are or what they are doing;

(5) Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner;

(6) Remaining incorruptible, self-governing and unaffected by improper influence while at the

same time being able to consider the opinions and ideas of others;

(7) Disclosing contracts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves;

(8) Treating other Council members and the public with respect and honoring the opinions of others even when the Council members disagree with those opinions;

(9) Not reaching conclusions on issues until all sides have been heard;

(10) Showing respect for their offices and not behaving in ways that reflect badly on those offices;

(11) Recognizing that they are part of a larger group and acting accordingly; and

(12) Recognizing that individual Council members are not generally allowed to act on behalf of the Council but may only do so if the Council specifically authorizes it, and the Council must take official action as a body.

(D) Council members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. Although opinions may vary about what behavior is inappropriate, this Council will consider impropriety in terms of whether a reasonable person who is aware of all the relevant facts and circumstances surrounding the Council member's action would conclude that the action was inappropriate.

(E) If a Council member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the Town Attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the Attorney).

(F) (1) Council members should faithfully perform the duties of their offices. They should act as

the especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned. Council members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them, mindful of the need not to engage in communications outside the meeting in quasi-judicial matters. They should demand full accountability from those over whom the Council has authority.

(2) Council members should be willing to bear their fair share of the Council's workload. To the extent appropriate, they should be willing to put the Council's interests ahead of their own.

(G) (1) Council members should conduct the affairs of the Council in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to Council members or their employees.

(2) In order to ensure strict compliance openness, Council members should make clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps to make certain that any closed sessions held by the Council are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

(Res. passed 1-4-2011)

TITLE V: PUBLIC WORKS

Chapter

- 50. GARBAGE AND RECYCLING**
- 51. WATER**
- 52. SEWERS; WASTEWATER DISCHARGE POLLUTION
ABATEMENT**

CHAPTER 50: GARBAGE AND RECYCLING

Section

General Provisions

- 50.001 Definitions
- 50.002 Regulations

Garbage/Recycling

- 50.015 Residential guidelines
- 50.016 Commercial guidelines

Electronics Collection and Recycling

- 50.030 Policy

Bulk Item Pick-Up

- 50.045 Policy
- 50.046 Acceptable items
- 50.047 Nonacceptable items

Recycling Collection

- 50.060 Policy
- 50.061 Guidelines
- 50.062 Acceptable and nonacceptable materials

Yard Waste Collection (Leaves and Brush)

- 50.075 Late fall leaf collection
- 50.076 Late fall leaf collection; guidelines
- 50.077 Brush collection
- 50.078 Brush collection; guidelines
- 50.999 Penalty

GENERAL PROVISIONS

§ 50.001 DEFINITIONS.

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

***ELECTRONICS* and *ELECTRONIC DEVICES*.**

Products that are wholly or partially controlled by electronic circuitry, computers or logic boards. For the purposes of this policy, ***ELECTRONIC DEVICES*** include, but are not limited to, cellular phones, televisions, computers, printers, monitors and white goods (stoves, washers, dryers and the like) controlled by electronics.

GARBAGE*.** Unwanted or useless material that is discarded. Also known as ***WASTE, TRASH, REFUSE, JUNK, RUBBISH and ***LITTER***.

***RECYCLABLES*.** Products that are reusable and reclaimable, such as printed materials, corrugated cardboard, plastics, glass and metals as further described within this chapter.

***YARD WASTE*.** Discarded plant material, such as grass clippings, weeds, garden debris, leaves and brush.
(Ord. passed 12-12-2011; Ord. passed 6-18-2012)

§ 50.002 REGULATIONS.

All customers of town sanitation services are subject to the following regulations pertaining to

garbage/trash collection, electronics collection/recycling, spring/fall clean-up, recycling collection and yard waste collection:
(Ord. passed 12-12-2011; Ord. passed 6-18-2012)

GARBAGE/RECYCLING

§ 50.015 RESIDENTIAL GUIDELINES.

(A) Household garbage will be collected curbside only by the town contractor.

(B) The town contractor will provide 96-gallon roll-out carts to residential customers.

(C) Carts should be placed at the curb for collection no later than 7:00 a.m. on collection day.

(D) Residential solid waste collection will normally occur once per week on Tuesday unless otherwise notified.

(E) All garbage must be placed in the contractor-provided cart and the lid must be able to be completely closed.

(F) Carts should be placed in a location that is readily accessible to the town contractor and its equipment, not to exceed five feet from the curb or edge of the traveled portion of the road or street.

(G) Carts should be placed so they face the street (handles facing the house) and three feet away from any fixed object (other carts, mailboxes and the like).

(H) No additional cans or bags are allowed for collection unless the resident contracts with the town contractor for an additional can.

(I) All trash carts must be removed from curbside and out of view of the public by 7:00 p.m. the day of collection.

(J) It is unlawful to bring garbage into town limits or to allow such outside garbage.
(Ord. passed 12-12-2011; Ord. passed 6-18-2012)
Penalty, see § 50.999

§ 50.016 COMMERCIAL GUIDELINES.

(A) Garbage will be collected at designated areas at each business approved by the Town Public Works Director. The determination of "commercial" or "residential" is at the discretion of the Public Works Director.

(B) Commercial establishments will be collected once per week on Tuesday.

(C) Commercial establishments having more than four standard 32-gallon trash cans are required to use a dumpster and external collection service/vendor at the their own expense.

(D) It is unlawful to bring garbage into the town limits or to allow such outside garbage.
(Ord. passed 12-12-2011; Ord. passed 6-18-2012)
Penalty, see § 50.999

ELECTRONICS COLLECTION AND RECYCLING

§ 50.030 POLICY.

(A) Effective July 1, 2011, the state no longer allows electronic devices to be placed in landfills, so the town isn't permitted to collect residential and commercial garbage containing electronics. However, these items can be taken to the county's landfill free of charge and placed in designated collection areas specifically for electronics recycling. The landfill is located at 1149 Landfill Road (off Stigartown Road) in Yadkinville and its number is 336-961-6200.

(B) The town policy is to provide a drop-off location at the Town Hall for small electronic devices as a convenience to citizens. Cellular phones and electronics that don't exceed the size of a laptop computers fit this criteria. The town contracts for other recycling services and it offers this service for small devices.

(C) Electronic devices and appliances larger than laptop computers such as, but not limited to, televisions, stoves, washers, dryers, desktop computers, printers and computer monitors are prohibited from inclusion with regular solid waste/garbage collection. Please do not place these curbside as they will not be collected as part of weekly solid waste collection.
(Ord. passed 12-12-2011; Ord. passed 6-18-2012)

BULK ITEM PICK-UP

§ 50.045 POLICY.

(A) The third Monday of each month the town will collect bulk items to be disposed of or recycled at the county's landfill. The intent is to offer this town service to help citizens with their disposal needs and to help keep the town clean and attractive. It is not intended for the large-scale disposal of commercial waste or industrial equipment.

(B) Total collected items may not exceed an area of eight feet in length by six feet in width by six feet in height.

(C) Collected items must be manageable enough for reasonable collection and transport and the town reserves the right to refuse any collection at its discretion.

(D) All material to be collected must be curbside by noon on Friday of the pick-up week.
(Ord. passed 12-12-2011; Ord. passed 6-18-2012; Ord. passed 9-26-2013)

§ 50.046 ACCEPTABLE ITEMS.

Acceptable items:

(A) Non-food household items that would not otherwise be taken with normal collections of recycling, garbage, yard waste and brush;

(B) Furniture items: large furniture must be dismantled prior to collection such that two individuals can load and unload the furniture from the collection vehicle;

(C) Glass windows and doors: items with large expanses of glass must have glass taped with an "X" mark to prevent shattering;

(D) Air conditioners;

(E) White goods (stoves, washers, dryers and the like);

(F) Automotive tires (up to four maximum and off rims); and

(G) Automotive parts.
(Ord. passed 12-12-2011; Ord. passed 6-18-2012)

§ 50.047 NONACCEPTABLE ITEMS.

Nonacceptable items:

(A) Industrial equipment or commercial waste related to the operation of a business;

(B) Items that are the consequence of a fire at a business or residential structure;

(C) Hazardous materials, including but not limited to:

- (1) Hazardous waste or liquids;
- (2) Batteries;
- (3) Propane tanks;

(4) Roofing materials;

(5) Oxygen tanks and other medical equipment; and

(6) Parts of campers, boats, trailers or camper shells.

(D) Motor vehicles:

(E) Animal carcasses; and

(F) Any item deemed unacceptable by collections employees.

(Ord. passed 12-12-2011; Ord. passed 6-18-2012)

(F) Recyclable items should not be bagged. Only shredded paper can be bagged in a clear plastic bag to verify contents.

(G) Carts should be placed in a location that is readily accessible to the town contractor and its equipment, not to exceed five feet from the curb or edge of the traveled portion of the road or street.

(H) Carts should be placed so they face the street (handles facing the house) and three feet away from any fixed object (other carts, mailboxes and the like).

(I) All recycle carts must be removed from curbside and out of view of the public by 7:00 p.m. the day of collection.

(J) It is unlawful to bring recyclables into the town limits or to allow such outside recyclables.

(K) Recycle carts contaminated with garbage or unaccepted items will be tagged, reported to the town and not collected.

(Ord. passed 12-12-2011; Ord. passed 6-18-2012)
Penalty, see § 50.999

RECYCLING COLLECTION

§ 50.060 POLICY.

The town currently contracts with a town contractor to provide curbside recycling of select items for all in-town households and businesses. Recycling is collected every other Monday and a printed schedule is available at the Town Hall.
(Ord. passed 12-12-2011; Ord. passed 6-18-2012)

§ 50.061 GUIDELINES.

(A) Residential recyclables will be collected curbside only by the town contractor.

(B) The town contractor will provide 96-gallon roll-out carts to residential customers.

(C) Carts should be placed at the curb for collection no later than 7:00 a.m. on collection day.

(D) Recycling collection will normally occur every other week on Mondays unless otherwise notified.

(E) All recyclables must be placed in the contractor-provided 96-gallon cart and the lid must be able to be completely closed.

§ 50.062 ACCEPTABLE AND NONACCEPTABLE MATERIALS.

The town contractor will define and communicate acceptable and nonacceptable materials within provided marketing materials (brochures, fliers and the like). (See sample brochure attached to ordinances enacting this section for an example).
(Ord. passed 12-12-2011; Ord. passed 6-18-2012)

YARD WASTE COLLECTION (LEAVES AND BRUSH)

§ 50.075 LATE FALL LEAF COLLECTION.

Leaf collection begins in early November and continues throughout December (exact dates will be determined by the Public Works Director). The town wants to collect leaves as efficiently as possible and

ensure that leaves are not left uncollected for an extended period of time. Please remember that leaf collection is secondary to other town services and more critical services will be addressed first (example, water and sewer repairs).

(Ord. passed 12-12-2011; Ord. passed 6-18-2012)

§ 50.076 LATE FALL LEAF COLLECTION; GUIDELINES.

(A) Leaves should not be raked to the pick-up location until the last week of October. This reduces scattering on windy days.

(B) Rake leaves into a neat row or pile at the street's edge if no sidewalk exists. If a sidewalk borders the street, locate leaves along the yard-side edge and off the sidewalk. The aim is to keep leaves safely out of the way of traffic and pedestrian walkways while keeping them visible and accessible to town employees. Placing leaves too far into the streets or on sidewalks can be hazardous to citizens and pets as they attempt to avoid them. The town's primary collection method involves leaf-vacuuming equipment, so raked leaves must be easily accessible by all leaf-collection vehicles and equipment.

(C) Do not mix trash or limbs with leaves to be picked up during the late fall leaf collection season.

(D) It is preferable to not bag leaves during this season unless you have a small amount that may not be clearly visible if raked into a row or pile.
(Ord. passed 12-12-2011; Ord. passed 6-18-2012)
Penalty, see § 50.999

§ 50.077 BRUSH COLLECTION.

(A) Brush collection includes light leaf and limb collection.

(B) The town will collect brush consisting of tree limbs or yard debris on the third Wednesday of each month.
(Ord. passed 12-12-2011; Ord. passed 6-18-2012)

§ 50.078 BRUSH COLLECTION; GUIDELINES.

(A) Piles of brush must be placed at the curb of the street or sidewalk for collection.

(B) Piles of brush may not exceed six feet in width by six feet in length by six feet in height.

(C) Tree limbs and branches must not exceed six feet in length and branches must not exceed two inches in diameter.

(D) The town will not be responsible for trees, limbs or brush cut/trimmed by commercial contractors and reserves the right to refuse the collection of brush deemed to be a by-product of commercial work.

(E) In the case of severe weather, the town will pick-up brush as soon as possible.
(Ord. passed 12-12-2011; Ord. passed 6-18-2012)
Penalty, see § 50.999

§ 50.999 PENALTY.

(A) *Generally.* A violation of any provision of this chapter shall be punishable in accordance with the provisions of G.S. §§ 14-4 and 160A-303.1.

(B) *Penalties.* Except as provided in G.S. § 14-4(b), any person found in violation of this chapter shall be guilty of a Class 3 misdemeanor and shall be fined \$50. Any person found in violation of G.S. § 160A-303.1 shall be fined \$50 or imprisoned not exceeding 30 days, or both, for each offense. Each day's violation shall be treated as a separate offense.

(C) *Enforcement.* This chapter may be enforced by the Town Police Department.
(Ord. passed 12-12-2011; Ord. passed 6-18-2012)

CHAPTER 51: WATER

Section

- 51.01 Generally
- 51.02 Billing and collections
- 51.03 Service disconnections
- 51.04 Collection of delinquent accounts
- 51.05 Meter tampering
- 51.06 Return check policy
- 51.07 Refunding and applying deposits
- 51.08 Utility service connection
- 51.09 Sewer adjustment
- 51.10 Disputing a water bill
- 51.11 Town's right to suspend service

§ 51.01 GENERALLY.

This chapter is the utility billing and collections procedure policy which is a general policy, which will be enforced for the collection of payment for utility services provided by the town. This policy is effective as of September 26, 2013. The following policy will be enforced strictly and will apply to any and all customers of utility services provided by the town. Any questions regarding utility service, policy, or billing should be addressed to the town hall at 336-367-7941.

(Ord. passed 9-26-2013)

§ 51.02 BILLING AND COLLECTIONS.

(A) Water meters will be read during the last week of each month.

(B) Utility bills for the previous billing cycle will be mailed to customers on the first day of each month. If the first day of the month falls on a weekend or holiday, utility bills will be mailed on the next business day.

(C) Payments can be made in person at town hall, left in the locked box at town hall, mailed or made online with a debit or credit card. All debit and credit card payments, whether made online or in person, will be assessed a convenience fee that is paid directly to the credit card processing company. The town does not keep the convenience fee.

(D) Utility bills are due on the last day of the month.

(E) A late fee of 10% will be applied to any unpaid utility account on the first day of each month. This includes accounts where only a partial payment has been received throughout the month. If the first day of the month falls on a weekend or holiday, the 10% late fee will be applied on Monday or the next business day.

(F) To avoid a late payment fee, utility payments must be either received in person prior to the first day of the month, made online prior to the first day of the month or placed in the drop box (located on the side of town hall) on the morning of the first day of the month before 8:00 a.m. Any payments made in person or online on the morning of the first day of the month after 8:00 a.m. will be considered late.

(G) Once a utility bill has been mailed at the U.S. post office, the town is no longer responsible for the utility bill. Payment of the utility bill is due by the last day of each month to the town even if the customer does not receive a utility bill in the mail. Any questions regarding utility service or billing should be addressed to town hall at 336-367-7941. (Ord. passed 9-26-2013)

§ 51.03 SERVICE DISCONNECTIONS.

(A) If full payment of the previous utility bill, including any additional fees or past due interest, is not received in the town hall office by the 14th day of the month at 5:00 p.m., utility services will be disconnected at 9:00 a.m. on the morning of the 15th day of the month. If the 14th day of the month falls on a weekend or town observed holiday, payments must be received by 5:00 p.m. the next regular business day. If not paid by this time frame, utility services will be disconnected at 9:00 a.m. the following business day. This applies to all utility customers regardless of their account history with the town.

(B) If utility services are disconnected due to non-payment, the customer must pay the administrative fee of \$30 in addition to any amount owed for the previous billing cycle before services can be reconnected. The Public Works Department personnel cannot accept payments from utility customers.

(C) On the 15th day of each month (cut-off day), a customers' utility service is considered disconnected when the cut-off list is given to Public Works Department personnel. If a customer comes into town hall to make a payment after the list has been given to Public Works Department personnel, the customer will still be required to pay the \$30 administrative fee whether services have been disconnected or not.

(D) Utility payments for reconnections must be received in person at the town hall by 4:30 p.m. in order to have utility services reconnected on the same day. No reconnections will be made after these times. Regular business hours for the town hall are 8:00 a.m. through 5:00 p.m.

(E) If water is disconnected from a service location that is a food provider, then the town will contact the County Health Department prior to reconnection.

(F) All water bills have the due date printed on the back for previous billing information, as well as information pertaining to reconnection fees. Your current bill will serve as your second and final notice for any previous billing amounts.

(G) No services will be disconnected on a Friday unless requested by a customer or in an emergency situation.

(Ord. passed 9-26-2013)

§ 51.04 COLLECTION OF DELINQUENT ACCOUNTS.

(A) The town will collect delinquent water, sewer and trash debts through the NC Local Government Setoff Debt Clearinghouse per G.S. Chapter 105A. This program allows municipalities to attach a debtor's NC refund check for any feasible fine or charge issued by the municipality.

(B) In the event that a former delinquent utilities customer requests any future utility service(s) from the town, that individual will be required to pay in full the past due balance plus the required deposit(s) before services will be offered to the customer.

(Ord. passed 9-26-2013)

§ 51.05 METER TAMPERING.

If Public Works Department personnel determine that a meter has been tampered with, service will be disconnected and a fee will be imposed on the account of the owner or resident of that property. This fee will be at cost of time and material of any damage caused with the meter tampering. The tampering fee must be paid prior to utility services being reconnected. Meter tampering includes connecting and disconnecting of utility services at the town's meter by the property owner, resident, or any representative thereof. By law, meter tampering is a Class I misdemeanor offense.

(Ord. passed 9-26-2013)

§ 51.06 RETURN CHECK POLICY.

(A) If the town receives a returned check for utility services, the customer's utility service will be disconnected. In order to have utility services reconnected, the customer will be responsible for paying the town the face amount of the check in

addition to a \$25 returned check fee and a \$30 reconnection fee.

(B) If the returned check was written to avoid late fees, the 10% late fee will be assessed on the account and must be paid along with all other fees. (Ord. passed 9-26-2013)

§ 51.07 REFUNDING AND APPLYING DEPOSITS.

(A) When a utility customer wishes to discontinue their services with the town, it is the customer's responsibility to contact the town hall. At this time, the customer will need to inform town hall personnel the date to disconnect services and provide a forwarding address. Customers are responsible for any charges for usage until the town is informed that the customer has moved, even if the location is vacant.

(B) After notifying the town of their move, a final billing will be processed for each utility account. Final bills are processed on a weekly basis as needed. If a customer decides to move mid-billing cycle, the final billing is prorated for that month.

(C) A customer will be refunded the full deposit paid if the customer's account has a zero balance. If the customer departs and owes a balance, the deposit will be applied to the customer's account within 60 days. The portion of the deposit that remains will be refunded to the customer.

(D) Deposits made by non-profit organizations are intended to be returned to the non-profit organization unless they request the deposit to be given to the account holder. (Ord. passed 9-26-2013)

§ 51.08 UTILITY SERVICE CONNECTION.

(A) All required deposits and connection fees must be paid to have utility services connected at any property. This applies to all property owners, residents and businesses. Any balance owed for utility services must be paid in order to be connected.

(B) Prior to utility services being connected, an application must be filled out at the town hall, and the applicant must provide identification with a picture.

(C) If a customer is transferring continuous utility service from one street address to another, no additional connection fee will be required. All balances on the old account must be paid before deposit for utility service will be transferred to the new address. If balances are not paid within the time reflected on the final billing, the services at the new address will be disconnected for lack of deposit, and a connection fee will be assessed on the new account.

(D) If a customer is transferring from owner status to renter status, the customer will be required to pay the difference in the deposit amount before services can be transferred. If a customer is transferring from renter status to owner status, the customer will be subject to a refund of the difference in the deposit amount. The refund can be made in the form of a check or a credit applied to the new account.

(E) An owner of a property can put down a deposit on any rental property. If a rental unit becomes vacant and the owner has a deposit on file for that address, it is the owner's responsibility to contact the town hall personnel and inform them of the transfer.

(F) Any utility service account must be opened under the name of a person if the business has a sole proprietor. (Ord. passed 9-26-2013)

§ 51.09 SEWER ADJUSTMENT.

(A) Adjustments for high sewer bills will occur after the determination of a leak by a private plumbing company. Exceptions may be made if the owner shows proof of the leak. No adjustment will be given until leaks are repaired and proof of repair is determined. Documented proof may consist of a plumber's bill or recent receipts for plumbing repair parts. Adjustments will only be given on the sewer portion of the bill. If the customer can provide evidence that the excessive water used in the leak did

not enter the sewer system, then the customer shall not be responsible for sewer charges above the customer's average monthly sewer consumption. Such charges shall be determined by averaging the customer's monthly-metered consumption rate for the six consecutive prior months.

(B) Adjustments for pools are allowed. If a customer intends to request a sewer adjustment to fill a pool, it is the customer's responsibility to obtain the meter reading before and after filling the pool. These numbers will need to be submitted to the town hall to obtain the adjustment.

(C) Only one sewer adjustment per customer is allowed within a 12-month period.

(D) Adjustments for a leak can only be honored for one billing cycle. If a continuous leak occurs during two billing cycles, the town will apply the adjustment to the highest bill. The customer will be responsible for the other bill and must pay it in full.

(E) No adjustments will be given for leaking faucets, toilets, water hoses or for watering livestock, yards, washing cars, gardening and the like.
(Ord. passed 9-26-2013)

§ 51.10 DISPUTING A WATER BILL.

(A) All water customers have the right to dispute a bill.

(B) At the customer's request, the town will inspect a water meter if the customer feels their meter is malfunctioning. If a determination is made that the water meter is malfunctioning, a new meter will be installed at no cost to the customer. If the meter is functioning properly, the customer will be charged a fee of \$25, which will be added to the customer's next water bill. The meter will be reinstalled.

(C) The customer may request a report detailing their water usage. A \$25 service charge will be assessed for the report. Depending on size of the report, the customer may also be subject to the town's copy fee of \$0.10 per page.
(Ord. passed 9-26-2013)

§ 51.11 TOWN'S RIGHT TO SUSPEND SERVICE.

The town reserves the right to suspend service, without notice, for the following:

(A) Prevention of fraud or abuse, such as, meter tampering;

(B) Customer's willful disregard of the town's rules and regulations;

(C) Emergency repairs;

(D) Insufficient supply due to circumstances beyond the town's control;

(E) Legal procedures;

(F) Direction of authorized public authorities;

(G) Failure of a customer to permit town employees access to their water meter at all reasonable times; and

(H) Strike, riot, flood, accident or any unavoidable cause(s).
(Ord. passed 9-26-2013)

CHAPTER 52: SEWERS; WASTEWATER DISCHARGE POLLUTION ABATEMENT

Section

General Provisions

- 52.001 General
- 52.002 Definitions
- 52.003 Abbreviations
- 52.004 Conflict
- 52.005 Effective date

Regulations Governing Sewer Use

- 52.020 General discharge prohibitions
- 52.021 Use of public sewers required
- 52.022 Private sewage disposal
- 52.023 Prohibitions on discharge
- 52.024 Prohibition of storm drainage and ground water
- 52.025 Prohibition of unpolluted water
- 52.026 Limitations on radioactive wastes
- 52.027 Limitations on the use of garbage grinders
- 52.028 Limitations on point of discharge
- 52.029 Holding tank wastes
- 52.030 Limitations on wastewater strength
- 52.031 Disposal of unacceptable waste
- 52.032 Special provisions
- 52.033 Federal categorical pretreatment standards
- 52.034 Modification of federal categorical pretreatment standards
- 52.035 State requirements
- 52.036 Town's right of revision
- 52.037 Excessive discharge
- 52.038 Accidental discharges
- 52.039 Written notice
- 52.040 Notice to employees

Wastewater Volume Determination

- 52.055 Metered water supply

Discharge Report, Wastewater Discharge Permits and Administration

- 52.070 Wastewater dischargers
- 52.071 Discharge reports
- 52.072 Wastewater discharge permits
- 52.073 Permit modifications
- 52.074 Monitoring facilities
- 52.075 Inspection and sampling
- 52.076 Pretreatment
- 52.077 Protection from accidental discharge
- 52.078 Control manhole
- 52.079 Flow control measuring equipment
- 52.080 Confidential information

Wastewater Charges and Fees

- 52.095 Schedule of charges and fees
- 52.096 Types of charges and fees
- 52.097 Basis for determination of surcharges
- 52.098 Method of determining surcharges
- 52.099 Method of determining charge rates
- 52.100 Sampling procedures and analysis
- 52.101 Sampling small industries

Administration and Enforcement

- 52.115 Duties of user upon unlawful discharges
- 52.116 Injunction and abatement
- 52.117 Termination of service; revocation of permits; issuance of cease and desist orders

- 52.118 Notification of violation
- 52.119 Show cause hearing
- 52.120 Town order

Tapping into Town Sewage Lines

- 52.135 Prohibition
- 52.999 Penalty

GENERAL PROVISIONS

§ 52.001 GENERAL.

(A) This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the town and enables the town to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the general pretreatment regulations (40 C.F.R. Part 403).

(B) The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the municipality 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 receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

(4) To provide for equitable distribution of the cost of the municipal wastewater system.

(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, assumes that existing customer's capacity will not be preempted and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
(Ord. 54, passed 2-3-1987)

§ 52.002 DEFINITIONS.

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

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

APPROVING AUTHORITY. The Director of Water Resources of the town or his or her appointed agents, or in their absence, the Director of the North Carolina Division of Natural Resources and Community Development, Environmental Management Section.

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER. An authorized representative of an industrial user and may be:

(a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or

(c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

BENEFICIAL USES. Uses of the waters of the state that may be protected against quality degradation including domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife and

other aquatic resource or reserves and other uses, both tangible and intangible as specified by federal or state law.

BIOCHEMICAL OXYGEN DEMAND (BOD). The empirical test run in accordance with latest edition of *Standard Methods for Analysis of Water and Wastewater* published by American Public Health Association and *Water Pollution Control Federal or Methods for the Analysis of Water and Wastes* published by the EPA to determine the relative oxygen requirements of wastewater's effluents and polluted waters. **BOD** is a measure of the oxygen required to oxidize the organic matter in a sample, through the action of microorganisms in that sample.

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

CATEGORICAL STANDARDS. The national categorical pretreatment standards or pretreatment standard.

CHEMICAL OXYGEN DEMAND (COD). The quantity of oxygen used in the chemical oxidation or decomposition of organic substances in a sample.

COMPATIBLE POLLUTANT. Pollutants such as BOD, TSS, pH, oil and grease, ammonia nitrogen ($\text{NH}_3\text{-N}$) and fecal coliform bacteria, plus any additional pollutants identified in the town's national pollutant discharge elimination system (NPDES) permit, or any pollutants the town's treatment works was designed to treat. Such pollutants shall be amenable to the town's biological waste treatment process, shall not cause town to use additional chemicals, extra personnel or cause undue wear or operating expenses; shall not cause town's wastewater treatment plant to exceed effluent limitations as set forth in NPDES permit.

COOLING WATER. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

DIRECT DISCHARGE. The discharge of treated or untreated wastewater directly to the waters of the state.

DIRECTOR OF WATER RESOURCES. The Director of Water Resources of the town or his or her authorized representative.

DOMESTIC WASTES. The liquid wastes from bathrooms, toilet rooms, home kitchens and home laundries.

EPA. The federal agency named the Environmental Protection Agency.

EXCESSIVE RADIATION DOSE. A dose of radiation in excess of the maximum permissible dose. **MAXIMUM PERMISSABLE DOSE** shall mean a dose of radiation to any part of the body, internal and external or both that, in the light of current knowledge, is not expected to cause appreciable bodily injury to a person at any time during his or her lifetime. Application of this section will conform to all federal and state regulations concerning the use of radioactive materials.

FEDERAL ACT. Pub. L. No. 92-500, the Federal Water Pollution Control Act.

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

GRAB SAMPLE. A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

GREASE AND OILS. A group of substances with similar physical characteristics including hydrocarbons, fatty acids, soaps, waxes, oils and any other material that is extracted with a stated solvent from an actified sample and that is not volatilized during the test.

HOLDING TANK WASTE. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum pump tank trucks.

INCOMPATIBLE POLLUTANT. Any pollutant which is not a compatible pollutant as defined in this section.

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

INDUSTRIAL USER. A source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to § 402 of the Act, (33 U.S.C. § 1342).

INDUSTRIAL WASTE SURCHARGE. A charge placed on all users who discharge wastewaters having characteristics in excess of the limits set by this chapter on compatible pollutants.

INDUSTRIAL WASTES. Liquid or water-carried wastes from institutional, commercial and industrial processes and operations, as distinguished from domestic wastes.

INTERFERENCE. The inhibition or disruption of the POTW treatment processes or operations which contributed to a violation of any requirement of the town's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with § 405 of the Act, (33 U.S.C. § 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

MASS EMISSION RATE. The weight of material discharged to the town sewer system during a given time interval. Unless otherwise specified, the

MASS EMISSION RATE shall mean pounds per day of a particular constituent or combination of constituents.

PERSON. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

POLLUTANT. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

POLLUTION. An alteration of the quality of the waters of the state by waste to a degree which unreasonably affects such waters for beneficial use or affects the facilities which serve such beneficial uses. **POLLUTION** may include contamination.

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

PREMISES. A parcel of real estate or portion thereof including any improvements thereon which is determined by the town to be a single user for purposes of receiving, using and paying for service.

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 to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes other means, except as prohibited by 40 C.F.R. § 403.4.

PRETREATMENT REQUIREMENTS.

Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

PUBLICLY OWNED TREATMENT WORKS (POTW). Treatment works as defined by § 212 of the Act (33 U.S.C. § 1292) which is owned in this instance by the town. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. 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 users of the town's **POTW**.

SHALL. Is mandatory; **MAY** is permissive.

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

- (a) Has a discharge flow of 25,000 gallons or more per average work day;
- (b) Has a flow greater than 5% of the flow in the town's wastewater treatment system;
- (c) Has in its wastes toxic pollutants as defined pursuant to § 307 of the Act (33 U.S.C. 1317) or (state) statutes and rules; or
- (d) Is found by the town, (state control agency) or the United States Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality or air emissions generated by the system.

STANDARD INDUSTRIAL CLASSIFICATION (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

STATE. The State of North Carolina.

STORM DRAIN or STORM SEWER. A sewer which carries storm or surface waters, but not sewage or industrial wastes.

STORMWATER. 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.

TOTAL SUSPENDED SOLIDS. The measure of the solids that either float on the surface or are held in suspension in wastes and which are removable from the liquid by laboratory filtering.

TOWN. The Town of Boonville, North Carolina, or any authorized official(s) acting on behalf of the town.

TOWNMANAGER. The Town Manager or in the event of no Town Manager the Town Clerk.

TOWN SEWER. A sewer owned and operated by the town, tributary to a treatment facility operated by the town.

TOXIC POLLUTANT. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA § 307(a) (33 U.S.C. 1317) or other Acts.

TREATMENT WORKS OR PLANT. Any devices and systems used in the storage, treatment, recycling and reclamation of municipal wastewater or industrial wastes of a liquid nature, including interceptor sewers, outfall sewers, wastewater collection systems, pumping, power and other equipment and appurtenances, extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units, and clearwell storage facilities and any works, including site acquisition of the land that will be an

integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal wastes, including stormwater run-off, or industrial and sanitary sewer systems.

USER. Any person who contributed, causes or permits the contribution of wastewater into the town's POTW.

USER CHARGE SYSTEMS. Users are required to pay for the right to discharge their type waters into the sewage system.

WASTE. Includes sewage and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation, or of human or animal origin, or from any reducing, manufacturing or processing operation of whatever nature, including such waste placed within containers for whatever nature prior to, and for purposes of disposal.

WASTEWATER. Wastes and water, whether treated or untreated, discharged into a town sewer.

WASTEWATER CONSTITUENTS AND CHARACTERISTICS. The individual chemical physical, bacteriological and radiological parameters, including volume and flowrate and such other parameters that serve to define, classify or measure the contents, quality and strength of wastewater.

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.

(B) Other terms used in this chapter, but not defined hereinabove, shall have the meanings set forth in the latest edition of *Standard Methods for the*

Examination of Water and Wastewater, published by the American Public Health Association (APHA), the American Waterworks Association (AWWA) and the Water Pollution Control Federation (WPCF). Unless otherwise expressly stated in this chapter, waste constituents and characteristics shall be measured by methods set forth in the latest edition of *Standard Methods for the Examination of Water and Wastewater* and/or *Methods for Chemical Analysis of Waters and Wastes*, published by the Environmental Protection Agency (EPA).

(Ord. 54, passed 2-3-1987)

§ 52.003 ABBREVIATIONS.

The following abbreviations shall have the designated meanings.

BOD	Biochemical oxygen demand
C.F.R.	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	Environmental Protection Agency
l	Liter
mg	Milligrams
mg/l	Milligrams per liter
NPDES	National pollutant discharge elimination system
POTW	Publicly owned treatment works
SIC	Standard industrial classification
SWDA	Solid Waste Disposal Act, 42 U.S.C. §§ 6901 et seq.
TSS	Total suspended solids
U.S.C.	United States Code

(Ord. 54, passed 2-3-1987)

§ 52.004 CONFLICT.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of

this chapter are hereby repealed to the extent of such inconsistency or conflict.
(Ord. 54, passed 2-3-1987)

§ 52.005 EFFECTIVE DATE.

This chapter shall become effective from and after the date of its adoption.
(Ord. 54, passed 2-3-1987)

REGULATIONS GOVERNING SEWER USE

§ 52.020 GENERAL DISCHARGE PROHIBITIONS.

(A) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

(B) A user may not contribute the following substances to any POTW:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. 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. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the town, the state or EPA has notified the user is a fire hazard or a hazard to the system;

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes;

(3) Any wastewater having a pH less than 5.0, unless the POTW is specifically designed to accommodate such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW;

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to § 307(a) of the Act (33 U.S.C. 1317);

(5) Any noxious or malodorous liquids, gases or solids 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;

(6) 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 criteria, guide lines or regulations developed under § 405 of the Act (33 U.S.C. 1317), any criteria, guidelines or regulations affecting sludge use or disposal developed

pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or state criteria applicable to the sludge management method being used;

(7) Any substance which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards;

(8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40°C (104°F) unless the POTW treatment plant is designed to accommodate such temperature;

(10) Any pollutants, including oxygen demanding pollutants (BOD and the like) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities or flow during normal operation;

(11) Any wastewater containing any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations; and/or

(12) Any wastewater which causes a hazard to human life or creates a public nuisance.

(C) When the Superintendent determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the Superintendent shall:

(1) Advise the user(s) of the impact of the contribution on the POTW; and

(2) Develop effluent limitation(s) for such user to correct the interference with the POTW.
(Ord. 54, passed 2-3-1987)

§ 52.021 USE OF PUBLIC SEWERS REQUIRED.

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

(B) It shall be unlawful to discharge to any natural outlet with the town, or in any area under the jurisdiction of said 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.

(C) 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.

(D) The owner 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 such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 90 days after date of official notice to do so; provided, that said public sewer is within 200 feet of the property line.

(E) All construction of or connections to the town sewer shall be in full compliance with the North Carolina Building Code and the North Carolina Plumbing Code.
(Ord. 54, passed 2-3-1987; Ord. passed 11-2-1987)
Penalty, see § 52.999

§ 52.022 PRIVATE SEWAGE DISPOSAL.

(A) Where a public sanitary sewer is not available under the provisions of § 52.021, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(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 such permit shall be made on a form furnished by the county with a copy filed with the town, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Sanitarian.

(C) 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.

(D) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the North Carolina Department of Natural Resources and Community Development, Divisions of Environmental Management and the County Health Department. 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 12,000 square feet. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

(E) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 52.021, a direct connection shall be made to the public sewer in compliance with this chapter at the first malfunction of the private system; and any septic tanks, cesspools and

similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(F) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town.

(G) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the County Sanitarian.

(H) All construction of or connections to the town sewer shall be in full compliance with the North Carolina Building Code and the North Carolina Plumbing Code.

(Ord. 54, passed 2-3-1987; Ord. passed 11-2-1987)

§ 52.023 PROHIBITIONS ON DISCHARGE.

No person shall discharge wastes to a town sanitary sewer which cause, threaten to cause, or are capable of causing either alone or by interaction with other substances:

(A) A fire or explosion;

(B) Obstruction of flow or injury to the treatment works;

(C) Danger to life or safety of personnel;

(D) A strong offensive odor that inhibits the effective maintenance or operation of the treatment work, or results in public complaints;

(E) Air pollution by the release of toxic or malodorous gases or noxious gas producing substances;

(F) Interference with the treatment process;

(G) The town's effluent or any other product of the treatment process, residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process;

(H) A condition unacceptable to any public agency having regulatory jurisdiction over the final discharge of the town's treatment works;

(I) Conditions at or near the town's treatment works which violate any statute or any lawful rule, regulations, ordinance of any state or federal agency having jurisdiction over the town; and/or

(J) The town's treatment works to be hydraulically overloaded or cause physical damage or injury to collection system or treatment works.
(Ord. 54, passed 2-3-1987) Penalty, see § 52.999

§ 52.024 PROHIBITION OF STORM DRAINAGE AND GROUND WATER.

(A) Stormwater, ground water, rain water, street drainage, subsurface drainage or yard drainage shall not be discharged through direct or indirect connection to a town sewer.

(B) It shall be unlawful to discharge to any storm drain, private or town, any sanitary sewage, industrial wastes or other polluted waters.
(Ord. 54, passed 2-3-1987; Ord. passed 11-2-1987) Penalty, see § 52.999

§ 52.025 PROHIBITION OF UNPOLLUTED WATER.

Unpolluted water, included, by way of illustration but not limited to, cooling water, process water or blowdown water from cooling towers or evaporative coolers shall not be discharged through direct or indirect connection to a town sewer unless a permit is issued by the town.
(Ord. 54, passed 2-3-1987) Penalty, see § 52.999

§ 52.026 LIMITATIONS ON RADIOACTIVE WASTES.

No person shall discharge or cause to be discharged any radioactive waste into a town sewer except:

(A) When the person is authorized to use radioactive materials by the North Carolina Department of Natural Resources and Community Development, Division of Environmental Management or other government agency empowered to regulate the use of radioactive materials;

(B) When the waste is discharged in strict conformity with the current North Carolina Radiation Control and Atomic Energy Commission (A.E.C.) regulations and recommendations for safe disposal;

(C) When the person is in compliance with all lawful rules and regulations of all other applicable regulatory agencies having jurisdiction; and

(D) When several users are discharging radioactive wastes or materials to the public sewer, they shall, upon notification, cooperate in limiting the release of the material and shall file with the town a statement of their agreed prorated discharges. If this is not done within a reasonable time after notifications, sewer use may be discontinued by the town.
(Ord. 54, passed 2-3-1987) Penalty, see § 52.999

§ 52.027 LIMITATIONS ON THE USE OF GARBAGE GRINDERS.

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

(1) Wastes generated in preparation of food normally consumed on domestic 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) Such grinders must shred the waste to a degree 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.
(Ord. 54, passed 2-3-1987) Penalty, see § 52.999

§ 52.028 LIMITATIONS ON POINT OF DISCHARGE.

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 such other conditions necessary to properly treat this discharge as required by the town.

(Ord. 54, passed 2-3-1987) Penalty, see § 52.999

§ 52.029 HOLDING TANK WASTES.

(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. This permit will state the specific location of 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 such waste into a town sewer, the user shall pay the applicable charges and fees and shall meet such 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 such discharges are made into a town approved facility designed to receive such wastes.

(B) Monitoring facilities for holding type wastes such as those described in this section shall be provided by the user when in the judgment of the approving authority they are deemed necessary for monitoring purposes.

(Ord. 54, passed 2-3-1987) Penalty, see § 52.999

§ 52.030 LIMITATIONS ON WASTEWATER STRENGTH.

(A) In order that the biological treatment process is not subjected to unacceptable levels of toxic wastes and so that the process can function properly to meet state and federal standards, it shall be unlawful for any person to discharge into the town's wastewater collection system, waters (as measured by any sample collected by the town), containing in excess of:

(1) Any of the following elements:

<i>Constituent</i>	<i>Code</i>	<i>Maximum Permissible Concentration</i>
Aluminum	Al	5.00 mg/l
Arsenic	As	0.05 mg/l
Barium	Ba	0.50 mg/l
Boron	B	0.50 mg/l
Cadmium	Cd	0.50 mg/l
Chloroform	ChCl3	1.00 mg/l
Cobalt	Co	0.50 mg/l
Copper	Cu	0.50 mg/l
Cyanide	Cn	0.10 mg/l
Iron	Fe	35.00 mg/l
Lead	Pb	0.50 mg/l
Manganese	Mn	0.50 mg/l
Mercury	Hg	0.10 mg/l
Nickel	Ni	0.50 mg/l
Selenium	Se	0.50 mg/l
Silver	Ag	0.10 mg/l
Sulfate	SO4	500.00 mg/l
Sulfide	S ²⁻	2.00 mg/l
Total Chromium	Cr	0.50 mg/l
Vanadium	V	0.50 mg/l

<i>Constituent</i>	<i>Code</i>	<i>Maximum Permissible Concentration</i>
Zinc	Zn	0.50 mg/l
Free acidity		0
Alkalinity	Town may require alkalinity addition up to 7.5 times the $\text{NH}_3\text{-N}$ concentration of the discharge in question	

(2) Except in cases where one or more of the above constituents are found in the drinking water supply. In such cases, the limits shall be the amounts listed plus the amounts found in drinking water. The amount of constituents in the drinking water supply shall be determined on samples caught at the particular industry during a normal operating day. The sample will be caught within the plant at a well-used tap after running the tap a suitable length of time to remove water that has been standing in the lines (15 minutes minimum);

(3) Having an ammonia nitrogen content of more than 40 mg/l;

(4) Having a five day BOD of more than 600 mg/l;

(5) Having a TSS content of more than 500 mg/l;

(6) Having a COD of more than 1,500 mg/l;

(7) Having a pH lower than 6.5;

(8) Having a pH higher than 9.0;

(9) Having a temperature higher than 120°F, 49°C;

(10) Containing more than 100 mg/l (total) of oil and grease of animal or vegetable and of mineral or petroleum origin;

(11) Containing in excess of 0.02 mg/l total identifiable chlorinated hydrocarbons;

(12) Containing 1.0 mg/l phenolic compounds which cannot be removed by the town's treatment process;

(13) Containing any toxic substances or poisonous substances in sufficient quantities to interfere with the biological processes used by the town's treatment works;

(14) Containing strong iron pickling wastes or concentrated plating solutions unless pretreated in such a way as to comply with all other limitations of § 52.023;

(15) Containing any solid or viscous substance including, but not being limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, bones, feathers, slurry, lime residues, slops, whole blood, fleshings, chemical residues, paint residues, waxes, asphalt, hair, tar, plastics, wood, paunch manure, butcher's offal, animal viscera, lime or any solid or viscous substances capable of causing obstructions of any kind in either the collection system or at any point in the treatment plant. Also, any waste resulting from process(es) involving textiles, fabrics, wood or other processes containing inert fibrous materials shall undergo evaluation by the town. Since some of these processes have been shown to be detrimental to the treatment of waste at the existing waste plant, 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, clarifiers or discharges shall not be allowed to continue disposing of its waste into the sanitary sewer collection system, but shall dispose of its waste by alternative means;

(16) Containing any liquid waste or other such substance that contains dyes or other color of such character and quantity as to prevent removal by biological processes employed at the treatment plant;

(17) Containing any liquid or other substances that after normal treatment require excessive amounts of chlorine for pathogenic disinfection. This excess chlorine demand exerted by such waste shall be determined by comparing the

chlorine demand of said waste to obtain a free residual of 0.5 mg/l to 15 ppm, which shall be considered to be the maximum use rate for domestic waste to obtain the same residual;

(18) Of the industrial variety with such a volume that the peak hourly flow exceeds a gallons per day rate of 200% of the total daily flow of the industry. In such cases where a peak hourly flow of more than 200% is discharged, the town may require the discharger to provide holding facilities of sufficient capacity so as to discharge into the collection system at an assigned rate over a specified period of time. Industrial dischargers which discharge hydraulic volumes equal to or greater than 15% of the treatment works design capacity, may be required to provide flow equalization facilities designed in accordance with the current edition of EPA *Process Manual for Upgrading Existing Wastewater Treatment Plants*; and

(19) Of such a nature than will cause contamination of the wastes in the collection system, or which may contaminate the treatment plant, or the receiving waters of the state, resulting in injury or harm to persons, livestock or aquatic life.

(B) Users in industrial categories subject to effluent guidelines issued under § 304(b) of the Federal Act which are discharging incompatible pollutants to publicly owned treatment works, are required to adopt best practicable control technology currently available, as defined by the Administrator pursuant to § 304(b) of the Act (33 U.S.C. 1314). Where the town's treatment works was designed to and does achieve substantial removal of pollutants other than the four pollutants listed in the definition for compatible pollutants in § 52.002 (BOD, TSS, pH and fecal coliform bacteria), the Director of Water Resources 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 in the order of 80% or greater; minor incidental removals in the order of ten 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. However, any adjustments required for particular industrial categories should be considered in connection with the town's requirements rather than in the national pretreatment standard. And in no case shall any user be allowed to exceed the limits stated in division (A)(1) above. Limitations on wastewater strength in this chapter may be supplemented with more stringent limitations pursuant to § 52.072.

(C) If the town determines that the limitations in this section may not be sufficient to enable the town's treatment works to comply with water quality standards or effluent limitations specified in the town's national pollutant discharge elimination system (NPDES) permit, or if national pretreatment guidelines issued by EPA in the future exhibit lower values than those values listed in this section or add a parameter to those values listed in this section, the town may require additional compliances by reissuance of permits outlined in § 52.072.

(Ord. 54, passed 2-3-1987)

§ 52.031 DISPOSAL OF UNACCEPTABLE WASTE.

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

(Ord. 54, passed 2-3-1987)

§ 52.032 SPECIAL PROVISIONS.

(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 §§ 52.020 through 52.040, and which in the judgment of the approving authority, 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 approving authority may reject the wastes.

(B) The town may discontinue water service or sewer service, or both, to any user who violates §§ 52.020 through 52.040, when in the judgment of

the approving authority such 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. 54, passed 2-3-1987)

§ 52.033 FEDERAL CATEGORICAL PRETREATMENT STANDARDS.

Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The Superintendent shall notify all affected users of the applicable reporting requirements under 40 C.F.R. § 403.12.
(Ord. 54, passed 2-3-1987)

§ 52.034 MODIFICATION OF FEDERAL CATEGORICAL PRETREATMENT STANDARDS.

Where the town's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the town may apply to the approval authority for modification of specific limits in the federal pretreatment standards. *CONSISTENT REMOVAL* shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system 95% of the samples taken when measured according to the procedures set forth in 40 C.F.R. Part 403, § 403.7(c)(2) - "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The town may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 C.F.R. Part 403, § 403.7 are fulfilled and prior approval from the approval authority is obtained.
(Ord. 54, passed 2-3-1987)

§ 52.035 STATE REQUIREMENTS.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal require and limitations or those in this chapter.
(Ord. 54, passed 2-3-1987)

§ 52.036 TOWN'S RIGHT OF REVISION.

The town reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in § 52.001.
(Ord. 54, passed 2-3-1987)

§ 52.037 EXCESSIVE DISCHARGE.

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 federal categorical pretreatment standards, or in any other pollutant specific limitation developed by the town or state. (Comment: Dilution may be an acceptable means of complying with some of the prohibitions set forth in § 52.030, e.g., the pH prohibition.)
(Ord. 54, passed 2-3-1987)

§ 52.038 ACCIDENTAL DISCHARGES.

Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user by the user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the town for review, and shall be approved by the town before construction of the facility. All existing users shall complete such

a plan by October 1, 1986. No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the town. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions.

(Ord. 54, passed 2-3-1987)

§ 52.039 WRITTEN NOTICE.

Within five days following an accidental discharge, the user shall submit to the Superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this subchapter or other applicable law.

(Ord. 54, passed 2-3-1987) Penalty, see § 52.999

§ 52.040 NOTICE TO EMPLOYEES.

A notice shall be permanently posted on the user's bulletin board or other prominent places advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. 54, passed 2-3-1987)

WASTEWATER VOLUME DETERMINATION

§ 52.055 METERED WATER SUPPLY.

(A) When charges and fees are based upon the water usage, such charges and fees shall be applied against the total amount of water used from all sources, public and private, determined by means of the user and approved by the town, adding private sources volume to the metered water consumption.

(B) When unpolluted water is prohibited as per § 52.025, charges and fees will be applied only against the total wastewater discharged to the town's sanitary sewer. In such case, volume of wastewater discharged shall be determined by a flow measuring and totalizing device purchased, installed and maintained by the user. The location and type of the devices must be approved by the Director of Water Resources of the town.

(Ord. 54, passed 2-3-1987)

DISCHARGE REPORT, WASTEWATER DISCHARGE PERMITS AND ADMINISTRATION

§ 52.070 WASTEWATER DISCHARGERS.

It shall be unlawful to discharge without a (town) permit to any natural outlet within the town or in any area under the jurisdiction of said (town) and/or to the POTW any wastewater except as authorized by the Superintendent in accordance with the provisions of this chapter.

(Ord. 54, passed 2-3-1987) Penalty, see § 52.999

§ 52.071 DISCHARGE REPORTS.

The town will require that any person discharging or proposing to discharge wastewater of the industrial variety into a town sewer file a periodic discharge

report. The discharge report may include, but not be limited to, nature of process, volume, rates of flow, mass emission rate, production quantities, hours of operation, number and classification of employees or other information which relates to the generation of waste including wastewater discharge. Such reports may also include the chemical constituents and quantity of liquid or gaseous materials stored onsite even though they are not normally discharged. In addition to discharge reports, the town will require information in the form of wastewater discharge permit applications and self monitoring reports.

(Ord. 54, passed 2-3-1987) Penalty, see § 52.999

§ 52.072 WASTEWATER DISCHARGE PERMITS.

(A) *Mandatory permits.* Each discharger of industrial wastewaters, if not connected to a town sewer, must obtain a wastewater discharge permit before connecting to or discharging into a town sewer. Each currently connecting industry must obtain a wastewater discharge permit within 120 days after the effective date of this chapter.

(B) *Optional permits.* The town may issue a wastewater discharge permit to any user upon application, in accordance with the terms of this section in the following category: any user whose wastewater contains no incompatible wastes and whose compatible waste strength is less than the normal range for domestic wastes because of pretreatment, process changes or other reasons.

(C) *Permit application.*

(1) Users required to obtain a wastewater contribution permit shall complete and file with the town, an application in the form prescribed by the town, and accompanied by a fee of \$50. Existing users shall apply for a wastewater contribution permit within 30 days after the effective date of this chapter, and proposed new users shall apply at least 60 days prior to connecting to or contributing to the POTW.

(2) In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(a) Name, address and standard industrial classification number of applicant;

(b) Volume of wastewater to be discharged;

(c) Wastewater constituents and characteristics including, but not limited to, those mentioned in § 52.030 as determined by a laboratory approved by the town. The town will make this determination available to industry for a fee;

(d) Time and duration of discharge;

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

(f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation;

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

(h) Each product produced by type, amount and rate of production;

(i) Number and type of employees and hours of work;

(j) SIC number according to the *Standard Industrial Classification Manual*, Bureau of the Budget, 1972, as amended;

(k) Where known, the nature and concentration of any pollutants in the discharge which are limited by any town, state or federal pretreatment standards and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

(l) 1. If additional pretreatment and/or O&M will be required to meet the pretreatment

standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

2. The following conditions shall apply to this schedule:

a. The schedule shall contain increments of progress 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 (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction and the like);

b. No increment referred to in division (C)(2)(p) below shall exceed nine months; and

c. Not 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 Superintendent including, as a minimum, whether or not it complied with the increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than six months elapse between such progress reports to the Superintendent.

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

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

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

(p) Any other information as may be deemed by the town to be necessary to evaluate the permit application.
(Ord. 54, passed 2-3-1987)

§ 52.073 PERMIT MODIFICATIONS.

(A) *Generally.* The wastewater contribution permit of each user subject to such standards shall be reviewed yearly to ensure compliance with the national categorical pretreatment standard, as revised. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater contribution permit as required by § 52.072, the user shall apply for a wastewater contribution permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit shall submit to the Superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by §§ 52.072(C)(2)(l) and (C)(2)(m).

(B) *Permit conditions.* Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other ordinances, regulations, charges and fees established by the town. The conditions of wastewater discharge permits shall be uniformly enforced by the Town Manager (Clerk) in accordance with this subchapter, and applicable state and federal regulations. Permits may contain the following information:

(1) The unit charge or schedule of charges and fees for the wastewaters to be discharged to a town sewer;

(2) The average and maximum wastewater constituents and characteristics;

(3) Limits on rate and time of discharge or requirements for flow regulations and equalization;

(4) Requirements for installation of inspection and sampling facilities;

(5) Pretreatment requirements;

(6) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for

tests and reporting schedule; (See division (B)(13) below.)

(7) Requirements for submission of technical reports or discharge reports;

(8) Requirements for maintaining plant records relating to wastewater discharges as specified by the town, and affording town access thereto;

(9) Mean and maximum mass emission rates, or other appropriate limits when in compatible pollutants (as defined by § 52.030) are proposed or present in the user's wastewater discharge;

(10) Other conditions as may be reasonably deemed appropriate by the town to ensure compliance with this chapter;

(11) Requirements for notification of the town or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(12) Requirements for notification of slug or accidental discharges as per § 52.115; and

(13) Where the town has records of previous monitors of wastes of existing industries, this information will be used to determine frequency and methods of sampling, number, type and standards for test, reports and charges will be set accordingly and included in the permit conditions. Also, where pollutants are discharged which can be accepted but are not surcharged and cost of treatment can be determined, these charges will also be included in the permit.

(C) *Duration of permits.* Wastewater discharge 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. If the user is not notified by the town 60 days prior to the expiration of the permit, the permit shall be extended one additional year. The terms and conditions of the permit may be subject to modification and change by the town during the life of

the permit as limitations or requirements as identified in § 52.030 are modified and changed. The user shall be informed of any proposed changes in his or her permit at least 60 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(D) *Transfer of a permit.* Wastewater discharge 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 another or changed operation.

(1) *Compliance date report.* Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the Superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

(2) *Periodic compliance reports.*

(a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the Superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the Superintendent, a report indicating the nature and concentration, of pollutants in the effluent which are

limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in division (B) above. At the discretion of the Superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles and the like, the Superintendent may agree to alter the months during which the above reports are to be submitted.

(b) The Superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by division (D)(2)(a) above shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analysis shall be performed in accordance with procedures established by the Administrator pursuant to § 304(g) of the Act (33 U.S.C. 1314) and contained in 40 C.F.R. Part 136 and amendments thereto or with any other test procedures approved by the Administrator. Sampling shall be performed in accordance with the techniques approved by the Administrator. (Comment: Where 40 C.F.R. Part 136 does not include a sampling or analytical technique for the pollutant in question sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutant*, April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Administrator.)

(E) *Suspension or revocation of permit.* Any user who violates the conditions of the wastewater discharge permit, and provisions of this chapter, applicable state and federal regulations, or any of the following is subject to having his or her permit suspended or revoked:

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

(2) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;

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

(4) Failure to report a chemical spill or accidental discharge as in § 52.115.
(Ord. 54, passed 2-3-1987)

§ 52.074 MONITORING FACILITIES.

(A) Users who propose to discharge, or who in the judgment of the approving authority likely could discharge, wastewater with constituents and characteristics different from that produced by a domestic premises, may be required to install a monitoring facility.

(B) When more than one user can discharge into a common building sewer, the approving authority may require installation of a separate monitoring facility for each user. Also, when, in the judgment of the approving authority, there is a significant difference in the wastewater constituents and characteristics produced by different operations of a single user, the approving authority may require that separate monitoring facilities be installed for each separate discharge.

(C) Monitoring facilities that are required to be installed shall be constructed, operated and maintained by the user at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is required by the town, it shall be provided, installed and operated at the user's expense. The monitoring facility will normally be required to be located on the user's premises outside of the building. The town may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility

to be constructed in the public street or sidewalk area with the approval of the public agency having jurisdiction over that street or sidewalk, and located so that it will not be obstructed by landscaping or parked vehicles.

(D) If the monitoring facility is inside the user's fence, there shall be accommodations to allow safe and immediate access for town personnel, such as a gate secured with a town lock. There will be ample room on or near such facility to allow accurate sampling and compositing of samples for analysis. The entire facility and the sampling and measuring equipment shall be supplied and maintained by the user, at his or her expense.

(E) Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the town's requirements and all applicable local town construction standards and specifications. When in the judgment of the town an existing user is required to have a monitoring facility, the user will be so notified in writing. Construction must be completed within 90 days following a written notification unless a time extension is otherwise granted by the town.

(Ord. 54, passed 2-3-1987)

§ 52.075 INSPECTION AND SAMPLING.

The town may 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 or its representatives ready access at all reasonable times to all parts of the premises for purposes of inspection or sampling or in performance of any of their duties. The town shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the town will be

permitted to enter without delay for the purposes of performing their specific responsibilities.

(Ord. 54, passed 2-3-1987)

§ 52.076 PRETREATMENT.

Users shall make wastewater acceptable under the limitations established herein before discharging into any town sewer. Any facilities required to pretreat wastewater to a level acceptable to the town shall be provided and maintained at the user's expense. Pretreatment facilities shall be operated continuously during periods of wastewater discharge to the town sewers in such a manner as to produce a pretreated discharge acceptable to the town as defined in §§ 52.030, 52.055, 52.070, 52.071 and 52.072. Detailed plans showing the pretreatment facility and operating procedures shall be submitted to the town for review, and shall be approved by the town before construction of the facility. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of this chapter. Any subsequent changes in the pretreatment facility of method or operation shall be reported to and be approved by the approving authority.

(Ord. 54, passed 2-3-1987)

§ 52.077 PROTECTION FROM ACCIDENTAL DISCHARGE.

(A) Each user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the town for review, and shall be approved by the town before construction of the facility.

(B) The review and approval of such plans and operating procedures will in no way relieve the user

from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this chapter.
(Ord. 54, passed 2-3-1987)

§ 52.078 CONTROL MANHOLE.

A control manhole shall be provided downstream from any building, treatment, storage tank or any other approved works to facilitate monitoring or industrial waste. The discharger shall provide and maintain the control manhole pursuant to § 52.074. Any and all users may be required by the town to construct a control manhole. The user who has constructed a monitoring facility, as per § 52.074, may be waived of the requirement of a control manhole by the approving authority.
(Ord. 54, passed 2-3-1987)

§ 52.079 FLOW CONTROL MEASURING EQUIPMENT.

Where preliminary treatment, flow-equalizing facilities or flow monitoring facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the user at his or her expense. All flow control equipment, including but not limited to, pumps, nozzles, weirs, gates, valves and flumes shall be subject to the approval of the approving authority.
(Ord. 54, passed 2-3-1987)

§ 52.080 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 town that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

(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, state disposal system permit and/or the pretreatment programs; provided, however, that such 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) Information accepted by the town as confidential, shall not be transmitted to any governmental agency or to the general public by the town until and unless a ten-day notification is given to the user.
(Ord. 54, passed 2-3-1987)

WASTEWATER CHARGES AND FEES

§ 52.095 SCHEDULE OF CHARGES AND FEES.

(A) A schedule of charges and fees shall be adopted by the town which will enable it to comply with the revenue requirements of the State Clean Water Grant Program, Pub. L. No. 660 and Pub. L. No. 92-500, and said charges and fees shall be determined in a manner consistent with the regulations of the grant programs that have benefitted the town and its industrial users.

(B) All industries using the town's treatment works are subject to industrial waste surcharges on discharges whose characteristics exceed the limits set out in § 52.097 for certain pollutants.
(Ord. 54, passed 2-3-1987)

§ 52.096 TYPES OF CHARGES AND FEES.

The charges and fees as established in the town's schedules of charges and fees, may include, but not be limited to:

(A) User classification charges;

(B) Fees for extra monitoring; i.e., that which requires costs above the average cost of assessing an average or representative analysis;

(C) Fees for permit applications (include regular monitor charges on permit);

(D) Appeal fees;

(E) Ad valorem tax;

(F) Industrial waste surcharges;

(G) Fees for reimbursement of costs of setting up and operating the town's pretreatment program; and

(H) Fees for reviewing accidental discharge procedures and construction. These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the town.
(Ord. 54, passed 2-3-1987)

§ 52.097 BASIS FOR DETERMINATION OF SURCHARGES.

(A) Charges and fees shall be based upon a minimum basic charge for each premises, computed on the basis of wastewater from a domestic premises with the following characteristics:

Ammonia nitrogen	20 mg/l
BOD	300 mg/l
COD	600 mg/l
Oil and grease (total)	40 mg/l
TSS	300 mg/l

(B) The charges and fees established for permit users shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of that user which may include, but not be limited to, BOD, COD, ammonia, oil and grease, chlorine demand and volume.
(Ord. 54, passed 2-3-1987)

§ 52.098 METHOD OF DETERMINING SURCHARGES.

The charges for excesses of the constituents listed in § 52.097 will be based upon the mass emission rate of those constituents and determined thusly:

(A) Mass Emission Rate, MER () = $MG \times C \times 8.34$

where: MER is the mass emission rate in pounds of a particular constituent;

MG is the millions of gallons of wastewater discharged; and

C is the concentration in mg/l of the particular constituent being charged for (as an example) BOD, COD and the like and 8.34 is equal to the number of pounds/one gallon of water.

(B) The amount of the charge in dollars will be calculated thusly:

$$Ao = R \times MER ()$$

where: Ao is equal to the amount of the charge in dollars;

R is equal to the rate of charge per pound of constituent; and

MER () is equal to the pounds of a constituent.

(C) An example of surcharge:

(1) Cannon's Corporation is a producer of canned fruits. They discharged 1,000,000 gallons of

wastewater in the month January. Analysis found that the wastewater had the following characteristics: BOD = 400 mg/l; TSS = 950 mg/l. There were no other limitations exceeded in this example, There were 100 employees employed at the cannery. The limits of BOD and TSS are 300 mg/l.

- (2) The MER of BOD is equal to:

$$\text{MERBOD} = (400 - 300) \times 8.34 \times 1\text{MG}$$

$$= (100) \times 8.34 \times 1$$

$$= 834 \text{ lbs. of BOD or } 834 \text{ thousand lbs. BOD}$$

If the charge for BOD is $R = \$100,000/1,000 \text{ lbs. BOD}$, then the total charge for BOD is equal to, as:

$$A_o = R \times \text{MER}$$

$$A_o = \$100.00 \times 8.34$$

$$A_o = \$834.00$$

- (3) For TSS, the charge would be computed thusly:

$$\begin{aligned} \text{MERTSS} &= (950 - 300) \times 8.34 \times 1\text{MG} \\ &= 650 \times 8.34 \times 1 = 5,421 \text{ lbs. TSS or } 5.421 \text{ thousand lbs. TSS} \end{aligned}$$

At a charge of \$50/thousand lbs., the charge for TSS = $5.421 \times \$50 = \271.05 .

- (4) Total surcharge for January =

$$\text{BOD charge} = \$ 834;$$

$$\text{TSS charge} = \$ 271.05$$

$$(5) \text{ Total Surcharge for January} = \$834 + \$271.05 = \$1,105.05$$

(Ord. 54, passed 2-3-1987)

§ 52.099 METHOD OF DETERMINING CHARGE RATES.

(A) The Town Council will annually review the actual cost of operation and maintenance of the town's wastewater treatment plants and adjust the surcharge rates and the volume user charge rate (per 1,000 gallons) to reflect the true cost of constituent treatment. The adjustments, if any, will become effective following the first day of each new fiscal year. The Town Council may review these rates and adjust them accordingly at any time it deems adjustments are in the best interest of the town.

(B) The Town Council does hereby set the following rates effective from the date of this chapter:

BOD(5)	\$100 per 1,000 lbs. in excess of 300 mg/l
COD	\$75 per 1,000 lbs. in excess of 600 mg/l
Total oil and grease	\$100 per 1,000 lbs. in excess of 40 mg/l
TSS	\$50 per 1,000 lbs. in excess of 300 mg/l

(Ord. 54, passed 2-3-1987)

§ 52.100 SAMPLING PROCEDURES AND ANALYSIS.

(A) (1) All samples and determinations of wastewater characteristics shall be as representative of the waste discharge as possible. The costs of regular sampling and analysis will be included in the permit or class type. The town may take additional samples after a significant process change which significantly affects the quantity or strength of the wastewater discharged.

(2) The frequency of sampling shall be as follows:

<i>Daily Average Flow 1,000 Gallons Per Day</i>	<i>Minimum Required Frequency of Tests for Surcharge Parameters</i>
0—20	1 per year
20—30	1 per 6 months
30—40	1 per 3 months
40—50	1 per month
Over 50	2 per month

(B) More frequent sampling may be done at any time at the option of the town or any industry where pretreatment is required or that has discharged incompatible wastes in the past.

(C) Upon request by the person concerned, the town shall make available split samples of the composite sample collected. If the person feels the results are not representative of his or her wastes, the town may resample at a cost to the user of \$120 per day which will include sampling and analysis for BOD, TSS, COD, pH, chlorine demand and oil and grease. Heavy metals analysis, if necessary, will be at an extra charge and shall be the owner's direct costs times 1.20.

(Ord. 54, passed 2-3-1987)

§ 52.101 SAMPLING SMALL INDUSTRIES.

Small industries with inadequate sampling facilities may, in the event that waste characteristics do not vary more than 25%, be charged an estimated or average surcharge for that industry.

(Ord. 54, passed 2-3-1987)

ADMINISTRATION AND ENFORCEMENT

§ 52.115 DUTIES OF USER UPON UNLAWFUL DISCHARGES.

(A) The town may suspend the wastewater treatment service and/or a wastewater permit when

such suspension is necessary, in the opinion of the town, 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, to the environment, causes interference to the POTW or causes the town to violate any condition of its NPDES permit.

(B) Any user who discharges wastes in violation of §§ 52.115 through 52.120 shall, upon discovery thereof, immediately notify the Director of Water Resources so that the town may take necessary countermeasures to minimize the damage to the town sewer, treatment facilities, treatment processes and receiving waters. The user shall immediately correct the source of the violation. In addition, such user shall, within 15 days of such occurrence, deliver to the Director Water Resources, a written detailed report describing the cause of such discharge and the measures taken or to be taken to prevent a reoccurrence in the future.

(C) Any user who has an accidental discharge which violates this chapter and who gives notice and report provided for in the preceding division (B) shall be relieved from any civil or criminal penalties unless the violations continue or reoccur. In no case shall the user be relieved from liability to the town for any expenses, loss or damage to the town's sewer system, treatment facility, treatment processes or receiving waters, nor from liability for any fines imposed up on the town by:

(1) The North Carolina Department of Natural Resources and Community Development, Division of Environmental Management, under provisions of G.S. §§ 143-215.6A through 143-215.6C; or

(2) The Environmental Protection Agency, under any applicable federal law or regulation, nor from termination of service, suspension or revocation of any discharge permit or injunctive relief if the measures taken or to be taken to prevent a reoccurrence are not adequate.

(Ord. 54, passed 2-3-1987) Penalty, see § 52.999

§ 52.116 INJUNCTION AND ABATEMENT.

The violation of this chapter is hereby declared to be a public nuisance, and this chapter may be enforced by injunction and order of abatement in an action instituted in the General Court of Justice, as provided in G.S. § 160A-175.

(Ord. 54, passed 2-3-1987)

§ 52.117 TERMINATION OF SERVICE; REVOCATION OF PERMITS; ISSUANCE OF CEASE AND DESIST ORDERS.

If any person violates any provisions of this chapter, the town may:

(A) Terminate water or sewer service, or both, to the property in or upon which such violation occurred;

(B) Suspend for a specified period of time or permanently revoke any permit granted to such user under any provisions of this chapter; or

(C) Issue a cease and desist order directing such user to:

(1) Comply with this chapter forthwith;

(2) Comply with this chapter in accordance with a time schedule set forth by the town;

(3) Take appropriate remedial or preventive action; or

(4) A combination of divisions (C)(2) and (C)(3) above.

(Ord. 54, passed 2-3-1987)

§ 52.118 NOTIFICATION OF VIOLATION.

Whenever the town finds that any user has violated or is violating this chapter, wastewater contribution permit or any prohibition, limitation of requirements contained herein, the town may serve upon such person a written notice stating the nature of

the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the town by the user.

(Ord. 54, passed 2-3-1987)

§ 52.119 SHOW CAUSE HEARING.

(A) The town may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the Town Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the Town Council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action and directing the user to show cause before the Town Council 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.

(B) The Town Council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the (assigned department) to:

(1) Issue in the name of the Town Council notices of hearings, requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(2) Take the evidence; and

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Town Council for action thereon.

(C) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

(Ord. 54, passed 2-3-1987)

§ 52.120 TOWN ORDER.

After the Town Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(Ord. 54, passed 2-3-1987)

TAPPING INTO TOWN SEWAGE LINES**§ 52.135 PROHIBITION.**

(A) It shall be unlawful for any person, firm or corporation to cause any sewage line from any house, business or building of any description to tap onto any sewage main or sewage line owned or operated by the town, unless a check valve to prevent sewage backup into said building or construction is properly installed between town sewer lines and the building or construction.

(B) Although this is not mandatory, it is suggested that the Building Inspector and the Zoning Enforcement Officer advise any person, firm or corporation who intends to connect to the sewage system of any residence, business or other buildings to the sewage system of the town of this section, and it is further recommended that the Zoning Enforcement Officer withhold the certificate of occupancy until this section is complied with.

(Ord. 42, passed 8-6-1985; Ord. 44, passed 8-6-1985)
Penalty, see § 52.999

§ 52.999 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) (1) Any person (including any responsible officer or employee of a corporate violator) who willfully or negligently violates any provisions of this chapter (except § 52.135) or falsifies any information or data in any application, report or other document given to the town under this chapter (except § 52.135), shall be guilty of a misdemeanor punishable by a fine or imprisonment, or both, as provided in G.S. § 14-4.

(2) Any person (including any corporation) who violates any provisions of this chapter (except § 52.135) shall be subject to the imposition by the Town Council of a civil penalty of not less than \$200 nor more than \$5,000 for each violation, and, in addition, shall reimburse the town, upon demand for any expenses, loss or damage actually sustained by the town to its sewer system, treatment plant, treatment processes or receiving waters as a result of such violation, and for the amount of any fine or penalty imposed upon the town by any state or federal regulatory agency as a result of such violation. A civil penalty shall be assessed only after the town shall have given the alleged violator notice of contemplated Council action, and a hearing if requested. If the offender fails to pay the civil penalty so assessed within 15 days after written notice of final assessment thereof, then said penalty may be recovered by the town in a civil action in the nature of debt.

(C) Any person, firm or corporation violating the provisions of § 52.135 shall upon conviction, be guilty of a misdemeanor and shall be punished in accordance with the provisions of G.S. § 14-4.

(Ord. 42, passed 8-6-1985; Ord. 44, passed 8-6-1985;
Ord. 54, passed 2-3-1987)

TITLE VII: TRAFFIC CODE

Chapter

- 70. SPEED REGULATIONS**
- 71. TRAFFIC CONTROL SIGNS**
- 72. PARKING REGULATIONS**
- 73. GASOLINE POWERED VEHICLES ON SIDEWALKS**
- 74. TRAFFIC SCHEDULES**
- 75. PARKING SCHEDULES**

CHAPTER 70: SPEED REGULATIONS

Section

70.01 Speed regulations generally
70.02 Speed limits set

70.99 Penalty

Cross-reference:

School speed zone, see Ch. 74, Sch. I

§ 70.99 PENALTY.

If any person shall violate any provision of this title 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.
(Ord. passed - -1999)

§ 70.01 SPEED REGULATIONS GENERALLY.

Whereas G.S. § 20-141 authorizes municipalities to establish speed limits lower than those designated by North Carolina Statutes within its corporate limits; the town has set speed regulations as contained in § 70.02 and Chapter 74.
(Ord. passed - -1999)

§ 70.02 SPEED LIMITS SET.

(A) Under and by the authority granted in the General Statutes for a municipality to regulate vehicular traffic upon streets within its corporate limits, the maximum speed limit is set at 35 mph within the corporate limits of the town.

(B) All streets within the corporate limits of the town shall have a speed limit of 20 mph, with the exception of NC Highway 601, NC Highway 67 and River Road (SR1367) which will be set at 35 mph.
(Ord. passed - -1999) Penalty, see § 70.99

CHAPTER 71: TRAFFIC CONTROL SIGNS

Section

- 71.01 Traffic control signs generally
- 71.02 Electric traffic control signals

- 71.99 Penalty

Cross-reference:

Traffic control signs, see Ch. 74, Sch. II

§ 71.01 TRAFFIC CONTROL SIGNS GENERALLY.

In order to provide for the safety of the public at large, both motoring and pedestrian, it is the duty of the town to provide for the regulation of traffic.

(Ord. passed - -1999) Penalty, see § 71.99

§ 71.02 ELECTRIC TRAFFIC CONTROL SIGNALS.

(A) Under and by virtue of the authority granted in G.S. §§ 160A-296 et seq. granting municipalities the power to regulate the use of streets within the corporate limits, the town hereby declares that the electric traffic control signal installed at the intersection of NC Highways 601 and 67 in the town has been erected and is being installed by the town, and that hereafter traffic entering and passing through the intersection of NC Highways 601 and 67 is to be governed by this section at all times that said electric traffic control signal is in operation.

(B) This section regulating vehicular traffic at electric traffic control signals shall also govern vehicular traffic at any other electric traffic control

signs installed in the town under the authority of any ordinance of the town in the future.

(C) The driver of any vehicle which shall include a bicycle and motorcycle, shall obey the directions of any electric traffic control signal installed in accordance with the ordinances of the town, unless otherwise directed by a police officer.

(D) 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 said terms and lights shall indicate as follows.

(1) *Green alone or "Go."* Vehicular traffic facing the signal may proceed straight through, or turn right or left, unless a sign at such place prohibits either such turn. But vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time such signal is exhibited.

(2) *Yellow alone or "Caution" when shown following the green or "Go" signal.* Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.

(3) *Red alone or "Stop."* Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection, or at such other point as may be indicated by a clearly visible line and shall remain standing until green or "Go" is shown alone.
(Ord. 1, passed 3-6-1961) Penalty, see § 71.99

§ 71.99 PENALTY.

(A) Violators of § 71.01 shall be punished in accordance with G.S. § 20-158.

(B) Any person, firm or corporation violating the provisions of § 71.02 shall upon conviction be guilty of a misdemeanor and shall be punished in accordance with the provisions of G.S. § 14-4.
(Ord. 1, passed 3-6-1961; Ord. passed - -1999)

CHAPTER 72: PARKING REGULATIONS

Section

72.01 Stopping on streets prohibited;
warning signals; removal of vehicles
from public highways

72.99 Penalty

Cross-reference:

Prohibited parking, see Ch. 75, Sch. I
School zone parking, see Ch. 75, Sch. II
Two-hour time limit parking, see Ch. 75,
Sch. III

§ 72.01 STOPPING ON STREETS PROHIBITED; WARNING SIGNALS; REMOVAL OF VEHICLES FROM PUBLIC HIGHWAYS.

(A) No person shall park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled portion of any roadway inside the corporate limits unless:

(1) The area is specifically marked as a parking space with white painted lines; or

(2) The vehicle is disabled to such an extent that it is impossible to avoid stopping and temporarily leaving the vehicle upon the paved or main traveled portion of the roadway.

(B) No person shall park or leave standing any vehicle upon the shoulder of a public highway within the corporate limits of the town, unless the vehicle can be clearly seen by approaching vehicles from a distance of 50 feet in both directions and does not obstruct the normal movement of traffic.

(C) The operator of any truck, truck tractor, trailer or semi-trailer which is disabled upon any portion of the highway shall display warning devices of a type and in a manner as required under the rules and regulations of the United States Department of Transportation.

(Ord. passed - -1999) Penalty, see § 72.99

§ 72.99 PENALTY.

(A) The owner of any vehicle parked or left standing in violation of this chapter shall be deemed to have appointed any investigation law enforcement officer his or her agent:

(1) For the purpose of removing the vehicle to the shoulder of the roadway or to other suitable place; and

(2) For the purpose of arranging for the transportation and safe storage of any vehicle which is interfering with the regular flow of traffic or which otherwise constitutes a hazard, in which case the officer shall be deemed a legal possessor of the vehicle within the meaning of G.S. § 44A-2(d).

(B) When any vehicle is parked or left standing upon the right-of-way of a public highway for a period of 48 hours or more, the owner shall be deemed to have appointed any investigating law enforcement officer his or her agent for the purpose of arranging for the transportation and safe storage of such vehicle and such investigating officer shall be deemed a legal possessor of the motor vehicle within the meaning of that term as it appears in G.S. § 44A-2(d).

(C) Violators shall be punished in accordance
with G.S. § 14-4.
(Ord. passed - -1999)

CHAPTER 73: GASOLINE POWERED VEHICLES ON SIDEWALKS

Section

- 73.01 Authority of chapter
- 73.02 Definition
- 73.03 Purpose
- 73.04 Prohibitions

- 73.99 Penalty

§ 73.03 PURPOSE.

The purpose of this chapter is as an exercise of the police power granted to the town to protect, promote and preserve the public health, welfare and safety of all persons within the corporate limits of the town.

(Ord. 080205, passed 8-2-2005)

§ 73.01 AUTHORITY OF CHAPTER.

This chapter is enacted pursuant to the provisions of G.S. § 160A-174 as an exercise of the police power granted to the town.

(Ord. 080205, passed 8-2-2005)

§ 73.04 PROHIBITIONS.

(A) It shall be unlawful for any person to use, ride or otherwise operate a gasoline powered motor vehicle on any public sidewalk within the corporate limits of the town.

(B) It shall be unlawful for any person to ride as a passenger in or upon a gasoline powered motor vehicle on any public sidewalk within the corporate limits of the town.

(Ord. 080205, passed 8-2-2005) Penalty, see § 73.99

§ 73.02 DEFINITION.

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

GASOLINE POWERED MOTORIZED VEHICLES. A vehicle which is self-propelled or partially self-propelled by an internal combustion engine using gasoline as a fuel, used for the transportation of persons and/or property, including, but not limited to the following, irrespective of size, weight, number of wheels, whether or not having a seat, moped, motor vehicle, motorcycle, motorized skates, motorized scooter, motorized skateboard, mini-motorcycle, pocket motorcycle or pocket bike. Motorized wheelchairs and similar medical assistive devices are specifically excluded from this definition.
(Ord. 080205, passed 8-2-2005)

§ 73.99 PENALTY.

Any person violating this chapter shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be subject to punishment in accordance with G.S. § 14-4. Unless otherwise provided, the maximum fine for a misdemeanor violation is \$500.

(Ord. 080205, passed 8-2-2005)

CHAPTER 74: TRAFFIC SCHEDULES

Schedule

- I. School speed zone
- II. Traffic control signs

SCHEDULE I. SCHOOL SPEED ZONE.

<i>Location of School Zone</i>	<i>Maximum Speed Limit</i>	<i>Days/Hours When Effective</i>
Portion on NC Highway 67 between the intersection Mill Street and Hayes Avenue	25 mph	In effect on all days when public school is in, during the hours of 7:30 a.m. and 8:30 a.m. and 2:00 p.m. and 3:00 p.m.

(Ord. passed - -1999) Penalty, see § 70.99

SCHEDULE II. TRAFFIC CONTROL SIGNS.

In accordance with G.S. § 20-158(a), the following street intersections are designated as requiring stop signs.

<i>Street</i>	<i>Intersection</i>
Academy Drive	At NC Highway 601
Arbor Street	At NC Highway 601
Arbor Street	At Speer Avenue
Baptist Church Road	At NC Highway 601
Boone Avenue	At NC Highway 601
Boone Avenue	At Baptist Church Road
Canary	At Cherry, both north and south bound
Canary	At Holly Street
Canary	At NC Highway 67
Cardinal	At NC Highway 67 and Sunset Drive
Cherry	At Cardinal
Chestnut Street	At both NC Highway 601 and Lon Avenue
Church Street	At Baptist Church Road
Church Street	At NC Highway 601
Coram Street	At Holly Street
Dogwood	At Cardinal
Ellen Street	At Hayes Avenue a three-way stop
Fletcher	At NC Highway 601
Grace Street	At Hayes Avenue
Hayes Street	And NC Highway 67
Hickory Street	At Spring Street
Holly	At Cardinal, both east and west bound
Holly	At Sunset Drive
Howard Avenue	At NC Highway 601
Johnson Street	At Lon Avenue
Key Street	At NC Highway 601
Key Street	At Park Avenue, both east and west bound

<i>Street</i>	<i>Intersection</i>
Knollwood Drive	At Lake Drive
Lake Drive	At NC Highway 601
Lon Avenue	At NC Highway 601
Manor Avenue	At Oakland
Maple	At Mock Street
Marview Drive	At NC Highway 601
Mill Avenue	At Academy Drive
Mill Avenue	At NC Highway 67
Mock Street	At Speas Avenue
Normandy Avenue	At Knollwood Drive
Oakland Boulevard	At Williams Street
Oakland Boulevard	At Academy Drive
Park Avenue	At NC Highway 67
Pine Street	At Canary Street
Reece Avenue	At NC Highway 601
River Road	And NC Highway 67
Robin Street	At Lon Avenue
Sizemore	At Sunset Drive
Speas Avenue	At NC Highway 67
Speas Avenue	At Greenwood Avenue
Speas Avenue	At Williams Street a three-way stop
Spring Street	At Garwood
Spring Street	At Transou Street a four-way stop
Sunset Drive	At NC Highway 601
Tanyard	At Lon Avenue
Transou	At Spring Street a four-way stop
Transou Avenue	At NC Highway 67
Wallace	At Depot Street
Walnut	At NC Highway 601

<i>Street</i>	<i>Intersection</i>
Williams Street	At NC Highway 601
Willowbrook Avenue	At Marview Drive
Wren Avenue	At Holly
Wren Avenue	At Sunset Drive

(Ord. passed - -1999) Penalty, see § 71.99(A)

CHAPTER 75: PARKING SCHEDULES

Schedule

- I. Prohibited parking
- II. School zone parking
- III. Two-hour time limit parking

SCHEDULE I. PROHIBITED PARKING.

<i>Street</i>	<i>Prohibited Parking Area</i>
Academy Street	No parking at any time on any portion
At the intersection of NC Highway 601 and NC Highway 67	From the southwest corner of NC Highways 67 and 601, go west on NC Highway 67 to a point 50 feet from the curb line
	From the southwest corner of NC Highways 67 and 601 go south on NC Highway 601 to a point 250 feet from the curb line
	From the northwest corner of NC Highways 67 and 601, go west on NC Highway 67, 195 feet from the curb line
	From the northwest corner of NC Highways 67 and 601, go north on NC Highway 601, 260 feet from the curb line
	From the northeast corner of NC Highways 67 and 601, go east on NC Highway 67, 215 feet from the curb line
	From the northeast corner of NC Highways 67 and 601, go north on NC Highway 601, 260 feet from the curb line
	From the southeast corner of NC Highways 67 and 601, go east on NC Highway 67, 70 feet from the curb line
	From the southeast corner of NC Highways 67 and 601, go south on NC Highway 601, 418 feet from the curb line

(A) Violation of parking on Academy Street shall be an infraction and shall be punished as provided by G.S. § 20-162.1 by a fine of not more than \$5.

(B) All other parking violations shall be penalized as set out § 72.99.
(Ord. passed - -1999; Ord. passed - -)

SCHEDULE II. SCHOOL ZONE PARKING.

<i>Street</i>	<i>No Parking Zone</i>
NC Highway 67 at front school entrance	From the front entrance to Boonville Elementary School on the southern side of NC Highway 67, proceeding both east and west for 63 feet

(Ord. passed - -1999) Penalty, see § 72.99

Passed
10/7/25

SCHEDULE II. SCHOOL ZONE PARKING

Current Ordinance

NC Highway 67 at front school entrance

No parking zone from the front entrance to Boonville Elementary School on the southern side of NC Highway 67, proceeding both east and west for 63 feet

"Anyone violating this Ordinance shall be responsible for an infraction and shall be required to pay a penalty of five dollars (\$5.00)."

No Parking Zone

No Parking 6:00am to 8:00am and 1:00pm to 3:00pm when school is in session

Street: Going East on Highway 67 from Mill Street and traveling approx. 700 feet to the main entrance to Boonville Elementary School.

"Anyone violating this Ordinance shall be responsible for an infraction and shall be required to pay a penalty of five dollars (\$5.00)." Police department can charge a misdemeanor ordinance violation if the behavior continues.

SCHEDULE III. TWO-HOUR TIME LIMIT PARKING.

Two-hour time limit parking area	Beginning at a point 70 feet east of the southeast corner of the intersection of NC Highways 601 and 67, going east on NC Highway 67 to the intersection of Mill Avenue
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(Ord. passed - -1999) Penalty, see § 72.99

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. NOISE**
- 91. OPEN BURNING**
- 92. WEEDS**
- 93. STREETS AND SIDEWALKS**
- 94. ANIMAL CONTROL**

CHAPTER 90: NOISE

Section

Noise Generally

- 90.01 Prohibition
- 90.02 Noise measurement
- 90.03 Sounds impacting residential life
- 90.04 Amplified sound
- 90.05 Permits for amplification

Motor Vehicles

- 90.20 Noise regulations
- 90.99 Penalty

NOISE GENERALLY

§ 90.01 PROHIBITION.

It shall be unlawful for any person to create or assist in creating any unreasonably loud and disturbing noise in the town.

(Ord. passed - -1999) Penalty, see § 90.99

§ 90.02 NOISE MEASUREMENT.

For the purpose of determining db(A)s as referred to in this subchapter, the noise shall be measured on the A-weighting scale on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute.

(Ord. passed - -1999)

Updated 2024

§ 90.03 SOUNDS IMPACTING RESIDENTIAL LIFE.

(A) It shall be unlawful to carry on the following activities in any residentially zoned area of the town or within 300 feet of any residentially occupied structure in any zone of the town, between the hours of 9:00 p.m. and 7:00 a.m.:

(1) Operate a front-end loader for refuse collection;

(2) Operate construction machinery;

(3) Operate garage machinery;

(4) Operate lawn mowers and other domestic tools out of doors; and

(5) Any mechanical noise, which registers more than 60 db(A) at the nearest complainant's property line, will be probable cause for a violation.

(B) This section shall not apply to operations that are carried on in such a manner or in such a location as not to create sounds exceeding 60 db(A) and shall not apply to emergency operations designed to protect the public health and safety.

(Ord. passed - -1999) Penalty, see § 90.99

§ 90.04 AMPLIFIED SOUND.

(A) It shall be unlawful to:

(1) Operate or allow the operation of any sound amplification equipment so as to create sounds

registering 55 db(A) between 9:00 a.m. and 9:00 p.m. or 50 db(A) between 9:00 p.m. and 9:00 a.m. as measured anywhere within the boundary line of the nearest residentially occupied property, except in accordance with a permit obtained from the town;

(2) As to multi-family structures including apartments, condominiums or other residential arrangements where boundary lines can not be readily determined, it shall be unlawful to operate or allow the operation of any sound amplification equipment so as to create sounds registering 55 db(A) between 9:00 a.m. and 9:00 p.m. or 50 db(A) between 9:00 p.m. and 9:00 a.m., as measured from any point within the interior of another residential unit in the same complex; or within the boundary line of the nearest residentially occupied property, except in accordance with a permit obtained from the town;

(3) As to places of public entertainment, they shall not operate or permit the operation of any sound amplification equipment so as to create sounds registering 65 db(A) between 9:00 a.m. and 9:00 p.m. or 50 db(A) between 9:00 p.m. and 9:00 a.m., as measured anywhere within the boundary of the nearest residentially occupied property, except in accordance with a permit from the town;

(4) Operate or allow the operation of any sound amplification equipment for advertising purposes or otherwise to attract customers so as to cast sounds which are unreasonably loud and disturbing or which registers more than 60 db(A) at or on the boundary of the nearest public right of way or park; and

(5) Operate or allow the operation for personal use of any sound amplification equipment on the public right-of-way, including streets or sidewalks, or in public parks so as to produce sounds registering 60 db(A) 50 feet or more from any speaker between 9:00 a.m. and 9:00 p.m. or 50 db(A) between 9:00 p.m. and 9:00 a.m.

(B) The foregoing limitations on the operation of sound amplification equipment shall not apply to the operation of horns, sirens or other emergency warning devices actually being used in emergency situations. (Ord. passed - -1999) Penalty, see § 90.99

§ 90.05 PERMITS FOR AMPLIFICATION.

(A) *Application.* The application for a permit for amplification under this subchapter shall be submitted to the town at least 15 days in advance of the planned use, except in an emergency. The application shall designate an individual person who shall be in control of the sound amplification equipment and assure that it complies with the terms of the permit.

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

(C) *Number of hours.* No permits shall be issued which would allow more than 20 hours of excess amplification, per year, at any place of public entertainment. Permits shall be tentatively approved and subsequently granted by the town in the order of receipt unless permits for 20 or more hours have previously been issued for the same or other locations within a 1,000-foot radius for the facility within the same calendar year.

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

(E) *Denial; exceptional permits.* If an applicant has been denied a permit under this section and believes the denial is illegal by virtue of applicable state or federal law, he or she shall promptly submit a copy of the denied permit application together with a short statement of the reasons he or she believes he or she is entitled to a permit to the town. The town shall have the discretion to grant an exceptional permit waiving location, time and/or db(A) requirements,

upon the determination that the applicant has made a substantial showing of legal entitlement.
(Ord. passed - -1999) Penalty, see § 90.99

MOTOR VEHICLES

§ 90.20 NOISE REGULATIONS.

It shall be unlawful to operate or allow the operation of any motor vehicle in the town:

(A) Which has had its muffler/exhaust and/or other noise control equipment removed, altered or maintained in such disrepair as to create unreasonably loud and disturbing noises;

(B) By engaging in "jackrabbit" starts, spinning tires, racing engines or other operations which unreasonably loud and disturbing; and/or

(C) Off the boundaries of a public street for racing or other operations which create unreasonably loud and disturbing noises.

(Ord. passed - -1999) Penalty, see § 90.99

§ 90.99 PENALTY.

Any person, firm or corporation violating this section shall be punished in accordance with G.S. § 14-4.

(Ord. passed - -1999)

CHAPTER 91: OPEN BURNING

Section

- 91.01 Purpose and authority
- 91.02 Burning ban
- 91.03 Cancellation of burning ban
- 91.04 Nuisance burning
- 91.05 Extinguishment of fires
- 91.06 Obstruction of operations
- 91.07 Enforcement

- 91.99 Penalty

(1) Flammable and/or combustible liquid spills or leaks close to a burning site;

(2) A hazardous materials incident where the proximity of the burn site could cause a possible ignition source or prove hazardous to operations controlling the incident; and

(3) The proximity of adjacent structures or other such hazards.
(Ord. passed 2-5-2008)

§ 91.01 PURPOSE AND AUTHORITY.

(A) *Generally.* In conjunction with the North Carolina Forest Service burning ban and the County Fire Marshal's office, the Town Fire Chief shall issue a burning ban of all open burning within the town and all fires shall be extinguished immediately.

(B) *Exception.* Cooking is allowed using a fully enclosed grill or outdoor cooker and someone must keep watch over it at all times. Fire rings and open grills are not considered fully enclosed grills.
(Ord. passed 2-5-2008) Penalty, see § 91.99

§ 91.02 BURNING BAN.

(A) A burning ban on outdoor burning within the town may be issued by the Town Fire Chief in the event of hazardous forest fire conditions or air pollution episodes.

(B) Local conditions that may warrant a burning ban include, but are not limited to:

§ 91.03 CANCELLATION OF BURNING BAN.

(A) The Town Fire Chief shall cancel the burning ban in conjunction with the North Carolina Forest Service and the County Fire Marshal's office burning ban cancellation.

(B) The Town Fire Chief shall cancel the burning ban issued under § 91.02 once the event, episode, hazard or emergency no longer exists.
(Ord. passed 2-5-2008)

§ 91.04 NUISANCE BURNING.

(A) *Generally.* Illegal fires, nuisance burning and fires when burning bans are in effect or all other fires that falls under this chapter, the North Carolina State Building Code Fire Code and any applicable state regulations shall be extinguished immediately.

(B) *Nuisance burning.* Nuisance burning exists if any time during a burn, the smoke and/or odors

create a neighborhood nuisance, causes physical irritation exacerbating a documented medical condition, visibility impairment, evidence of soot or ash on property or structures other than the property on which the burning is done, the smoke and odors do not rise, hangs close to the ground, or crosses a street or highway and causes a hazard.

(Ord. passed 2-5-2008) Penalty, see § 91.99

§ 91.05 EXTINGUISHMENT OF FIRES.

(A) The Town Fire Chief or authorized representative has the authority to order the extinguishment or to extinguish any fire that violates this chapter.

(B) The Town Police Department has the authority to order the extinguishment of any fire that violates this chapter.

(Ord. passed 2-5-2008)

§ 91.06 OBSTRUCTION OF OPERATIONS.

No person shall obstruct the extinguishment of any fire that violates this chapter when burning bans are in effect or disobey any lawful command of the Fire Chief or authorized representative or the Town Police Department.

(Ord. passed 2-5-2008) Penalty, see § 91.99

§ 91.07 ENFORCEMENT.

The criminal or civil proceeding shall be enforced by the Town Police Department.

(Ord. passed 2-5-2008)

§ 91.99 PENALTY.

(A) *Violation.* It shall be unlawful for any person to violate or fail to comply with any of the provisions of this chapter. Each violation shall constitute a separate offense.

(B) *Penalties.* Enforcement may be by any one or a combination of the following methods and the institution of an action under these methods shall not relieve any party from any other criminal or civil proceeding prescribed for violations:

(1) *Warning citation.* A warning citation may be issued for first offense; and

(2) *Criminal offense.* A violation of this chapter shall constitute a misdemeanor offense as provided by G.S. § 14-4.

(C) *Civil penalty.* Any act constituting a violation shall subject the offender to a civil penalty in amount of \$50. The civil penalty must be paid within 30 days from the issuance of the citation. Failure to pay the penalty in the prescribed time shall subject the offender to a civil action in the nature of debt for the stated penalty together with the cost of the action to be taxed by the court.

(Ord. passed 2-5-2008)

CHAPTER 92: WEEDS

Section

92.01	Conditions
92.02	Investigation
92.03	Notification
92.04	Appeals
92.05	Abatement
92.06	Fees
92.07	Lien
92.08	Remedy
92.09	Exception

§ 92.01 CONDITIONS.

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

(A) The uncontrolled growth of noxious weeds or grass to a height in excess of 18 inches within the corporate limits causing or threatening to cause a hazard detrimental to the public health or safety;

(B) Any accumulation of rubbish, trash or junk causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health;

(C) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health; and/or

(D) Any condition detrimental to the public health which violates the rules and regulation of the County Health Department.
(Ord. passed 7-6-1999) Penalty, see § 10.99

§ 92.02 INVESTIGATION.

The Mayor, upon notice from any person of the existence of any of the conditions described in § 92.01 shall cause to be made by the appropriate County Health Department official, or a person or persons appointed by the Town Council, or town official, such investigation as may be necessary to determine whether, in fact, such conditions exist as to constitute a public nuisance as declared in § 92.01.
(Ord. passed 7-6-1999)

§ 92.03 NOTIFICATION.

(A) Upon a determination that such conditions constituting a public nuisance exist, the Mayor shall notify, in writing, the owner occupant or persons in possession of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof within ten days from the receipt of such written notice.

(B) A weed violation notice will only be sent one time to a violator per growing season. This pertains to the same lot that is in question. After the first letter is sent, the town will then send no further notices to the violator on the same piece of property during the same growing season. But the town will mow the property

at the owner's expense if it continues to be overgrown and unsafe.

(Ord. passed 7-6-1999; Ord. passed 9- -2000)

§ 92.04 APPEALS.

The owner/occupant or persons in possession of the premises in question after receipt of the Mayor's determination as set forth in § 92.03 shall have the right within the ten-day period set forth in § 92.03 to appeal the Mayor's determination to an Appeals Board made up of the Mayor and the two inspectors of the town. The Mayor and the two inspectors shall set a date and time within the ten-day period for them to hear the appeal. After the hearing of appeal, the Mayor and the two inspectors shall either affirm the Mayor's prior determination under § 92.03, or may modify the Mayor's determination. In either event, the Appeals Board shall state a date and time that the owner/occupant or person in possession of the permission question shall abate the public nuisance, which date may be within the original ten-day period as determined under § 92.03, or may grant the owner/occupant or person in possession of the premises in question additional time to abate the public nuisance. Any person aggrieved by an order issued by the Mayor or a decision by the Appeals Board may, within the time allotted for abating the public nuisance, file a civil action in the county to enjoin the town from removing the public nuisance pursuant to § 92.05.

(Ord. passed 7-6-1999)

§ 92.05 ABATEMENT.

If any person, having been ordered to abate such a public nuisance, fails neglects or refuses to abate or remove the condition constituting the nuisance within ten days from receipt of said order, the Mayor shall cause said condition to be removed or otherwise remedied by having employees of the town or other party designated by the Town Council to go upon said premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the Mayor. Any person who has been

ordered to abate a public nuisance may within this time allowed by this chapter request the town in writing to remove such conditions, the cost of which shall be paid by the person making the request.

(Ord. passed 7-6-1999)

§ 92.06 FEES.

(A) The following fees shall be charged by the town when its personnel and/or equipment are utilized in removing or otherwise remedying a public nuisance.

<i>Personnel/Equipment</i>	<i>Rate Per Hour</i>
Dump truck/operator	\$50
Each additional staff member	\$25
Tractor/operator	\$75

(B) Any fees occurring from the disposal of any refuse cleaned from the property will be added at actual cost (i.e., landfill charges).

(C) For any part of an hour, there will be a charge for a full hour.

(D) The necessary fees shall be charged to the owner of the affected lot or parcel of land, and it shall be the duty of the Tax Collector to mail a statement of such charges to the responsible owner, with instructions that charges are due and payable within 30 days from the receipt thereof.

(Ord. passed 7-6-1999)

§ 92.07 LIEN.

In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in § 92.06, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.

(Ord. passed 7-6-1999)

§ 92.08 REMEDY.

The procedure set forth in this chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and this chapter shall not prevent the town from proceeding in a criminal action against any person, firm or corporation violating the provisions of this chapter as provided in G.S. § 14-4.
(Ord. passed 7-6-1999)

§ 92.09 EXCEPTION.

The procedure for an exception for a bona fide farm use inside the town's limits is as follows.

(A) Notify the Town Clerk in writing or by phone in the ten-day grace period that the lot is used for hay mowing.

(B) The weeds inspectors and/or Mayor will then proceed to inspect property to verify that indeed the lot is used for a bona fide farming operation.

(C) After verification that the lot is indeed a bona fide farming operation, the Mayor will set a date for compliance that is mutually satisfactory to both the Mayor and the occupant as to when the hay mowing is to take place.

(D) The office personnel will then record this date on the copies of the registered notification to the owner.

(E) If the occupant is not in compliance by the date mutually agreed upon by the occupant and the Mayor, the occupant will get a second notice and the process begins again with a five-day grace period instead of ten days.

(F) When the occupant does not comply the second time, action reverts back to § 92.04 until the situation is resolved.
(Ord. passed 7-6-1999)

CHAPTER 93: STREETS AND SIDEWALKS

Section

- 93.01 New street construction
- 93.02 Signs on public sidewalks and streets
- 93.03 Conduct requiring special street cleaning or repairing

- 93.99 Penalty

upon the town receiving a deed free and clear of any encumbrances. When such deed is received, the street will be accepted and placed on the town Powell Bill map and maintenance will become the responsibility of the town.

(7) Any dead-end street will require a cul-de-sac at the closed end with a minimum diameter of 60 feet.

§ 93.01 NEW STREET CONSTRUCTION.

(A) Any road or street prepared for future acceptance by the town which is built by an individual, firm or corporation must meet the specifications set forth in this section.

(1) Any proposed new street must receive approval of the Town Council before any street work is to begin.

(2) The street must be cut and graded and the portion to be paved must meet the NCDOT *Minimum Construction Standards*.

(3) The street must be 32 feet in total width with an actual pavement width not less than 18 feet.

(4) The street must have proper drainage as determined in the NCDOT *Minimum Construction Standards*.

(5) The street must have a minimum of two inches of asphalt.

(6) The town will accept the street only after it meets all specifications and the parcel is deeded to the town. The final acceptance is dependent

(B) Private driveways are excluded from these restrictions.

(Ord. passed 2-5-2008) Penalty, see § 93.99

§ 93.02 SIGNS ON PUBLIC SIDEWALKS AND STREETS.

(A) *Authority of section.* This section is enacted pursuant to the provisions of G.S. § 160A-174 as an exercise of the police power to protect, promote and preserve the public health, welfare and safety of all persons using the public sidewalks and public streets within the town.

(B) *Signs on public sidewalks and on public streets prohibited.* No person shall place, permanently or temporarily, any sign, whether of a permanent or temporary nature, on any public sidewalk, crosswalk, curb, curbstone or street within the corporate limits of the town.

(C) *Removal of signs on public sidewalks and on public streets.* Any sign found placed, permanently or temporarily, on any public sidewalk, crosswalk, curb, curbstone or street within the corporate limits of the town contrary to the provisions of this section may be

removed by the Police Department or by the Department of Public Works. The persons responsible for any such illegal placement of such sign shall be liable for the cost incurred in its removal.

(Ord. passed 6-1-1999) Penalty, see § 93.99

§ 93.03 CONDUCT REQUIRING SPECIAL STREET CLEANING OR REPAIRING.

(A) An act, neglect or omission or any condition caused or allowed to continue, which creates, results in or causes a condition in or upon any public street, sidewalk or storm drain which required special cleaning or repair of such street, sidewalk or storm drain is hereby prohibited.

(B) Prohibited acts, neglects, omissions and conditions which result in requiring special cleaning or repair shall include, but shall not be limited to:

(1) The hauling of dirt, debris and materials removed from the sites of construction or reconstruction of building or structures, or waste materials of any kind, in such manner that any portion of such dirt, debris or materials is spilled, lost, dropped or left upon the streets or sidewalks;

(2) The depositing or leaving upon the streets or sidewalks of mud, dirt or any other material as a result of the use of trucks, construction equipment or machinery, regardless of whether such materials are spilled, lost or dropped in transit or are deposited upon the surface of the street or public property by the tires and wheels of such trucks, construction equipment or machinery; and/or

(3) The grading of lots or other land at elevation higher than street or sidewalk level, or any other acts, neglects or conditions created or allowed to exist upon such property which results in mud, dirt, soil, gravel, debris or other materials being washed onto streets or sidewalks or into the storm drainage system.

(C) Special cleaning or repair of streets, sidewalks and the storm drainage system shall be

deemed to be required when their condition is such that the public health, safety, welfare or public use of the same is threatened, limited or impaired; the use and enjoyment of property abutting such streets or sidewalks is diminished or limited; or substantial damage is caused to the streets, sidewalks or drainage facilities or to such abutting property.

(D) The words *SPECIAL CLEANING OR REPAIR*, as used herein, shall include cleaning, resurfacing, restoration of gravel and similar repairs made necessary by prohibited acts, neglects or conditions.

(Ord. 16, passed 5-10-1979) Penalty, see § 93.99

§ 93.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Signs on public sidewalks and streets.* Any person violating the provisions of § 93.02 shall be guilty of a Class 3 misdemeanor and upon convictions, shall be punished by a fine not to exceed \$50 or imprisonment of not more than 30 days, in the discretion of the court, in accordance with the provisions of G.S. § 14-4(a).

(C) *Conduct requiring special street cleaning or repairing.*

(1) Violation of § 93.03 shall be a misdemeanor and punishable on a conviction by a fine not exceeding \$50 or imprisonment not exceeding 30 days, as provided by G.S. § 14-4.

(2) Any person, firm or corporation whose act, neglect, omission or who, by permitting a condition to continue (whether done or neglected directly or through an agent, servant or employee) causes additional expense to the town for necessary special cleaning or repair shall reimburse the town for its expenses upon receipt of an itemized statement of

expenses submitted by the town and upon failure to reimburse the town shall incur and be liable to the town for a civil penalty of \$200, in addition to such expenses.

(3) The Town Clerk shall send to any person, firm or corporation responsible for additional expense to the town an itemized statement of the expense incurred and a request for reimbursement. The Town Attorney is authorized to bring suit in the name of the town to recover any such unpaid expenses and civil penalties, if so directed by the Town Council.

(Ord. 16, passed 5-10-1979; Ord. passed 6-1-1999)

CHAPTER 94: ANIMAL CONTROL

Section

Generally

- 94.01 Purpose and intent of chapter
- 94.02 Definitions
- 94.03 Establishment of bird sanctuary
- 94.04 Procedure upon striking animal with a vehicle

Livestock

- 94.15 Keeping livestock, swine and fowl
- 94.16 Location of fenced lot, enclosures, stable or bar
- 94.17 Fenced lots or enclosures

Domesticated Animals

- 94.30 Confinement and running at large
- 94.31 Possession of animals and strays
- 94.32 Impoundment and reclaiming captured animal
- 94.33 Destruction of animals which cannot be seized by reasonable means
- 94.34 Animals creating a nuisance
- 94.35 Wearing collar with rabies vaccination tag required
- 94.36 Humane treatment required; poisoning, abandonment and the like prohibited
- 94.37 Disposition of unwanted animals
- 94.38 Cruelty to animals
- 94.39 Vicious and dangerous animals
- 94.40 Teasing or molesting prohibited

Exotic/Dangerous Animals

- 94.50 Prohibition of certain animals
- 94.51 Inherently dangerous exotic animals

Miscellaneous

- 94.65 Enforcement and remedies
- 94.66 Interference with the Police Department
- 94.99 Penalty

GENERALLY

§ 94.01 PURPOSE AND INTENT OF CHAPTER.

The purpose and intent of this chapter is to help stray animals that cannot be captured from becoming a public nuisance, attacking someone or starving to death; to prevent injured, crippled or diseased animals from suffering and to prevent the spread of disease to humans and healthy animals; to keep public and private areas and environments clean and enjoyable; to keep sick, diseased or abandoned animals from running at large and injuring people or spreading infectious diseases; to aid in the detection of animals carrying infectious diseases such as rabies, parvo, corona, distemper and the like and to prevent the spread of such; to help reduce the number of stray animals and problems caused by them; and to keep any and all animals that are injured from unnecessary suffering and possible death. In order to abate this problem, the Police Department is hereby charged with the responsibility of animal control in conjunction with County Animal Control and all other applicable agencies.

(Ord. passed 3-26-2013; Ord. passed 9-26-2013)

§ 94.02 DEFINITIONS.

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

ANIMAL. Any domestic animal, any fowl, livestock or wild animal as defined in this section but does not include humans.

ANIMAL CONTROL OFFICER. Any person designated by the Mayor. The Police Chief shall serve as the person in responsible charge and any Police Department (BPD) officer or any person designated by the Mayor to perform duties relating to animal control.

ANIMAL SHELTER. The temporary holding facility provided by the town for the purposes of impoundment, restraint, care and disposition of animals. **ANIMAL SHELTER** also could refer to the County Animal Control shelter.

CONFINEMENT. To be kept in a kennel or cage for reason of observation or delivery to a shelter.

DISEASED. Any animal with a contagious disease or virus.

DOMESTIC ANIMAL. A non-feral, domesticated or tame animal that is kept principally as a pet, except that wild animals shall not be regarded as domestic animals.

FIERCE DOG. Any dog that attacks an approaching person in a manner that could reasonably be expected to lead to the person's being bitten.

FOWL. Chickens, ducks, geese, turkeys, guineas or other domesticated or wild gallinaceous bird.

HARBOR. To allow to stay on one's personal property.

IMPOUNDED. Having been received into the custody of the Police Department, County Animal Control or any authorized representative thereof.

IN HEAT. The erotic stage of copulation.

INOCULATION or INOCULATION AGAINST RABIES. The vaccination or inoculation of a dog or cat with an anti-rabic vaccine approved by the United States Bureau of Animal Industry, the State Department of Agriculture and the State Board of Health at such time or times as shall be required by the state statutes, State Board of Health and/or the local Health Director, as defined in G.S. § 130A-185.

KEEPER. A person having custody of an animal or who keeps or harbors an animal or who knowingly permits an animal to remain on or about any premises occupied or controlled by the person. An animal shall be deemed to be harbored if it is fed or sheltered or otherwise maintained or located on the property.

LEGALLY RESPONSIBLE. By law, responsible for any fees or damages caused by the animal.

LIVESTOCK. Horses, miniature horses, ponies, mules, cattle, goats, sheep and other hoofed animals excluding swine.

NUISANCE. An animal or group of animals shall be considered a nuisance if it:

- (1) Damages, soils or defiles private or public property.
- (2) Interferes with, molests or attacks persons or other animals;
- (3) Is repeatedly at large, three or more times within a six-month period;
- (4) Causes unsanitary, dangerous or offensive conditions, including fouling the air by odors;
- (5) Turns over garbage containers;
- (6) Chases, snaps at, harasses or impedes pedestrians, bicyclists or vehicles;
- (7) By virtue of number or type is offensive or dangerous to the public health, safety or welfare;
- (8) Is diseased or dangerous to the public health; or

(9) Barks, whines or howls in an excessive, continuous or untimely fashion.

OWNER. Any person, group of persons or any entity possessing, keeping, having charge of, sheltering, feeding, harboring or taking care of any animal covered by this chapter.

OWNER'S PREMISES. Any real property owned or leased by the owner of the animal, but does not include any public right-of-way or common area of an apartment complex, condominium or townhouse development.

PET. A domesticated animal kept for pleasure rather than utility. Pets include but are not limited to birds, cats, dogs, fish, hamsters and mice.

POLICE DEPARTMENT. This term will be used for the Town of Boonville Police Department.

REASONABLE MEANS. To capture the animal either by calling it, using a catchpole or by setting a live trap.

RELEASE. To remove from a cage or kennel, or to let escape and roam free.

RESTRAINT. Confinement within an enclosure or carrying case; use by a responsible person of a leash, chain, or other physical device of sufficient strength to allow control to be maintained; controlled by a responsible person when the animal is obedient to that person's commands.

RUNS AT LARGE. An animal **RUNS AT LARGE** when it is off the premises of the owner or keeper and is not under the immediate and effective restraint of the owner or other competent person in charge of the animal. If the animal has no known keeper, wandering about on public or private property.

SECURE ENCLOSURE. An enclosure from which an animal cannot escape unless freed by a keeper or his or her agent. An automobile, truck or other vehicle shall be considered a secure enclosure during transport only if the animal cannot escape from

it unless freed by a keeper or his or her agent and if ventilation is provided for the animal's adequate respiration.

STRAY ANIMAL. Any animal that is not the property of another person.

SWINE. Hogs, pigs or any other member of the various stout-bodied, short-legged Suidae family.

WILD ANIMAL. An animal that:

(1) Typically is found in a non-domesticated state and that, because of its size or vicious propensity or because it is poisonous or for any other substantial reason, poses a potential danger to persons, other animals or property; or

(2) Is classified as a wild animal by the North Carolina Wildlife Resources Commission (WRC) so that any person wishing to possess the same is required by state law to obtain a permit from WRC.

COUNTY ANIMAL CONTROL. This term is used for any capacity of animal control provided by the County of Yadkin. This includes animal control officers who capture and pick up animals from the town, the animal shelter and all other services in the name of animal control.
(Ord. passed 3-26-2013; Ord. passed 9-26-2013)

§ 94.03 ESTABLISHMENT OF BIRD SANCTUARY.

(A) The area embraced within the corporate limits of the town and all land owned or leased by the town outside the corporate limits is hereby designated as a bird sanctuary.

(B) It shall be unlawful intentionally to trap, hunt, shoot, or otherwise kill, within the sanctuary hereby established, any native wild bird; provided, it shall be lawful to trap birds or fowl specifically declared a nuisance by the Town Council when such birds or fowl are found to be congregating in such number in a particular locality that they constitute a nuisance or a menace to health or property.

(C) The bird clubs of the town are hereby granted permission to erect artistic signs, giving notice of the regulations therein provided, at such places and of such design as may be approved by the Town Council.

(Ord. passed 3-26-2013; Ord. passed 9-26-2013)
Penalty, see § 94.99

Statutory reference:

*Bird sanctuary establishment, see
G.S. § 160A-188*

**§ 94.04 PROCEDURE UPON STRIKING
ANIMAL WITH A VEHICLE.**

It shall be unlawful for any person injuring an animal by running over or into the same or coming into contact with the same with an automobile, motorcycle, bicycle or other vehicle, to fail to notify immediately the owner of the animal or the Police Department of the town.

(Ord. passed 3-26-2013; Ord. passed 9-26-2013)
Penalty, see § 94.99

LIVESTOCK

**§ 94.15 KEEPING LIVESTOCK, SWINE AND
FOWL.**

No person may keep within the town any permissible livestock, swine and/or fowl except in accordance with this section.

(A) There shall be one and one-half acres of cleared land for each cattle, goat, horse or other livestock kept, which is fully enclosed by a fence in accordance with § 94.16.

(B) Each cattle, horse, goat or other livestock animal must be located on said cleared land.

(C) It shall be unlawful for any person to maintain, keep, house or stable any horse, mule, pony, cow, sheep, goat or other livestock within 100 feet of any residential or commercial building, school, church or other establishment.

(D) The keeping of hogs, pigs or swine in any building, pen, enclosure or other place is hereby declared a nuisance and injurious to adjoining property owners and to the public and the keeping of hogs, pigs or swine, for the protection of the public health, is prohibited. Provided, however, one and only one pig may be kept as a family pet, provided that such pig shall not weigh more than 100 pounds and be of that strain or type of pig known as "Sus, species scrofa, variety f. domestica" (popularly known as Vietnamese pot-bellied pig). Any stable or other structure in which the pig is kept shall be maintained in a clean and sanitary condition and that the stable or shelter shall not be located nearer than 100 feet from any residence other than the residence of the owners of the pig. The conditions and surroundings where the pig is kept shall be maintained in a manner approved by the County Health Department and shall further be kept in such a manner that no odors from such pig shall be offensive or disturbing to residents of surrounding or adjoining properties.

(E) It shall be unlawful for any person to maintain, keep or house any fowl within 50 feet of any neighboring residence or commercial building, school, church or other establishment.

(F) It shall be unlawful to permit any fowl, including but not limited to chickens, ducks, geese, turkeys, guineas or other fowl to run at large.

(G) Any fowl kept within the planning jurisdiction of the town must be contained by a fence, building or other enclosure that will ensure that the fowl will not run at large.

(H) Any fowl found running at large may be taken into possession and/or destroyed by the Police Department or County Animal Control Department.

(I) No more than 20 chickens may be kept on any one lot. No roosters will be allowed. Any chickens must not present a public nuisance or health hazard.

(Ord. passed 3-26-2013; Ord. passed 9-26-2013)
Penalty, see § 94.99

§ 94.16 LOCATION OF FENCED LOT, ENCLOSURES, STABLE OR BARN.

(A) The primary dwelling for any livestock shall be at least 75 feet from any lot line and at least 100 feet from any house.

(B) Fencing for any livestock must be constructed in such a manner that animals may not reach legs, necks or any body part onto a neighbor's property or to any shrub or plant growing on any neighbor's property.

(C) Fencing must be secure to hold livestock and must be in good repair.

(D) Enclosures (including fences), stables or barns used for housing cattle, goats, swine, horses or other livestock shall comply with all local zoning ordinances and be constructed and maintained in conformity with the requirements of the Zoning Administrator and the County Health Department. (Ord. passed 3-26-2013; Ord. passed 9-26-2013) Penalty, see § 94.99

§ 94.17 FENCED LOTS OR ENCLOSURES.

(A) Every person owning, using or maintaining any stall, stable, barn, yard, lot or pasture shall maintain such place in a clean and sanitary condition in order to protect the public health. Stables used for housing livestock shall comply with all local zoning ordinances and be constructed and maintained in conformity with the requirements of the County Health Department.

(B) All enclosures, barns, stables and all pens regardless of design or number of animals shall be cleaned and sprayed with suitable disinfectants and insecticides as needed but shall be cleaned and sprayed with a suitable disinfectant at least once every seven days and during the fly breeding season be sprayed with insecticide at least once every two days.

(C) All enclosures, barns, stables and all pens of whatever design in which animals are kept must be high and thoroughly drained so that no pools of water can accumulate.

(D) No enclosure, barn, stable or pen of whatever design shall be maintained in such a manner as to create offensive odors or a breeding place for flies.

(Ord. passed 3-26-2013; Ord. passed 9-26-2013) Penalty, see § 94.99

DOMESTIC ANIMALS**§ 94.30 CONFINEMENT AND RUNNING AT LARGE.**

(A) No person may have or keep within the town any domestic animal, other than a dog or cat, unless the animal is kept continually within a dwelling, other substantial structure, cage or fenced-in yard, except when such an animal may be walked with a leash. Cats do not have to be leashed but the owner of the cat must take all reasonable steps to prohibit the cat from running at large.

(B) No person owning or having possession, charge, custody or control of any animal may cause, permit or allow the animal to stray or in any manner to run at large upon any public street, sidewalk or other public property or to stray, run at large or otherwise trespass upon the private property of another.

(C) Every female domestic animal, while in heat, shall be confined in a building or secure enclosure in such a manner that the female cannot come into contact with a male animal so as to create a nuisance by attracting other animals. Females in heat are not permitted to run at large. If a female in heat is removed from the property, it must be restrained by leash or harness and accompanied by its owner or some responsible person acting on its behalf. This section shall not be construed to prohibit the intentional breeding of animals within the enclosed area on the premises of the owner of an animal being bred.

(D) It shall be unlawful for any person owning, harboring, keeping or in charge of any animal to fail or refuse to remove feces deposited by the animal on

any street, sidewalk, park or other publicly-owned area.

(E) It shall be unlawful for the owner of any animal to fail or refuse to remove feces deposited by the animal on any private property.

(Ord. passed 3-26-2013; Ord. passed 9-26-2013)
Penalty, see § 94.99

§ 94.31 POSSESSION OF ANIMALS AND STRAYS.

The purpose of this section is to aid in rabies control and to prevent the intentional or unintentional possession of the pets of other persons.

(A) It shall be unlawful for any person in the town knowingly and intentionally, unless with consent of the owner, to harbor, feed and keep in possession by confinement or otherwise allow to remain on his or her property any animal which does not belong to him or her unless he or she notifies the Police Department within 24 hours from the time such animal came into his or her possession. Such person may maintain the animal, have it vaccinated and advertise its description and whereabouts at least once a week for two weeks in a newspaper of general circulation in the area; otherwise such person shall surrender the animal to an authorized representative of the Police Department to be dealt with as provided in this subchapter.

(B) Any person who feeds a stray animal and/or allows it to stay on their property for at least seven days will be considered the legal owner or keeper of such animal and will be legally responsible for such animal and any violations caused by the animal.

(C) It shall be unlawful for any person to refuse to surrender any such stray animal to the Police Department or person duly authorized upon demand.
(Ord. passed 3-26-2013; Ord. passed 9-26-2013)
Penalty, see § 94.99

§ 94.32 IMPOUNDMENT AND RECLAIMING CAPTURED ANIMAL.

(A) Any animal within the town without an owner or any animal running at large within the town or any animal whose owner fails to have the animal vaccinated by a Rabies Inspector or a licensed veterinarian in accordance with the laws of the state or any animal appearing within the town without a rabies-vaccination tag shall be taken into custody of the County Animal Control Department.

(B) In order for the owner to redeem an animal, such owner is subject to follow the policies of the County Animal Control Department.
(Ord. passed 3-26-2013; Ord. passed 9-26-2013)

§ 94.33 DESTRUCTION OF ANIMALS WHICH CANNOT BE SEIZED BY REASONABLE MEANS.

Notwithstanding any other provision of this chapter, an animal which cannot be seized by reasonable means may be humanely destroyed by a firearm when ordered by the Chief of Police or a person duly authorized by the Chief of Police.
(Ord. passed 3-26-2013; Ord. passed 9-26-2013)

§ 94.34 ANIMALS CREATING A NUISANCE.

An animal has been determined by the Police Department to be a public nuisance when it commits any of the following acts two or more times or any combination of two or more of the following acts one or more times:

(A) Habitually or repeatedly, without provocation, chases, snaps at or attacks pedestrians, bicycles or vehicles even if the animal never leaves the owner's property (except that this provision shall not apply if such animal is restrained by a pen, fence

or other enclosure) or does so only to transgress upon the adjacent right-of-way and then returns to its owner's property;

(B) Interferes with the reasonable use and enjoyment by neighboring residents of their property because of its habitual barking, howling, whining, crying, crowing or other noise-making which can be heard from a distance greater than 50 feet;

(C) Without provocation and off the premises of the animal's owner inflicts on any person a serious injury requiring treatment by a physician, including but not limited to a bite or scratch that breaks the skin;

(D) Turns over garbage containers;

(E) Damages gardens or other foliage or other real or personal property; or

(F) Habitually or continuously loiters on school grounds or official town recreational areas while not under restraint of the owner or keeper of said animal. (Ord. passed 3-26-2013; Ord. passed 9-26-2013) Penalty, see § 94.99

§ 94.35 WEARING COLLAR WITH RABIES VACCINATION TAG REQUIRED.

It shall be unlawful for any animal owner to permit his or her animal to appear or be on any street, park or public place in the town unless the animal is wearing a collar or harness to which is attached a current rabies vaccination tag. (Ord. passed 3-26-2013; Ord. passed 9-26-2013) Penalty, see § 94.99

§ 94.36 HUMANE TREATMENT REQUIRED; POISONING, ABANDONMENT AND THE LIKE PROHIBITED.

(A) No owner/keeper shall fail to provide his or her animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering and humane care and treatment. In particular:

(1) Food shall be of the quantity and quality necessary to maintain the normal body weight according to the species and bone structure of the animal;

(2) Water shall be reasonably clean and, depending on weather conditions, provided at intervals to make it available for drinking at all times or as provided in accordance with G.S. § 19A-24; and

(3) Proper shelter for animals shall consist of an enclosed area of sufficient space to allow the animal or each animal if more than one enclosed to turn about freely and to sit, stand or lie easily in a comfortable, normal position. The shelter shall also keep the animal dry and warm or cool enough, depending upon season or weather conditions, to maintain the animal's normal body temperature.

(B) Animals housed under the following conditions shall not constitute adequate shelter:

(1) Underneath outside steps, decks and stoops unless they are closed in on three sides and impervious to water, inside of vehicles during the summer or underneath vehicles, inside metal barrels placed in direct sunlight during the summer or inside cardboard boxes;

(2) If any animal is kept on a rope, chain or other tether, it shall be of sufficient length to allow the animal to enter its shelter and allow it to rest in a space that is free of animal waste; and

(3) Veterinary care to prevent suffering shall be administered at intervals as necessary to keep the animal in good health.

(C) Humane care and treatment shall consist of, but is not limited to, the following:

(1) Reasonably clean and sanitary quarters. Bedding shall be reasonably free of infestation and vermin. The area of enclosure, such as a fenced-in lot, pad or pasture, shall be reasonably free of any injurious material or debris and shall be reasonably free of animal waste to prevent contamination and to reduce disease hazards and odors.

(2) Containers used for feeding and watering animals shall be provided and kept sanitary.

(3) The opportunity for daily exercise.

(4) The opportunity for fresh air and light at reasonable intervals if an animal is kept in a tight, unlit enclosure.

(5) Animals shall be kept reasonably free of internal and external parasites to keep them in good health and comfort.

(6) For animals, facilities shall be constructed so that a nursing mother shall have access to her unweaned young at all times.
(Ord. passed 3-26-2013; Ord. passed 9-26-2013)

§ 94.37 DISPOSITION OF UNWANTED ANIMALS.

Unwanted animals may be given to County Animal Control to be adopted or destroyed per state law.
(Ord. passed 3-26-2013; Ord. passed 9-26-2013)

§ 94.38 CRUELTY TO ANIMALS.

(A) In accordance with G.S. § 14-360, no person shall willfully overdrive, overload, wound, injure, torture, cruelly beat, needlessly mutilate or kill any animal or cause or procure the same.

(B) In addition to division (A) of this section, cruelty to animals may be determined by the Police Department and/or Yadkin County Animal Control under the following circumstances, including but not limited to:

(1) If an animal is left within a closed car, truck or other vehicle for such a period or at such temperatures as to be harmful or potentially harmful to the animal;

(2) In case of injury to animal, as provided in this section, does not notify the Police Department as soon as possible after such incident occurs;

(3) Any person who shall witness an injured animal shall report its location to the Police Department as soon as possible;

(4) If animals are not provided the proper care as provided in § 94.36 of this chapter;

(5) It shall be unlawful for any person to expose any known poisonous substance so that it is likely to be eaten by an animal, except it shall not be unlawful for a person to expose on his or her own property:

(a) Common rat poison that is mixed with vegetable substances. In placing the rat poison, however, it shall not be exposed in any place in which children and larger mammals can encounter it.

(b) Pesticides, insecticides, and herbicides in accordance with the law.

(6) It shall be unlawful to use lethal force against an animal unless it is in the process of attacking a person or other domestic animal. Any such incident shall be immediately reported to the Police Department.
(Ord. passed 3-26-2013; Ord. passed 9-26-2013)
Penalty, see § 94.99

§ 94.39 VICIOUS AND DANGEROUS ANIMALS.

(A) It shall be unlawful for an owner/keeper to keep any vicious, fierce, dangerous or potentially dangerous animal within the town limits unless it is confined within a secure building or enclosure or is securely muzzled and leashed at all times.

(B) In accordance with G.S. § 106-381, when an animal becomes vicious or a menace to the public health, the owner of such animal or person harboring such animal may not permit such animal to leave the premises on which kept unless muzzled and on a leash.

(C) **DANGEROUS DOG** means:

(1) A dog that has been declared to be dangerous by the Police Chief, County Animal

Control or the County Health Director pursuant to G.S. § 130A-200 or because it has committed one or more of the following:

(a) Without provocation has killed or inflicted severe injury on a person;

(b) Inflicted a bite on a person either upon public or private real property;

(c) Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack;

(d) Killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or

(e) Chases, snaps at, attacks or otherwise molests pedestrians, bicyclists, motor vehicles or any other animal.

(2) The Police Chief must notify the owner/keeper in writing, giving the reasons for his or her determination, before the dog may be considered dangerous. The owner may appeal the determination of the Police Chief to the Mayor by giving written notice of the appeal within five days of the Manager's determination to the Mayor. The dog will be considered dangerous pending the appeal.

(a) In any case where an animal has bitten any person or other animal so as to cause abrasions or break the skin, the Police Chief shall make a determination of dangerous based on the circumstances surrounding the bite and the likelihood that the animal might bite again.

(b) The provisions of this section do not apply to a dog being used by a law enforcement officer to carry out the law enforcement officer's official duties. A dog shall not be considered a dangerous dog or potentially dangerous dog under this article if the injury inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing or assaulting the dog, had been observed or reported to have tormented, abused or

assaulted the dog or was committing or attempting to commit a crime.

(c) It is unlawful for an owner to:

1. Leave a dangerous dog unattended on the owner's real property unless the dog is confined indoors, in a securely enclosed and locked pen or in another structure designed to restrain the dog;

2. Permit a dangerous dog to go beyond the owner's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled.

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

1. The Police Chief, stating the name and address of the owner of the dog; and

2. The person taking possession of the dog, specifying the dog's dangerous behavior and the Police Chief's determination.

(e) A dog that has been determined to be dangerous may be humanely destroyed in the following instances:

1. If the Police Chief or his or her designee determines that a dog that was previously determined to be dangerous either bit a person so as to cause a break in the skin or was at large on two or more separate occasions after such determination, the Police Chief or County Animal Control or his or her designee may seek a court order for the dog to be humanely destroyed.

2. If the Police Chief or his or her designee, in determining that a dog is dangerous, also determines that the dog, without provocation, has killed or inflicted severe injury on a person, the Police Chief or his or her designee may seek a court order that the dog be humanely destroyed.

(f) A dog that has been determined to be dangerous may not be disposed of by adoption from the Yadkin County Animal Control.

(g) The keeper or other custodian of any dog that has been determined to be dangerous shall report immediately to the Police Department through telephone number 911 if the dog gets loose or is otherwise unconfined or it attacks a person or another animal.

(h) A Police Officer or his or her designee shall periodically inspect the premises where a dog determined to be dangerous is kept to ensure compliance with the secure enclosure requirements as set out in § 94.38.

(i) If a dog has been determined by the Yadkin County Health Director or his or her designee, County Animal Control or by the Police Chief or his or her designee, to be dangerous or vicious and the dog has been either left with or returned to its keeper, the keeper shall maintain the dog in an enclosure meeting the requirements of this section on the keeper's property or, with the consent of the Police Chief or his or her designee, in such an enclosure on the property of another, except that the dog may be taken out of the enclosure when necessary if leashed and muzzled or in a secure carrying cage. The enclosure for a dangerous dog shall be indoors within a building from which the animal cannot escape or in a securely enclosed and locked pen or structure suitable to prevent the entry of young children and designed to prevent the dog from escaping. The pen or structure shall have minimum dimensions of five feet by ten feet and shall have secure sides and a secure top. If it has no bottom secured to the sides, the sides shall be embedded into the ground no less than two feet. The pen or structure shall also provide protection from the elements for the dog. The premises where the dangerous dog is kept shall be posted with warning signs at places likely to be seen by persons entering the premises. A warning sign shall advise of the presence on the premises of a dangerous dog and shall also contain a picture symbol of a dangerous dog as a warning to children. Unauthorized removal of a warning sign posted in compliance with this paragraph is unlawful. Any dangerous dog found at large after the owner thereof has previous knowledge or notice

that such dog is dangerous may be killed by any police officer or animal control officer of the town without such officer having to catch or impound such dog. (Ord. passed 3-26-2013; Ord. passed 9-26-2013) Penalty, see § 94.99

§ 94.40 TEASING OR MOLESTING PROHIBITED.

It shall be unlawful for any person to tease, molest, bait or in any way bother any animal not belonging to him or her or legally under his or her control, except as permitted by the use of animal traps assigned out from the Police Department. (Ord. passed 3-26-2013; Ord. passed 9-26-2013) Penalty, see § 94.99

EXOTIC/DANGEROUS ANIMALS

§ 94.50 PROHIBITION OF CERTAIN ANIMALS.

No person may have or keep within the town any wild animal other than one classified as a wild animal by the North Carolina Wildlife Resources Commission and for which a permit is obtained from this Commission. (Ord. passed 3-26-2013; Ord. passed 9-26-2013) Penalty, see § 94.99

§ 94.51 INHERENTLY DANGEROUS EXOTIC ANIMALS.

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

EXOTIC ANIMAL. Any animal which:

- (a) Is not native or indigenous to North Carolina;
- (b) Does not have an established wild population in North Carolina; or

(c) Is not regulated by the North Carolina State Wildlife Commission.

INHERENTLY DANGEROUS EXOTIC MAMMAL. Any member of the canidae, felidae or ursidae families, including hybrids thereof, which due to their inherent nature may be considered dangerous to humans.

(a) Canidae include any member of the dog (canid) family not customarily domesticated by man or any hybrids of such canidae thereof, including wolf hybrids which are a cross between a wolf and domestic dog but not including domestic dogs (canis familiaris).

(b) Felidae include any member of the cat family weighing over 15 pounds not customarily domesticated by man or any hybrids of such felidae but not including domestic cats (Felis catus).

(c) Ursidae include any member of the bear family or hybrids of such ursidae.

INHERENTLY DANGEROUS REPTILE. Any member of the class of reptilia which:

(a) Is venomous. A venomous reptile shall include all members of the families Helodermatidae (gila monsters and Mexican beaded lizards), Viperidae (vipers), Crotalidae (pit vipers), Atractaspididae (burrowing asps), Hydrophilidae (sea snakes) and Elapidae (cobras, coral snakes and their allies), as well as any "rear-fanged" snakes of the family Colubridae that are known to be dangerous to humans (including but not limited to Dispholidus typus (boomslang), Thebtonia kirtlandii (twig snake), Rhabdophis spp (keelbacks); or

(b) Is a member of the order Crocodylia (crocodiles, alligators and caiman).

HARBORER OF AN INHERENTLY DANGEROUS EXOTIC MAMMAL or INHERENTLY DANGEROUS REPTILE. Any person or persons, regardless of ownership, who allows an inherently dangerous exotic mammal or inherently dangerous reptile to remain, lodge or be fed or to be given shelter or refuge within the person's

home, store, yard, enclosure, outbuilding, abandoned vehicle or building, place of business or any other premises in which the person resides or over which the person has control.

(B) Possession of inherently dangerous exotic animals is illegal in the town. At no time may any person or persons harbor an inherently dangerous exotic mammal or inherently dangerous reptile.

(C) This subchapter does not apply to:

(1) Veterinary clinics in possession of such mammals or reptiles for treatment or rehabilitation purposes;

(2) Any institution or organization which exists primarily to educate the public in the area of science and nature, which receives or has received financial support from federal, state and/or local governments, which has a paid membership open to and composed of members of the general public, which is directed by a Board of Directors or similar body elected by the membership and which has been declared a 501 C(3) exempt organization by the Internal Revenue Service;

(3) Non-resident circuses for no longer than one seven-day period, for each separate location where such circus is held within the town, per calendar year;

(4) Non-resident carnivals for no longer than one seven-day period, for each separate location where such carnival is held within the town, per calendar year; or

(5) Persons temporarily transporting such mammals or reptiles through the town, provided that such transit time shall not be more than 24 hours.

(D) Any inherently dangerous exotic mammal or inherently dangerous reptile which is kept by any person in contravention of this subchapter may be taken up and impounded by Yadkin County Animal Control for the protection and health of the animal and/or for the protection of the public.
(Ord. passed 3-26-2013; Ord. passed 9-26-2013)
Penalty, see § 94.99

*MISCELLANEOUS***§ 94.65 ENFORCEMENT AND REMEDIES.**

(A) Primary responsibility for enforcing the provisions of this chapter is assigned to the Police Department. County Animal Control serves as a resource for the Police Department.

(B) If the person having been ordered to correct any violation of this chapter fails to do so within seven days from receipt of the order, then the Mayor or his or her designated official shall cause the condition to be remedied by having employees of the town go upon the premises and remedy the situation under the supervision of an officer or employee designated by the Town Manager. If, however, the violation requires immediate attention, the Town Manager may cause the condition to be remedied immediately.

(C) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.

(D) The town may enforce this chapter by any one or any combination of the foregoing remedies.

(E) Unwanted animals may be given to County Animal Control to be adopted or destroyed per state law.

(Ord. passed 3-26-2013; Ord. passed 9-26-2013)

§ 94.66 INTERFERENCE WITH THE POLICE DEPARTMENT.

No person may obstruct, interfere with, hinder or molest the Police Department in the lawful performance of any duty authorized by this chapter.
(Ord. passed 3-26-2013; Ord. passed 9-26-2013)
Penalty, see § 94.99

§ 94.99 PENALTY.

(A) A violation of any of the provisions of this chapter shall constitute a misdemeanor punishable by a fine of not more than \$500 or imprisonment for not more than 30 days or both, as provided by G.S. § 14-4 and in addition thereto such violation may be enjoined and restrained as provided in G.S. § 153A-123.

(B) A violation of any of the provisions of this chapter shall also subject the offender to a civil penalty of \$50. The penalty for subsequent violations shall be \$100. If the offender fails to pay this penalty within 15 calendar days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of a debt.

(C) Each day that any violation continues after a person has been notified that such violation exists and that he or she is subject to the penalties specified in divisions (B) and (C) of this section shall constitute a separate offense.
(Ord. passed 3-26-2013; Ord. passed 9-26-2013)

Chapter 95 Nuisance Ordinance

Section

95.01 Property and/or Parcel

95.02 Vehicles

95.03 Abandoned/Junked/Nuisance vehicles

95.04 Graffiti

95.05 Notice of violation

95.06 Abatement and Penalties

95.01 Property and/or Parcel

- (A) It shall be unlawful for the owner or occupant of any lot or parcel of land in the Town of Boonville to permit to exist on any such lot or parcel of land any condition which may be declared to be noxious, detrimental to health, have unkempt appearance, or to constitute a nuisance.
- (B) The existence of any of the following conditions on any lot or parcel of land in the town is hereby declared to be noxious, detrimental to health, have unkempt appearance, and to constitute a nuisance and to be volatile of the provisions of this ordinance;
 - (a) Any growth of weeds or other vegetation to a height of 18 inches, or any rank vegetable growth which exhales unpleasant and noxious odors, or which may conceal filthy deposits, or harbor insects or any offensive matter or thing, whether the same be upon occupied or vacant premises. See Chapter 92 Weed Ordinance.
 - (b) Any accumulation of animals or vegetable matter that is offensive by virtue of strong odors or vapors or by the inhabitants therein of rats, mice, snakes, or vermin of any kind.
 - (c) Any accumulation of garbage, rubbish, junk, furniture, refrigerators, stove, toys, mattresses, and other appliances, inoperative and derelict automobiles, boats, trucks, and vehicles of like nature. Inside furniture left outside for multiple days is considered unkempt appearance constituting a nuisance.
 - (d) Businesses operating in the Town of Boonville must hold appropriate business licensing from Yadkin County and/or the State of North Carolina, must operate in accordance with zoning requirements and must not be a public nuisance to the neighbors.
 - (e) Any condition found to be detrimental to the health of the Town or any of its inhabitants or which is in violation or any of the rules and regulations of the Town Council.

95.02 Vehicles- Any parking, storing or allowing to be parked or stored on residentially zoned property or property occupied by a single-family residence or duplex:

(A) More than four vehicles, neither on a designated driveway nor on the street in front of the same property, than what is currently licensed to that residence.

(B) This section does not apply to the following:

(a) Any vehicle kept or located in or under any lawfully permitted and constructed privacy fencing or building.

(b) Temporary parking for duration not to exceed 7 days, for example, for temporary repairs and cleaning.

95.03 Abandoned/Junked/Nuisance vehicles

(A) It shall be unlawful for any person to abandon any motor vehicle coming under the provisions of this ordinance and no person shall allow any abandoned, junked or otherwise discarded motor vehicle on public or private property.

(B) Definitions- For the purpose of this ordinance, the following words and phrases shall have the meaning respectively ascribed to them;

(a) An abandoned motor vehicle is one that:

- i. has been left upon a street or highway in violation of a law or ordinance prohibiting parking; or
- ii. is left on property owned or operated by the Town for longer than 24 hours; or
- iii. is left on any public street or highway for longer than seven days.

(b) A junked motor vehicle is abandoned motor vehicle that also:

- i. is partially dismantled or wrecked; or
- ii. cannot be self-propelled or moved in the manner in which it was originally intended; or
- iii. is more than five years old and appears to be worth less than one hundred dollars (\$100); or
- iv. is less than five years old and appears to be worth less than five hundred dollars (\$500); or

- v. does not display its current license plate

(c) A nuisance motor vehicles is one that:

- i. is a health hazard and it creates an environment that is harmful; or
- ii. a breeding ground or harbor for mosquitos, other insects, rats or other pests; or
- iii. a point of heavy growth of weeds or other noxious vegetation over eight inches in height; or
- iv. a point of collection of pools or ponds of water; or
- v. a point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor; or
- vi. one which has areas of confinement which cannot be operated from the inside, such as trunks, hoods and the like; or
- vii. so situated or located that there is a danger of it falling or turning over; vehicle mounted on bricks or blocks; or
- viii. any other vehicle specifically declared a health and safety hazard a public nuisance by the Town Board of Commissioners
- ix. So offensive to the sight as to damage the community, neighborhood or area appearance, upon a finding that the aesthetic regulation is necessary and desirable for the protection of property values, promotion of tourism, indirect protection of health and safety, preservation of the character and integrity of the community, or promotion of the comfort, happiness and emotional stability of area residents.

(d) Designated Driveway: The surface roadway of asphalt, concrete, gravel or similar material, leading from the street to the garage, covered parking area, other permitted off street parking area.

(e) Recreational vehicle: A motorized or non-motorized conveyance that includes, but is not limited to motor homes, travel trailers, folding tent trailers, truck campers removed from a truck or pickup, horse trailers, boat trailers with or without boats, utility trailers, and similar vehicles.

(f) Vehicle: A motorized or non-motorized conveyance that includes, but is not limited to, an automobile, car, truck, trailer, camper, motorcycle, watercraft, and similar vehicles.

95.04 Graffiti

(A) Definitions

(a) Graffiti shall mean writings, drawings, inscriptions, figures, or marks of paint, ink, chalk, dye or other similar substances on public or private buildings, sidewalks, streets, structures, or places which are not authorized or permitted by the property owner or possessor. For the purpose of this chapter, graffiti shall include drawings, writings, markings, or inscriptions regardless of the content or the nature of material used in the commission of the act.

(b) However, the definition of graffiti shall not be construed to prohibit temporary, easily removable chalk or other water soluble markings on public or private sidewalks, streets or other paved surfaces which are used in connection with tradition children's activities, such as drawings, or bases for stickball, kickball, handball, hopscotch or similar activities, nor shall it be construed to prohibit temporary, easily removable chalk or other water soluble markings used in connection with any lawful business or public purpose or activity.

(B) It shall be unlawful for any person to write, paint, inscribe, scratch, scrawl, spray, place or draw graffiti of any type on any public or private building, streets, sidewalks, structure or any other real or personal property.

(C) Removal of graffiti

(a) It shall be unlawful for any person owning property, acting as manger or agent for the owner of the property, or in possession or control of property to fail to remove effectively obscure any graffiti upon such property.

(b) Any such person in non-compliance of a violation of this paragraph shall receive a letter from the Town of Boonville according to Section 152.301 Violations; Violators. If the graffiti is removed or effectively obscured within (15) days from the mailing of the notice which was sent by the Town no further action will be taken. However, if the property owner is not compliant within 15 days, the property will be investigated by the Zoning Officer and the property will be issued a first citation and a fee of \$100 per Section 152.999 Penalty. The Zoning Officer will send out a notice of violation and refer to Sections 152.301 Violations; Violators, 152.302 Equitable Relief, 152.303 Combination of Remedies, and 152.999 Penalty.

(c) The mandatory fine provided in Section 152.999 Penalty, may or may not apply to a property owner, agent, manager, or possessor of property if such property owner, agents, manager or possessor has been victimized two or more times by graffiti within any calendar year and, during such time, has removed or effectively obscured such graffiti from the property in a timely manner.

(d) Upon the failure of the owner or person in possession of any premises upon which graffiti exists to remove or effectively obscure the graffiti within the time allowed, it shall be the duty of the Town to abate such nuisance. The Town shall proceed according to Section V (9)-(13).

95.05 Notice of violation

(A) When any public nuisance as enumerated in this ordinances is found to exist on any property within the Town of Boonville, the Town shall notify by courtesy letter the owner of the premises where the nuisance is located that conditions exist which constitute a public nuisance. If any such lots is owned by more than one person, the notice will be addressed to all persons having any estate or interest in the lot and such service shall be deemed a sufficient compliance with this section. If any such lot is owned by a corporation, the notice may be mailed to any local officer or agent of the corporation. If said notice is not accepted or received by the owner as provided herein, posting "Notice of Violation" of said property shall constitute notice. The Zoning Officer should refer to Sections 152.301 Violations; Violators, 152.302 Equitable Relief, 152.303 Combination of Remedies, and 152.999 Penalty when issuing the notice of violation.

95.06 Abatement and Penalties

(A) Authorized Removal

- (a) It shall be unlawful for the owner 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 an abandoned or junked vehicle.
- (b) Upon investigation, the Zoning Officer or other municipal officials may determine and declare that a vehicle is a health or safety hazard or a public nuisance as defined in 95.03 Abandoned/Junked/Nuisance vehicles (B) (c) and order the vehicle removed.

(B) Pre-Towing Notice Requirements

- (a) A vehicle to be towed or otherwise removed because it has been declared to be an abandoned or junked vehicle shall be towed only after notice to the owner or person entitled to possession of the vehicle. If the name and mailing addresses of the owners of the vehicle or the real property upon which it is located can be ascertained in the exercise of reasonable diligence, the notice shall be given to both by first-class mail. The person who mails the notices shall retain a written record to show the names and addresses to which mailed and the date mailed. If record to show the names and addresses cannot be ascertained, notices shall be given by affixing on the windshield or some other

conspicuous place on the nuisance vehicle. The notices shall state that the vehicle will be removed by the town on a specified date, no sooner than seven (7) days after notices is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

- (b) If the owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle, the appeal shall be made to the Board of Commissioners in writing, heard at the next regularly scheduled meeting of the Town Board, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.
- (c) A nuisance vehicle may be removed without giving the minimum seven (7) days' prior notice only in those circumstances where the authorizing official finds, and enters findings in appropriate records, a special need for prompt action to maintain the public health, safety and welfare.

(C) Post-Towing Notice Requirements

- (a) Any vehicle which has been determined to be a nuisance vehicle may be removed to a storage garage or area by a towing business contracting to perform services for the town. Whenever a vehicle is removed, the last-known registered owner of the vehicle shall immediately be notified, and the notice shall include the following:
 - i. A description of the removed vehicle;
 - ii. The location where the vehicle is stored;
 - iii. The violation with which the owner is charged, if any;
 - iv. The procedure the owner must follow to redeem the vehicle; and
 - v. The procedure the owner must follow to request a probable cause bearing on the removal.
- (b) This notice shall be mailed to the owner's last known address, unless waived in writing.
- (c) If the vehicle is registered in the state of North Carolina, notice shall be mailed within 24 hours. If the vehicle is not registered in this state, notices shall be mailed to the owner within 72 hours from the removal of the vehicle.
- (d) Whenever a nuisance vehicle is removed and the vehicle has no valid registration or registration plate, the reasonable efforts, including the checking of the vehicle identification number, shall be made to determine the last known

registered owner of the vehicle and to notify him of the information as set for in division (C)(a) I through V above.

(D) Hearing Before Sale or Final Disposition

(a) After removal of a vehicle is declared to be a nuisance, abandoned or junked vehicle, the owner or other person entitled to possession may request in writing a hearing to determine if probable cause existed for removing the vehicle. The request must be filed with the magistrate in the county where the vehicle was towed. 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.

(E) Sale and Disposition of Unclaimed Vehicles

(a) With the consent of the owner, the designated town official may dispose of any vehicle as a nuisance, abandoned or junked motor vehicle without holding it for any prescribed period of time.

(b) Any unclaimed nuisance, abandoned or junked motor vehicle, as defined by 95.03 (B) (a) through (c), shall be held for a period of at least 15 days. The owner of any vehicle may claim his or her vehicle during the 15-day retention period by exhibiting proof of ownership to the designated town official and after paying all reasonable costs incident to the removal and storage of the vehicle plus administrative expenses. If, after the vehicle is held 15 days, it remains unclaimed, the vehicle may be destroyed or sold at private sales as junk.

(c) Within 15 days after final disposition of a nuisance, abandoned or junked motor vehicle, writing noticed thereof shall be given to the department of motor vehicles (NCDMV) that the vehicle has been determined to be a junked motor vehicle and disposed of as such. The notice shall contain as full and accurate a description of the vehicle as can be reasonable determined.

(F) Proceeds of Sale

(a) The proceeds of the sale of a junked motor vehicle declared to be a nuisance, after all costs of removal, storage, investigation and sale, and satisfaction of any lien of record on the vehicle, have been deducted therefrom, shall be held by the Clerk for 30 days and paid to the owner upon demand. If the owner does not appear to claim the remainder of the proceeds within 30 days after disposal of the vehicle, the funds shall be deposited into the town general fund and the owner's rights therein shall be forever extinguished.

(G) Immunity

(a) Neither the town nor any person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of

any junked, lost or stolen vehicle for disposing of the vehicle as regulated by this chapter.

(H) Exceptions

(a) Nothing in this chapter shall apply to any motor vehicle in an enclosed building, any motor vehicle kept or store in a bona fid “automobile graveyard” or “junkyard”, as defined in G.S. 136-143, or to any motor vehicle that is used on a regular basis for business or personal use.

(I) Abatement by Town- Upon the failure of the owner or person in possession of any premises upon which a nuisance exists to abate the same within the time allowed, it shall be the duty of the Town to abate such nuisance.

(J) Effect of Defect in Notice- Any defect in the method of giving the notice of violation, or in the form thereof, or giving of such notice to an improper person, shall not prevent the Town, in any case where the work of abatement of nay nuisance from any lost is actually done by the Town, from collecting the cost thereof from the owner, nor shall it affect the validity of the lien on the lot for such cost.

(K) Abatement without Notice- If any nuisance is in such a dangerous condition as to admit of no delay in its abatement, The Town may, without notice, proceed to abate the same and the costs thereof shall be charged against the lot owner as is provided by this ordinance.

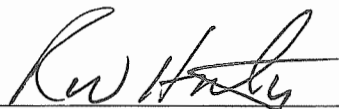
(L) Payment of Costs- Upon completion of the abatement of any nuisance by the Town under the provisions of this ordinance, the Town shall deliver a statement including the costs of labor, hauling and necessary items of expense for such abatement to the owner of the lot in the form of a bill covering the costs as provided in North Carolina General Statues 160A-193. In addition according to North Carolina General Statue 14-4 a property owner may be fined \$500 or \$50 a day. The amount of the bill shall become a lien upon said property if not paid within thirty days (30) and shall be collected in the same manner as provided for the collection of delinquent taxes.

(M) Criminal Action and other Civil Remedies- The abatement of any nuisance in accordance with the procedure described by this ordinance shall not prevent the Town of proceeding in a criminal action that has been investigated by an attorney against any person violating the condition of this chapter. The violation of this ordinance may be subject to abatement summarily by appropriate in junction issued by a court of competent jurisdiction.

(N) This ordinance shall become effective for all lots and parcels in the Town of Boonville.

This ordinance is here by enacted and shall be the Nuisance Ordinance of the Town of Boonville

(6-15-2016)

A handwritten signature in cursive script, appearing to read "R. Hunter", written over a horizontal line.

Russell (Rusty) Hunter, IV, Mayor

Attested to:

A handwritten signature in cursive script, appearing to read "Kim Wells", written over a horizontal line.

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. BUSINESS/PRIVILEGE LICENSING**
- 111. PEDDLING AND SOLICITING**
- 112. YARD SALES**
- 113. PLACES OF AMUSEMENT**

Chapter 110: BUSINESS/PRIVILEGE LICENSING

Section

- 110.01 Purpose
- 110.02 Definitions
- 110.03 Unlawful to conduct business without a license
- 110.04 License required for every place of business
- 110.05 License must be displayed at place of business licensed
- 110.06 No abatement of license fee
- 110.07 Term
- 110.08 New license if business moved or sold
- 110.09 Personal nature of licenses
- 110.10 Application
- 110.11 Contents of license; copy to be kept by Town Clerk
- 110.12 Schedule of license fees
- Appendix A: Downtown Design Overlay District

110.01 PURPOSE

A business/privilege license allows officials to know who is conducting business in the town, as well as the location and type of business. This assists town officials in ensuring a business is located in an area that is properly zoned and ensures that the business has adequate access to basic town services. Business owners within the Downtown Design Overlay District in town limits are subject to the business/privilege license requirement set forth in this chapter. A privilege license is required for anyone who maintains a business location within the Town Downtown Design Overlay district. (See Appendix A.) (Ord. Passed 9-4-2012)

Change Section **110.01 PURPOSE** as follows:

A business/privilege license allows officials to know who is conducting business in the town, as well as the location and type of business. This assists town officials in ensuring a business is located in an area that is properly zoned and ensures that the business has adequate access to basic town services. Business owners within the town limits are subject to the business/privilege license requirement set forth in this chapter. A privilege license is required for anyone who maintains a business location within the town limits.

(See Appendix A.) (Ord. Passed 9-4-2012)

CHAPTER 110: BUSINESS/PRIVILEGE LICENSING

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§ 110.02 DEFINITIONS.

For the purposes 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 chapter, to a license fee.

ENGAGED IN THE BUSINESS. Engaged in the business as owner or operator.

FISCAL YEAR. The period beginning with the July 1 and ending with June 30 next following.

PERSON. Any person, firm, partnership, company or corporation.

QUARTER. Any three consecutive months.
(Ord. passed 9-4-2012)

§ 110.03 UNLAWFUL TO CONDUCT BUSINESS WITHOUT A LICENSE.

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 such business; and each day that such person shall engage in or carry on such business shall be construed to be a separate offense. (Ord. passed 9-4-2012) Penalty, see § 10.99

§ 110.04 LICENSE REQUIRED FOR EVERY PLACE OF BUSINESS.

(A) A license issued for the privilege of conducting a business is only valid for the business conducted at the place and by the licensee named therein.

(B) Every person doing business in more than one factory, mill, warehouse, store, stall, stand or other place of business shall secure a separate license for each such place of business, unless such places of business are contiguous to each other, communicate directly with and open into each other, and are operated as a unit; and shall pay the prescribed license fee for each such place of business. (Ord. passed 9-4-2012) Penalty, see § 10.99

§ 110.05 LICENSE MUST BE DISPLAYED AT PLACE OF BUSINESS LICENSED.

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, such licensee must keep the same wherever such business is being operated and where it can be inspected at any time by the proper municipal official. (Ord. passed 9-4-2012) Penalty, see § 10.99

§ 110.06 NO ABATEMENT OF LICENSE FEE.

No license fee 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 such license was issued. (Ord. passed 9-4-2012) Penalty, see § 10.99

§ 110.07 TERM.

All license fees provided for in this chapter shall be for 12 months, from July 1 to June 30, unless otherwise specified. (Ord. passed 9-4-2012) Penalty, see § 10.99

§ 110.08 NEW LICENSE IF BUSINESS MOVED OR SOLD.

If a business is moved or if the licensee sells to another, then a new license is necessary. (Ord. passed 9-4-2012) Penalty, see § 10.99

§ 110.09 PERSONAL NATURE OF LICENSES.

Each license shall be a personal privilege and shall not be transferable. (Ord. passed 9-4-2012) Penalty, see § 10.99

§ 110.10 APPLICATION.

Every application for a license required by this chapter shall be made at the Town Hall. (Ord. passed 9-4-2012) Penalty, see § 10.99

§ 110.11 CONTENTS OF LICENSE; COPY TO BE KEPT BY TOWN CLERK.

Every license issued shall show on the face thereof the name of the licensee, the nature of the business, the location thereof, if it is to be operated at a fixed place, the time for which issued, and the amount of license fee paid. The Town Clerk shall keep an exact copy of every license issued; such copy to show such approval as may appear on the original. (Ord. passed 9-4-2012)

§ 110.12 SCHEDULE OF LICENSE FEES.

Of the following trades, professions, agencies, business operations and other subjects herein set out, a \$5 fee annually upon renewal shall be collected unless otherwise specified.

<i>Business</i>	<i>Fee</i>	<i>Description of Business</i>
Automobile dealers	\$5	Engaging in the business of buying, selling, distributing, servicing, storing or exchanging motor vehicles, trailers, semi-trailers, tires, tools, batteries, electrical equipment, lubricants or automotive equipment, radios designed for exclusive use in automobiles and supplies
Barbershops and beauty salons	\$5	Engaging in the business of conducting a barbershop, beauty salon or parlor or other shop of like kind
Bicycle dealers	\$5	Selling bicycles, bicycle supplies or bicycle accessories
Bowling alleys	\$5	Operating a bowling alley or alleys of like kind
Campgrounds and trailer parks	\$5	Operating for profit a campground, trailer park, tent-camping area or similar place and advertising or soliciting transient patronage; it is irrelevant whether rental to patrons is on a daily, weekly, biweekly or monthly basis
Chain stores	\$5	Engaging in the business of operating or maintaining in this state: (a) 2 or more stores or mercantile establishments under the same general management, supervision or ownership where goods, wares or merchandise are sold or offered for sale, or from which such goods wares or merchandise are sold or distributed at wholesale or retail; or (b) Controlling by lease, either as lessor or lessee or by contract, the manner in which any such store or stores are operated, or the varieties, character or brands of merchandise which are sold therein
Check-cashing businesses	\$5	Engaging in the business of check cashing, as regulated under G.S. Chapter 53, Article 22; this is the business of cashing checks, drafts or money orders for a fee
Cigar, cigarette and tobacco retailers	\$5	Engaging in the business of retail sale of cigars, cigarettes, tobacco and any other tobacco products
Circuses and animal shows	\$5	Exhibiting performances, such as a circus or dog show, or any other similar show, exhibition or performance
Collection agencies	\$5	Engaging in the business of operating a collecting agency, defined as collecting for a profit, claims, accounts, bills, notes or other money obligations for others
Contractors and construction companies	\$5	Offering or bidding for a fixed price, commission, fee or wage to construct any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage or dredging system, electric or steam railway, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf, excavation, grading or other improvement or structure

Boonville - Business Regulations

<i>Business</i>	<i>Fee</i>	<i>Description of Business</i>
Dance studios	\$5	Giving or managing any dance lessons or athletic contest of any kind that charges an admission fee in excess of \$5
Daycare centers	\$5	Every person, firm or corporation engaged in the business of providing service for daycare centers
Dealer in firearms	\$5	Engaging in the business of selling or offering for sale firearms
Dealer in other weapons	\$5	Engaging in the business of selling or offering for sale bowie knives, dirks, daggers, leaded canes, iron or metallic knuckles or similar weapons
Dry cleaners	\$5	Engaging in the business of operating a cleaning plant, press club or hat-blocking establishment
Electronic video games	\$5	Owning or operating machines that play electronic video games when a coin or other thing of value is deposited in the machine
Emigrant and employment agents	\$5	Engaging in the business of soliciting, hiring or contracting with laborers for employment out of state; or engaging in the business of securing employment for a person or persons and charging a fee, commission or other compensation
Event vendor (food sales)	\$5	Engaging in the sale of food for profit at an organized event; exemptions: government agencies, schools and non-profit organizations
Event vendor (products and services sales)	\$5	Engaging in the sale of products or services for profit at an organized event; exemptions: government agencies, schools and non-profit organizations
Fortune tellers	\$5	Engaging in telling or pretending to tell fortunes, practicing the art of palmistry, clairvoyance and other crafts of similar kind for profit
Gasoline, benzene, lubricating oil and greases	\$5	Every person, firm or corporation selling illuminating or lubricating oil or grease, or benzene, naphtha, gasoline or other similar products
Hotels, motels, bed and breakfast	\$5	Operating a hotel, motel, tourist court, tourist home or similar place advertising in any manner or soliciting for transient patronage; a <i>HOTEL</i> is defined as a building or group of buildings providing lodging and usually (but not necessarily) meals, entertainment and various personal services for the public; a <i>MOTEL</i> is a building or group of buildings where rooms usually are directly accessible from an outdoor parking area and are used primarily as lodging for the public; the principal test in deciding whether this section applies is the use of such places for temporary abode by transient patrons; it is immaterial whether a particular room is occupied by a "permanent" guest or whether it is rented on a daily, weekly or monthly basis

<i>Business</i>	<i>Fee</i>	<i>Description of Business</i>
Installing elevators and sprinkler systems	\$5	Engaging in the business of selling or installing elevators or automatic sprinkler systems
Itinerant merchants	\$5	Engaging in the business of <i>ITINERANT MERCHANT</i> defined as a merchant, other than a merchant with an established retail store in the town, who transports an inventory of goods to a building, vacant lot or other location in a town and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail; a merchant who sells goods, other than farm products, in a town for less than six consecutive months is considered an <i>ITINERANT MERCHANT</i> unless he or she stopped selling goods in that town because of his or her death or disablement, the insolvency of his or her business, or destruction of his or her inventory by fire or other catastrophe
Junk dealers	\$5	Every person firm or corporation engaged in the business of buying and/or selling what is commonly known as junk, including scrap materials, waste paper and the like
Laundries	\$5	Engaging in the business of operating a laundry, including wet or damp-wash laundries and businesses known as launderettes, launderalls and similar types of businesses; or engaging in the business of supplying or renting clean linens, towels or wearing apparel
Loan agencies	\$5	Engaging in the regular business of making loans or lending money, accepting liens on or contracts of assignment of salaries, wages or any part thereof, or other security or evidence of debt for repayment of such loans in installment payment or otherwise; and maintaining in connection with such activity any office or established place for the conduct, negotiation or transaction of such business, or advertising or soliciting such business in any manner
Massage therapist	\$5	Engaging in the business of performing massages or treatments of any persons for a fee or in expectation of a gratuity from the person massaged
Motorcycle dealers	\$5	Engaging in the business of buying, selling, distributing or exchanging motorcycles, motorcycle supplies or any of such commodities
Movie theaters	\$5	Operation of a movie theater for compensation
Music machines	\$5	Operating, maintaining or placing on location any machine or machines that play records or produces music
Outdoor advertising	\$5	Engaging in the business of outdoor advertising by placing, erecting or maintaining one or more outdoor advertising signs or structures of any nature by means of signboards, poster boards, painted bulletins or other painted matter; or any other outdoor advertising device, erected upon the grounds, walls or roofs of buildings

Boonville - Business Regulations

<i>Business</i>	<i>Fee</i>	<i>Description of Business</i>
Outdoor theaters	\$5	Operating an outdoor or drive-in movie theater for compensation
Pawnbrokers	\$5	Engaging in the business of pawnbroker, as regulated by G.S. §§ 66-385 through 66-399
Peddler of farm products only	\$5	Engaging in the business of PEDDLER defined as a person who travels from place to place with an inventory of goods, who sells the goods at retail or offers the goods for sale at retail, and who delivers the identical goods he or she carries with him or her
Pinball machines and similar amusements	\$5	Operating a bagatelle table; merry-go-round or other riding device; hobbyhorse; switchback railway; shooting gallery; swimming pool; skating rink; other amusements of a like kind; or a place for other games or play with or without name at a permanent location
Plumbers, heating contractors and electricians	\$5	Engaging in the business of a plumber, installing plumbing fixtures, piping or equipment, steam or gas fitter, hot-air heating systems, electrical equipment or offering to perform such services
Pool tables	\$5	Operating billiards or pool tables, whether by slot (coin) or otherwise
Restaurants	\$5	Operating a restaurant, café, cafeteria and hotel with dining service on the European plan, drugstore or other place where prepared food is sold
Sale of pianos, televisions and audio-video equipment	\$5	Selling, offering or ordering for sale pianos, organs, audio-video equipment and accessories, and television sets and accessories, parts and repair
Sellers of ice cream	\$5	Selling at retail ice cream purchased from a manufacturer or manufacturing ice cream using a counter freezer and selling at retail only
Service stations	\$5	Engaging in the business of servicing, storing, painting, repairing, welding or upholstering motor vehicles, trailers and semi-trailers; or retail selling or delivering of any tires, tools, batteries, electrical equipment, automotive accessories, radios designed for exclusive use in automobiles, supplies, motor fuels, lubricants or any such commodities
Sexually oriented business	\$1,000	Includes, but not limited to, adult arcade, adult bookstore or adult video store, adult cabaret, adult model, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center or any combination thereof; must comply with any restrictions of the town and state regulations

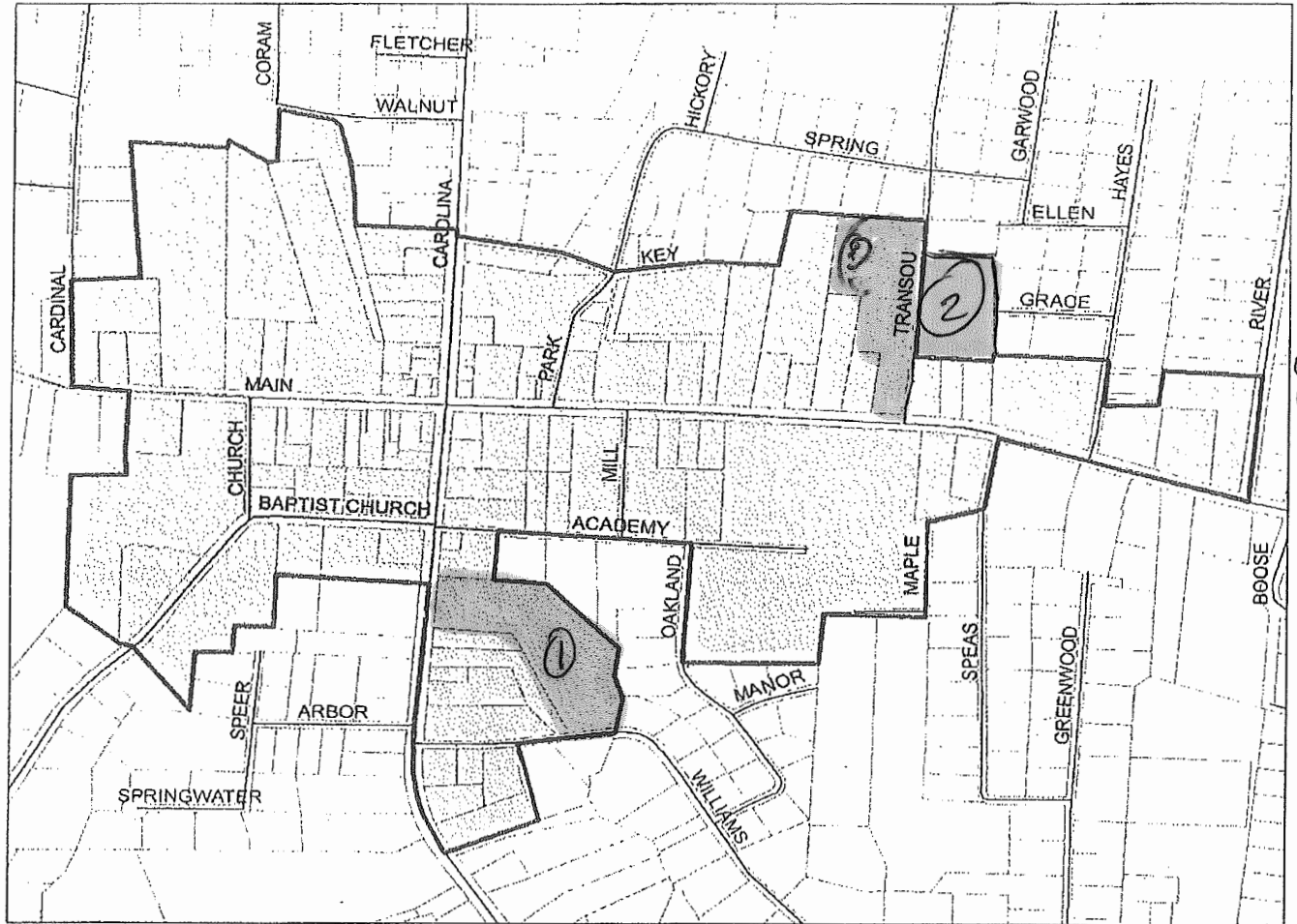
<i>Business</i>	<i>Fee</i>	<i>Description of Business</i>
Specialty market operators	\$5	Engaging in the business of <i>OPERATING A SPECIALTY MARKET</i> defined as a person who rents space, at a location other than a permanent retail store, to others for the purpose of selling goods at retail or offering goods for sale at retail
Sundries	\$5	(a) The sale of sandwiches in drugstores or other stands or places (<i>SANDWICHES</i> does not include crackers or cookies in combination with any food filling); (b) Operating, maintaining or placing on location fewer than 5 of the following types of dispensers or machines: dispensers of cigarettes or other tobacco products, dispensers of soft drinks, dispensers of food or other merchandise or weighing machines; (c) Retailing soft drinks; or (d) Retailing or jobbing cigarettes or other tobacco products
Sweepstakes gaming	\$1,000 per location plus \$500 per machine/computer or device (whether or not in operation)	Any business that has any computers and/or gaming terminals, to conduct games of chance, including sweepstakes, where money, credit, merchandise or other items of value are redeemed by or otherwise distributed, no matter how the odds are determined; this term includes, but is not limited to, internet cafes, cybercafés, sweepstakes entertainment business or internet sweepstakes and the like; this section does not apply to any game or process prohibited by G.S. §§ 14-304 through 14-309 and does not include the North Carolina Education Lottery; must comply with any restrictions of the town and state regulations
Tobacco warehouses	\$5	Engaging in the business of operating a warehouse for the sale of leaf tobacco on commission
Undertakers	\$5	Engaging in the business of burying the dead or the retail sale of coffins
Video rental or sale	\$5	Selling, leasing, furnishing and/or distributing movies, including video movies, for use in places where no admission fee is charged or in schools or other institutions of learning
Wholesale supply dealer	\$5	Engaging in the business of buying, selling, distributing, exchanging or delivering automotive accessories, including radios designed for exclusive use in automobiles, parts, tires, tools, batteries, other automotive equipment or supplies or any such commodities at wholesale

(Ord. passed 9-4-2012)

100 ft
300 ft

200 across

APPENDIX A: DOWNTOWN DESIGN OVERLAY DISTRICT



9/13/4

- ① melvin morison 3.9 Parcel 126567
- ② Kent Brindle 7009 vs 601 Hwy 1.31 acres 12 houses annex in
- ③ Kent Stenson 223 acres FIRE dept
- ④ Harvey Winslow 3.45 acres
- ⑤ Vaughn Bassat - 43 acres rezoned all as M1 annex 5 houses word nuff rd
- ⑥ Kent 1.67

CHAPTER 111: PEDDLING AND SOLICITING

Section

- 111.01 Registration required
- 111.02 Fee
- 111.03 Certificate
- 111.04 Exceptions
- 111.05 Revocation
- 111.06 Non-profit organizations
- 111.07 Application

- 111.99 Penalty

§ 111.01 REGISTRATION REQUIRED.

It shall be unlawful for any person to engage in business as a canvasser or solicitor, calling at residences or businesses without the previous consent of the occupant for the purpose of soliciting orders, sales, subscriptions or business of any kind, or seeking for information or donations without first having registered in the office of the Town Hall. The registrant shall give his or her complete identification, his or her signature, the name of his or her employer, the nature of the products or services in which he or she is interested, the names of the manufacturers of such products or of the organization which he or she is representing, and the proposed method of operation in the town.

(Ord. passed - -) Penalty, see § 111.99

§ 111.02 FEE.

Each registrant shall pay to the town a registration fee of \$10 for the period expiring three days after the date of the registration.

(Ord. passed - -)

§ 111.03 CERTIFICATE.

(A) Each applicant who shows evidence of good character and who pays the fee provided for herein shall be furnished a certificate indicating that he or she has registered and showing the dates covered by such registration.

(B) Each person shall at all times while soliciting or canvassing in the town carry upon his or her person the registration certificate and the same shall be exhibited by such registrant whenever he or she is required to do so by any police officer or by any person solicited.

(Ord. passed - -) Penalty, see § 111.99

§ 111.04 EXCEPTIONS.

The provisions of this chapter shall not apply to officers or employees of the town, county, state or federal government, or any subdivision thereof, when on official business.

(Ord. passed - -)

§ 111.05 REVOCATION.

Any such registration may be revoked by the Mayor or the Chief of Police because of any violation by the registrant of this chapter or of any other ordinance of the town, or of any state or federal law, or whenever the registrant shall cease to possess the qualifications and character required in this chapter for the original registration.

(Ord. passed - -) Penalty, see § 111.99

§ 111.06 NON-PROFIT ORGANIZATIONS.

Any non-profit, charitable or civic organization maintaining an office in the county may apply for a blanket certificate for all bona fide members which shall be maintained at the office of the Town Clerk and shall exempt such organizations and their members from this chapter.

(Ord. passed - -)

§ 111.99 PENALTY.

Any violation of the provisions of this chapter shall constitute a misdemeanor, punishable upon conviction by a fine not to exceed \$500 or imprisonment not exceeding 30 days as provided by G.S. § 14-4, and in addition thereto such violation may be enjoined and restrained as provided in G.S. § 160A-175.

(Ord. passed - -)

§ 111.07 APPLICATION.

Application for Peddlers and Solicitors	
Name _____	
Address _____	
Address _____	
Phone # _____	
OL# _____	
Company Name _____	
Co. Address _____	
Co. Address _____	
Co. Phone # _____	
Tax ID # _____	
Type of Product/Service _____	
Manufacturer's Name(s) _____	
Method of Operation Dates _____	
Signature _____	

Approved _____	Date _____
(Town Seal)	

(Ord. passed - -)

CHAPTER 112: YARD SALES

Section

- 112.01 Definition
- 112.02 Exemptions
- 112.03 Permits
- 112.04 Regulations
- 112.05 Signs

- 112.99 Penalty

(B) A yard sale permit may be obtained at the Town Hall during normal business hours.

(C) The cost of a yard sale permit is \$10 per permit.
(Ord. 59, passed 5-1-1988; Ord. passed 7-5-2011)

§ 112.01 DEFINITION.

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

YARD SALE. The sale of residential household items which have been owned or used primarily by a person residing on the premises where the sale is conducted.
(Ord. 59, passed 5-1-1988; Ord. passed 7-5-2011)

§ 112.02 EXEMPTIONS.

This chapter does not apply to any person conducting an incidental sale of up to two separate items when such sale is not part of a yard sale as defined in § 112.01.
(Ord. 59, passed 5-1-1988; Ord. passed 7-5-2011)

§ 112.03 PERMITS.

(A) All persons conducting a yard sale must first obtain a permit from the town.

§ 112.04 REGULATIONS.

All persons and yard sales are subject to the following regulations.

(A) All persons shall conduct no more than three separate yard sales per calendar year. When members of more than one residence join in holding a yard sale, the sale is considered as having been held at the residence of each participating member.

(B) A yard sale shall be limited to the daylight hours of no more than two consecutive days.

(C) A copy of the town approved yard sale permit must be prominently displayed at sale location or available for verification of approval by town staff or the Police Department.
(Ord. 59, passed 5-1-1988; Ord. passed 7-5-2011)
Penalty, see § 112.99

§ 112.05 SIGNS.

All yard sales are subject to the following sign regulations.

(A) No more than two signs of not more than six square feet per sign may be displaced on the property of the residence where a yard sale is held.

(B) Signs may not be exhibited for more than two days prior to the day the sale is to commence and must be removed at the completion of the sale.

(C) Off-premise signs must be approved by the property owner where the sign is to be located or it may be removed and disposed of.

(D) Off-premise signage is prohibited within 300 feet of the intersection of NC Highways 67 and 601 (no signage near the town intersection).

(E) Signage is prohibited on utility poles, on sidewalks and within the public right-of-way.
(Ord. 59, passed 5-1-1988; Ord. passed 7-5-2011)
Penalty, see § 112.99

§ 112.99 PENALTY.

A violation of any provision of this chapter shall be punishable in accordance with the provisions of G.S. § 14-4 and subject the offender to a civil penalty in the amount of \$50.
(Ord. 59, passed 5-1-1988; Ord. passed 7-5-2011)

CHAPTER 113: PLACES OF AMUSEMENT

Section

113.01 Places of amusement regulated

113.99 Penalty

§ 113.01 PLACES OF AMUSEMENT REGULATED.

Under and by virtue of the authority granted in the G.S. § 160A-181 authorizing cities and towns to regulate places of amusement and entertainment, it shall be unlawful for any pool or billiard hall, dance hall, carnival, circus, itinerant show, exhibition of any kind, tennis court or other place of amusement, owner, operator, lessee or employee of owner, operator or lessee to keep such pool or billiard hall, dance hall, carnival, circus, itinerant show, exhibition of any kind, tennis court or other place of amusement open or to operate the same between the hours of 12:00 a.m. midnight and 6:00 a.m.

(Ord. 61, passed 5-3-1988) Penalty, see § 113.99

§ 113.99 PENALTY.

Any person, firm or corporation violating the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be punished in accordance with the provisions of G.S. § 14-4.

(Ord. 61, passed 5-3-1988)

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

131. WEAPONS

CHAPTER 130: GENERAL OFFENSES

Section

Alcohol

§ 130.99 PENALTY.

130.01 Consumption on public property

130.02 Possession of open container

130.99 Penalty

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Violation of §§ 130.01 and 130.02 shall be in accordance with G.S. § 14-4.
(Ord. passed - -1999)

ALCOHOL

§ 130.01 CONSUMPTION ON PUBLIC PROPERTY.

It shall be unlawful for any person in a group or individually to possess, drink or offer to drink any beer, wine, whiskey or other intoxicating beverage while on any public parking lot, street, alleyway, sidewalk or any other town owned property.
(Ord. passed - -1999) Penalty, see § 130.99

§ 130.02 POSSESSION OF OPEN CONTAINER.

It shall be unlawful for any person, individually or in a group, to possess any beer, wine, whiskey or other intoxicating beverage in other than the manufacturers unopened original container, on any public parking lot, street, alleyway, sidewalk or any other town owned property.
(Ord. passed - -1999) Penalty, see § 130.99

CHAPTER 131: WEAPONS

Section

- 131.01 Regulation of weapons on town property
- 131.02 Discharging firearm inside the town
- 131.99 Penalty

§ 131.01 REGULATION OF WEAPONS ON TOWN PROPERTY.

(A) (1) Except as provided in division (A)(2) below, all persons are prohibited from possessing weapons as defined in G.S. § 14-269 in town owned buildings, their appurtenant premises and parks.

(2) This prohibition shall not apply to the following persons:

(a) Officers and enlisted personnel of the United States armed forces when discharging their official duties as such and acting under orders requiring them to carry weapons;

(b) Civil officers of the United States while in discharge of their official duties;

(c) Officers and soldiers of the militia and National Guard members when called into actual service; and

(d) Sworn law enforcement officers.

(B) A conspicuous notice shall be posted at each entrance to any property set forth in division (A) above stating: "Possession of weapons or carrying a concealed handgun is prohibited."

(Ord. passed - -1999) Penalty, see § 131.99

§ 131.02 DISCHARGING FIREARM INSIDE THE TOWN.

It shall be unlawful for any person to discharge any firearm, air powered rifle/pistol, BB gun, sling shot, cross bow or other like weapon within the town limits, except when used in defense of a person or property or pursuant to lawful direction of a law enforcement officers.

(Ord. passed - -1999) Penalty, see § 131.99

§ 131.99 PENALTY.

(A) *Regulation of weapons on town property.* Any person violating § 131.01 shall be guilty of a misdemeanor and upon conviction shall be fined \$500 or imprisoned for six months or both.

(B) *Discharging firearm inside the town.* Any person, firm or corporation violating the provisions of § 131.02 shall upon conviction be guilty of a misdemeanor and shall be punished in accordance with G.S. § 14-4.

(Ord. passed - -1999)

TITLE XV: LAND USAGE

Chapter

- 150. MINIMUM HOUSING CODE**
- 151. PROPERTY NUMBERING SYSTEM**
- 152. ZONING**

CHAPTER 150: MINIMUM HOUSING CODE

Section

General Provisions

- 150.001 Preamble
- 150.002 Scope
- 150.003 Definitions

Requirements

- 150.015 Minimum requirements for electrical systems
- 150.016 General requirements for the exterior and interior of structures
- 150.017 Minimum space and use requirements
- 150.018 Sanitation requirements
- 150.019 Rooming houses
- 150.020 Application of North Carolina Uniform Residential Building Code

Housing Inspector Generally

- 150.035 Creation of office
- 150.036 Inspections
- 150.037 Abatement; hearing on charges, filing, petition and charges, investigations, time and conduct of hearings
- 150.038 Service of order; contents
- 150.039 Enforcement
- 150.041 Methods of service

Unfit Residential Buildings

- 150.055 Residential buildings unfit for human habitation

Housing Appeals Board

- 150.070 Establishment of Housing Appeals Board
- 150.071 Appeal procedure
- 150.072 Proceedings

Abandoned Structures

- 150.085 Finding; intent
- 150.086 Duties of Building Inspectors
- 150.087 Powers of Building Inspectors
- 150.088 Standards of enforcement
- 150.089 Procedure for enforcement
- 150.090 Methods of service of complaints and orders
- 150.091 In rem action by Inspectors; placarding
- 150.092 Costs of lien on premises
- 150.093 Alternative remedies
- 150.094 Building Inspector defined
- 150.999 Penalty

GENERAL PROVISIONS

§ 150.001 PREAMBLE.

Pursuant to G.S. § 160A-441, it is hereby found and declared that there exists in the town dwellings which are unfit for human habitation and/or inimical to the welfare, and dangerous and injurious to the

health, safety and morals of the people of the town due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, and due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of the town.

(Ord. 93, passed 9-7-1993)

§ 150.002 SCOPE.

(A) Sections 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072 are hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof, which are safety, health and general welfare, through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of dwellings, apartment houses, rooming houses or building, structures or premises used as such.

(B) The provision of §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072 shall apply to all existing housing and to all housing hereafter constructed within the town. Portable, mobile or demountable buildings or structures, including trailers, when used or intended for use for housing within the town shall be subject to the applicable provisions of this Code. This chapter establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities except as provided in this chapter.

(Ord. 93, passed 9-7-1993)

§ 150.003 DEFINITIONS.

For the purposes of §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALTER or ALTERATION. Any change or modification in construction or occupancy.

APPROVED. Approved by the Building Inspector.

BASEMENT. A portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

BUILDING. Any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The term **BUILDING** shall be construed as if followed by the words "or part thereof."

CELLAR. A portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

DETERIORATED. A dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all the minimum standards established by §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072, at a cost not in excess of 60% of its value, as determined by findings of the Inspector.

DILAPIDATED. A dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all the minimum standards established by §§ 150.001 through 150.003, 150.015 through

150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072 at a cost not in excess of 60% of its value, as determined by findings of the Inspector.

DWELLING. Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants whether or not such building is occupied or vacant; provided that temporary housing as hereinafter defined shall not be regarded as a *DWELLING*.

DWELLING UNITS. 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 whether or not such unit is occupied or vacant.

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harboring places; by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping or by other recognized and legal pest elimination methods approved by the Inspector.

FAMILY. One or more persons living together, who are related by blood, marriage or adoption, and having common housekeeping facilities.

FLOOR AREA. The total area of all habitable rooms in a building or structure.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

INFESTATION. The presence, within or around a dwelling, of any insects, rodents or other pests in such numbers as to constitute a menace to the health, safety or welfare of the occupants or to the public.

INSPECTOR. A Building Inspector of the town or other person charged with the administration and enforcement of §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072 or his or her duly authorized representative.

MULTIPLE DWELLING. Any building, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of more than two families, living independently of each other and doing their own cooking in the said building, and shall include flats and apartments.

OCCUPANT. Any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

OPENABLE AREA. The part of window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

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

PARTIES IN INTEREST. All individuals, associations and corporations who have interests or record in a dwelling or any who are in possession thereof; or shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072, and of rules and regulations adopted pursuant thereof, to the same extent as if he or she were the owner.

PERSON. And include any individual, firm, corporation, association or partnership.

PLUMBING. The practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system and public or private water supply system, within or adjacent to any building, structure or conveyance; also the practice and materials used in the installation, maintenance, extension or alteration of stormwater liquid waste, or sewerage and water supply systems of any premises to their connection with any point of public disposal.

PREMISES. A lot, plot or parcel of land including the buildings or structures thereon.

PUBLIC AREA. As used in §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072, means an unoccupied open space adjoining a building and on the same property, that is permanently maintained accessible to the Fire Department and free of all incumbrances that might interfere with its use by the Fire Department.

REQUIRED. Required by some provision of §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072.

RESIDENTIAL OCCUPANCY. Buildings in which families or households live or in which sleeping accommodations are provided. Such buildings include, among others, the following: dwellings; multiple dwellings and lodging houses; and all dormitories.

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 members of the family 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. Combustible and non-combustible waste materials except garbage, and the term shall

include ashes, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

STAIRWAY. One or more flights or stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one story to another in a building or structure.

STORY. The portion of a building included between the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

STRUCTURE. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term **STRUCTURE** shall be construed as if followed by the words "or part thereof."

SUPPLIED. Paid for, furnished or provided by or under control of the owner or operator.

TEMPORARY HOUSING. Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than 30 consecutive days.

UNFIT FOR HUMAN HABITATION. Conditions exist in the dwelling that render it dangerous or injurious to the health, safety, or morals of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the city. Defective conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanness.

VENTILATION. The process of supplying and removing air by natural or mechanical means to or from any space.
(Ord. 93, passed 9-7-1993)

REQUIREMENTS

§ 150.015 MINIMUM REQUIREMENTS FOR ELECTRICAL SYSTEMS.

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling be permitted to exist which does not comply with the following requirements.

(A) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed and connected to the source of electrical power in accordance with the adopted Electrical Code of the town.

(B) The minimum capacity of the service supply and the main disconnect switch shall be sufficient to adequately carry the total load required in accordance with the Electrical Code of the state.

(Ord. 93, passed 9-7-1993) Penalty, see § 150.999

§ 150.016 GENERAL REQUIREMENTS FOR THE EXTERIOR AND INTERIOR OF STRUCTURES.

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling building be permitted to exist which does not comply with the following requirements.

(A) *Foundation.* The building foundation walls, piers or other elements shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon.

(B) *Exterior walls.* The exterior walls shall be substantially weathertight, watertight and shall be

made impervious to the adverse effects of weather and be maintained in sound condition and good repair.

(C) *Roofs.* Roofs shall be maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building.

(D) *Means of egress.* Every dwelling unit shall have two safe, unobstructed means of egress with minimum ceiling height of seven feet leading to a safe and open space at ground level.

(E) *Stairs.* Every inside and outside stair shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(F) *Porches and appurtenances.* Every outside porch and any appurtenances thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(G) *Windows and doors.* Every window, exterior door and 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.

(H) *Windows to be glazed.* Window panes or an approved substitute shall be maintained without cracks or holes which allow passage of air.

(I) *Window sash.* Window sash shall be properly fitted and weathertight within the window frame.

(J) *Hardware.* Every exterior door shall be provided with proper hardware and maintained in good condition.

(K) *Door frames.* Every exterior door shall fit reasonably well within its frame so as to substantially exclude rain and wind from entering the dwelling building.

(L) *Screens.*

(1) Every door opening directly from a dwelling unit to outdoor space shall have screens and a self-closing device; and every window or other device with opening to outdoor space, used or intended to be used for ventilation, shall likewise have screens; tight fitting, free of holes and not nailed to window frame or sash.

(2) Dwellings containing central heating furnaces and adequate cooling equipment for mechanically ventilating the building year round are not required to have screens on door or window openings.

(M) *Accessory structures.* Garages, storage buildings and other accessory structures shall be maintained and kept in good repair and sound structural condition.

(N) *Interior floors, walls and partitions.* Every floor, wall or partition shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(O) *Ceilings.* Every interior ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(P) *Structural supports.* Every structural element of the dwelling unit shall be structurally sound and show no evidence of deterioration which would render it incapable of carrying loads which normal use may cause to be placed thereon.

(Q) *Protective railings.* Protective railings shall be required on any unenclosed structure over 30 inches above adjacent finish grade or on any steps containing four risers or more. Interior stairs and stairwells more than four risers high shall have handrails located in accordance with requirements of the Building Code. Handrails or protective railings

shall be capable of bearing normally imposed loads and be maintained in good condition.

(Ord. 93, passed 9-7-1993) Penalty, see § 150.999

§ 150.017 MINIMUM SPACE AND USE REQUIREMENTS.

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling building be permitted to exist which does not comply with the following requirements.

(A) *Required space in dwelling unit.* Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor area per each additional occupant.

(B) *Required space in sleeping rooms.* In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space of each additional occupant thereof.

(C) *Minimum ceiling height.* At least one-half of the floor area of every habitable room, foyer, hall or corridor shall have a ceiling height of at least seven feet; and the floor area of that part of any room where the ceiling height is less than seven feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(D) *Occupancy of dwelling unit below grade.* No basement or cellar space shall be used as a habitable room or dwelling unit unless meeting all specifications for habitable rooms.

(Ord. 93, passed 9-7-1993) Penalty, see § 150.999

§ 150.018 SANITATION REQUIREMENTS.

No persons shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling building be permitted to exist which does not comply with the following requirements.

(A) *Sanitation.* 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 owner or occupant of a 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 or controls or which is provided for his or her particular use.

(C) *Garbage disposal.* Every occupant of a dwelling or dwelling unit shall dispose of all his or her garbage and any other organic waste which might provide food for rodents and all rubbish in a clean and sanitary manner by placing it in the garbage disposal facilities or garbage or rubbish storage containers.

(D) *Extermination.* Every occupant of a single dwelling and every owner of a building containing two or more dwelling units shall be responsible for the extermination of any insects, rodents or other pests within the building or premises.

(E) *Use and operation of supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all 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 thereof.

(Ord. 93, passed 9-7-1993) Penalty, see § 150.999

§ 150.019 ROOMING HOUSES.

No person shall operate a rooming house, or shall occupy or let to another for occupancy any rooming unit in any rooming house, except in compliance with

the provisions of every section of §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072.

(A) *License required.* No person shall operate a rooming house unless he or she holds a valid rooming house license.

(B) *Water closet, lavatory and bath facilities.*

(1) At least one flush water closet, lavatory, basin and bathtub or shower properly connected to a water and sewer system and in good working condition shall be supplied for each four rooms within a rooming house wherever said facilities are to be shared.

(2) All such facilities shall be located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities.

(C) *Water heater required.* Every lavatory basin and bathtub or shower shall be supplied with hot water at all times.

(D) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet for each occupant thereof.

(E) *Exit requirement.* Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by all applicable building codes.

(F) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for maintenance of a sanitary condition in every other part of the rooming house; and he or she shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.

(Ord. 93, passed 9-7-1993) Penalty, see § 150.999

§ 150.020 APPLICATION OF NORTH CAROLINA UNIFORM RESIDENTIAL BUILDING CODE.

The most current edition of the North Carolina Uniform Residential Building Code, shall govern all repairs, alterations and/or additions to any existing structure where not specified in this chapter.
(Ord. 93, passed 9-7-1993)

HOUSING INSPECTOR GENERALLY

§ 150.035 CREATION OF OFFICE.

The Housing Inspector shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072, including, without limiting the generality of the foregoing, in addition to others herein granted, the following powers:

(A) *Investigations.* To investigate dwelling and building conditions in the town in order to determine which dwellings therein are unfit for human habitation and which buildings are dangerous, being guided in such examination of dwellings and buildings by the requirements set forth in §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072;

(B) *Oaths, witnesses and the like.* To administer oaths, affirmations and to examine witnesses and receive evidence;

(C) *Right of entry.* To enter upon and within premises, dwellings and buildings for the purpose of making examinations and investigations; provided, that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession; and

(D) *Delegation of functions and the like.* To delegate any of his or her functions and powers under §§ 150.001 through 150.003, 150.015 through

150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072 to such officers and agents as he or she may designate.
(Ord. 93, passed 9-7-1993)

§ 150.036 INSPECTIONS.

The Inspector is hereby authorized and directed to make inspections in compliance with a plan approved by the Town Council, to determine the condition of dwellings, dwelling units, rooming units and premises located within the town in order that he or she may perform his or her duty of safeguarding the health and safety of the occupant of dwellings and of the general public. For the purpose of making such inspections, the Inspector is hereby authorized to enter, examine and survey at all reasonable time all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall give the Inspector free access to such dwelling, dwelling unit or rooming 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 §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072 or with any lawful order issued pursuant to the provisions of §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072.
(Ord. 93, passed 9-7-1993)

§ 150.037 ABATEMENT; HEARING ON CHARGES, FILING, PETITION AND CHARGES, INVESTIGATIONS, TIME AND CONDUCT OF HEARINGS.

Whenever a petition is filed with the Building Inspector by at least five residents of the municipality charging that any dwelling is unfit for human habitation or whenever it appears to the Inspector (on his or her own motion) that any dwelling is unfit for human habitation, the Inspector may, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties having an interest in such dwelling,

including lien holders and tenants, if any, as shown by the records of the Register of Deeds of the county, a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Inspector (or his or her designated agent) at a place within the county in which the property is located therein fixed not less than ten days nor more than 30 days after the serving of such complaint; that the owners and parties in interest shall be given a right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector. (Ord. 93, passed 9-7-1993)

§ 150.038 SERVICE OF ORDER; CONTENTS.

If, after such notice and hearing, the Inspector determines that the building under consideration is unfit for human habitation in accordance with the standards herein set forth, he or she shall state in writing his or her findings of fact in support of such determination, stating whether said building is deteriorated or dilapidated, and shall issue and cause to be served upon the owner thereof an order:

(A) If the repair, alteration or improvement of said building, bringing it up to the standards described herein, can be made at a cost less than 60% of the present value of the building, the order shall require the owner, within a specified period of time, not exceeding 90 days, to repair, alter or improve such building so as to render it fit for human habitation, or it shall require the owner within the specified time therein, not to exceed 90 days, to repair, alter or improve such building so as to render it safe. Such order may also direct and require the owner to vacate and close the building until the repairs, alterations and improvements have been made and/or the unsafe and dangerous character of such building has been corrected; and

(B) If the repair, alteration or improvement of said building, bringing it up to the standards described herein cannot be made at a cost of less than 60% of the present value of the building, the order shall require the owner, within a specified period of time,

not to exceed 90 days, to either repair, alter or improve such building so as to bring it into compliance with the standards described herein, or to demolish and remove such building.

(Ord. 93, passed 9-7-1993)

§ 150.039 ENFORCEMENT.

(A) If the owner of a building found to be deteriorated fails to comply with an order to repair, or improve the building, unless an appeal is taken from such order in accordance with §§ 150.070 through 150.072, the Inspector may:

(1) Secure the issuance of a warrant charging such owner with a violation of the standards of fitness established by §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072;

(2) Cause such building to be repaired, altered or improved, and pending such repairs, alterations or improvements may order such building vacated and closed; and

(3) Cause to be posted on the main entrance of any building so closed, a placard with the following words: "This building is unfit for human habitation; the use of occupation of this building for human habitation is prohibited and unlawful."

(B) If the owner of a building found to be dilapidated fails to comply with an order to vacate and close, or fails to remove or demolish the building, unless an appeal is taken from such order in accordance with §§ 150.070 through 150.072, the Inspector may:

(1) Secure the issuance of a warrant charging such owner with violation of the standards of fitness established by §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072;

(2) Cause such building to be vacated and closed and removed or demolished; and

(3) Cause to be posted on the main entrance of any building so closed, a placard with the following words: "This building is unfit for human habitation; the use of occupation of this building for human habitation is prohibited and unlawful."

(C) The Inspector shall not cause the repair, alteration, improvement or demolition and removal of any building or perform any other duties set forth in divisions (A) and (B) above until the Town Council shall have by ordinance ordered the Inspector to proceed to effectuate the purpose of §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072 with respect to the particular property or properties which the Inspector shall have found to be unfit for human habitation or dangerous and which property or properties shall be described in the ordinance. Such ordinances shall be recorded in the office of the Register of Deeds of the county and shall be indexed in the name of the property owner in the grantor index.

(D) The amount of the cost of such repairs, alterations or improvements or vacating and closing, or demolition and removal by the Inspector shall be a lien against the real property upon which such cost was incurred; which lien shall be filed have the same priority and be collected as provided by G.S. Chapter 160A, Article 10. If the building is demolished and removed by the Inspector, he or she shall sell the materials of such building and shall credit the proceeds of such sale against the cost of the demolition and removal and any balance remaining shall be deposited in the Superior Court by the Inspector, shall be secured in such manner as may be directed by such Court and shall be disbursed by such Court to the person found to be entitled thereto by final decree of such court (in a special proceeding brought before the Clerk of Superior Court for said purpose).

(Ord. 93, passed 9-7-1993)

§ 150.041 METHODS OF SERVICE.

(A) Complaints or orders issued by an Inspector shall be served upon persons either personally or by registered or certified mail; but if the whereabouts of

such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence and the Chief Inspector shall make an affidavit to that effect, then the serving of such complaint or order upon such person may be made by publishing the same once each week for three successive weeks in a newspaper printed and published in the county. A copy of such complaint or order shall be posted in a conspicuous place on 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 complaint, 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.

(Ord. 93, passed 9-7-1993)

UNFIT RESIDENTIAL BUILDINGS

§ 150.055 RESIDENTIAL BUILDINGS UNFIT FOR HUMAN HABITATION.

(A) The Inspector shall determine that a residential building is unfit for human habitation if he or she finds that any of the following conditions exist in such building:

(1) Interior walls or vertical studs which seriously list, lean or buckle to such extent as to render the building unsafe;

(2) Supporting members or members which show 33% or more damage or deterioration, or nonsupporting, enclosing or outside walls or covering which show 50% or more of damage or deterioration;

(3) Floors or roofs which have improperly distributed loads which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;

(4) Such damage by fire, wind or other causes as to render the building unsafe;

(5) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or welfare of the occupants or other people in the town;

(6) Inadequate facilities for egress in case of fire or panic;

(7) Defects significantly increasing the hazards of fire, accident or other calamities;

(8) Lack of adequate ventilation, light, heating or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or other residents of the town; and/or

(9) Lack of proper electrical, heating or plumbing facilities required by §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072. which constitutes a health or a definite safety hazard.

(B) Irrespective of the above, a residential dwelling unit shall be construed by the Inspector to be unfit for human habitation and he or she shall so find if such dwelling unit contains more than seven separate types of violations of any of the minimum standards set forth in §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072.
(Ord. 93, passed 9-7-1993)

HOUSING APPEALS BOARD

§ 150.070 ESTABLISHMENT OF HOUSING APPEALS BOARD.

(A) The Town Council hereby establishes a Housing Appeals Board to which appeals may be taken from any decision or order of the Housing Inspector. This Housing Appeals Board shall consist of five members who shall serve for three-year staggered terms. The Housing Appeals Board shall have the power to elect its own officers, fix the times and places for its meetings, adopt necessary rules of

procedure and to adopt other rules and regulations for the proper discharge of its duties.

(B) The Housing Appeals Board shall keep an accurate record of all of its proceedings, and all of its proceedings shall be open to the public.
(Ord. 93, passed 9-7-1993)

§ 150.071 APPEAL PROCEDURE.

(A) An appeal from any decision or order of the Housing Inspector may be taken by any person aggrieved thereby or by any officer, board or commission of the town. Any appeal from the Housing Inspector shall be taken within ten days from the rendering of the decision or service of the order by filing with the Housing Inspector and with the Housing Appeals Board at the Town Hall, a notice of appeal which must specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Housing Inspector shall forthwith transmit to the Housing Appeals Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Housing Inspector refusing to allow the person aggrieved thereby to do any act, his or her decision shall remain in full force until modified or reversed. When any appeal is from a decision of the Housing Inspector's requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Housing Appeals Board, unless the Housing Inspector certifies to the Housing Appeals Board, after the notice of appeal is filed with him or her, that because of acts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of this requirement would cause imminent peril to life or property. In that case, the requirement shall not be suspended except by a restraining order which may be granted for due cause shown upon not less than one day's written notice to the Housing Inspector, by the Board, or by a Court of record upon petition made pursuant to provisions of this section.

(B) The Housing Appeals Board shall affix a reasonable time for hearing appeals, shall give notice to 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 in part, or may modify the decision or order appealed from, and may make any decision and order that in its opinion, ought to be made in the matter and to that end it shall have all the powers of the Housing Inspector, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the Housing Inspector. The Board shall have power also when passing upon appeals, when practical difficulties or unnecessary hardships would result from 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.

(C) 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 Housing Appeals Board, but not otherwise.

(D) Any person aggrieved by an order issued by the Housing Inspector or a decision rendered by the Board may petition the Superior Court of the county for an injunction restraining the Housing Inspector from carrying out the order or decision and the Court may, upon such petition, issue a temporary injunction restraining the Housing Inspector pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision.

(Ord. 93, passed 9-7-1993)

§ 150.072 PROCEEDINGS.

If any dwelling is erected, constructed, altered, repaired, converted, maintained or used in violation of §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072, or any valid order or decision of the Housing Inspector or the Housing Appeals Board made pursuant to §§ 150.001 through 150.003, 150.015 through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072, the Housing Inspector or the Housing Appeals Board may

institute an action or proceeding in the Superior Court of the county to prevent the unlawful erection, construction, reconstruction, alteration or use to restrain, correct or abate the violation, to prevent the occupancy of dwelling or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

(Ord. 93, passed 9-7-1993)

ABANDONED STRUCTURES

§ 150.085 FINDING; INTENT.

It is hereby found that there exists within the town abandoned structures which the Town Council finds to be hazardous to the health, safety and welfare of the residents of the town due to the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. Therefore, pursuant to the authority granted by G.S. § 160A-441, it is the intent of §§ 150.085 through 150.094 to provide for the repair, closing or demolition of any such abandoned structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing or demolition of dwellings unfit for human habitation.

(Ord. 19, passed 10-2-1979; Ord. 35, passed 7-3-1984)

§ 150.086 DUTIES OF BUILDING INSPECTORS.

(A) The Building Inspectors are hereby designated as the town officers to enforce the provisions of §§ 150.085 through 150.094.

(B) It shall be the duty of the Building Inspectors:

(1) To locate abandoned structures within the town and determine which structures are in violation of §§ 150.085 through 150.094;

(2) To take such action pursuant to this §§ 150.085 through 150.094 as may be necessary to provide for the repair, closing or demolition of such structures;

(3) To keep an accurate record of all enforcement proceedings begun pursuant to the provisions of §§ 150.085 through 150.094; and

(4) To perform such other duties as may be prescribed herein or assigned to him or her by the Town Council.
(Ord. 19, passed 10-2-1979; Ord. 35, passed 7-3-1984)

§ 150.087 POWERS OF BUILDING INSPECTORS.

The Building Inspectors are authorized to exercise such powers as may be necessary to carry out the intent and the provisions of §§ 150.085 through 150.094, including the following powers in addition to others herein granted:

(A) To investigate the condition of buildings within the town in order to determine which structures are abandoned and in violation of §§ 150.085 through 150.094;

(B) To enter upon premises for the purpose of making inspections;

(C) To administer oaths and affirmations, examine witnesses, and receive evidence; and

(D) To designate such other officers, agents and employees of the town as he or she deems necessary to carry out the provisions of §§ 150.085 through 150.094.
(Ord. 19, passed 10-2-1979; Ord. 35, passed 7-3-1984)

§ 150.088 STANDARDS OF ENFORCEMENT.

(A) Every abandoned structure within the town shall be deemed in violation of §§ 150.085 through

150.094 whenever such structure constitutes a hazard to the health, safety or welfare of the town citizens as a result of:

(1) The attraction of insects or rodents;

(2) Conditions creating a fire hazard;

(3) Dangerous conditions constituting a threat to children; or

(4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(B) In making the preliminary determination of whether or not an abandoned structure is in violation of §§ 150.085 through 150.094, the Building Inspectors may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

(1) Holes or cracks in the structure's floors, walls, ceilings or roof which might attract or admit rodents and insects, or become breeding places for rodents and insects;

(2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents and insects;

(3) Violations of the State Building Code, the State Electrical Code, the Fire Prevention Code which constitutes a fire hazard in such structure;

(4) The collection of garbage, rubbish or combustible material which constitute a fire hazard in such structure;

(5) The use of such structure or nearby grounds or facilities by children as a play area;

(6) Violations of the State Building Code which might result in danger to children using the structure or nearby grounds or facilities as a play area and

(7) Repeated use of such structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking or eating.

(Ord. 19, passed 10-2-1979; Ord. 35, passed 7-3-1984)

§ 150.089 PROCEDURE FOR ENFORCEMENT.

(A) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the Inspector by at least five residents of the town charging that any structure exists in violation of §§ 150.085 through 150.094 or whenever it appears to the Inspector, upon inspection, that any structure exists in violation hereof, 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 structure 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 days nor more than 30 days after the serving of said complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and times 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 structure. 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 Inspectors.

(B) Procedure after hearing.

(1) After such notice and hearing, the Inspector shall state in writing his or her determination whether such structure violates §§ 150.085 through 150.094.

(2) If the Inspectors determine that the structure is in violation he or she shall state in writing his or her findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such structure or else remove or demolish the same

within a specified period of time not to exceed 90 days.

(C) Failure to comply with order.

(1) *In personam remedy.* If the owner of any structure shall fail to comply with an order of the Inspectors within the time specified therein, the Inspector may submit to the Town Council at its next regular meeting a resolution directing the Town Attorney to petition the Superior Court for an order directing such owner to comply with the order of the Inspector as authorized by G.S. § 160A-446(g).

(2) *In rem remedy.* After failure of an owner of a structure to comply with an order of the Inspectors within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in division (C)(1) above, the Inspectors shall submit to the Town Council an ordinance ordering the Inspectors to cause such structure to be removed or demolished, as provided in the original order of the Inspector, and pending such removal or demolition, to placard such dwelling as provided by G.S. § 160A-443.

(D) *Petition to superior court by owner.* Any person aggrieved by an order issued by the Inspector shall have the right, within 30 days after issuance of the order to petition the Superior Court for a temporary injunction restraining the Inspectors pending a final disposition of the cause, as provided by G.S. § 160A-446(f).

(Ord. 19, passed 10-2-1979; Ord. 35, passed 7-3-1984)

§ 150.090 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Inspectors shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publication in a newspaper having general circulation

in the town at least once no later than the time at which personal service is required under § 150.089. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

(Ord. 19, passed 10-2-1979; Ord. 35, passed 7-3-1984)

§ 150.091 IN REM ACTION BY INSPECTORS; PLACARDING.

(A) After failure of an owner of a structure to comply with an order of the Inspectors issued pursuant to the provisions of §§ 150.085 through 150.094, and upon adoption by the Town Council of an ordinance authorizing and directing him or her to do so, as provided by G.S. § 160A-443(5) and § 150.089(C), the Inspector shall proceed to cause such structure to be removed or demolished, as directed by the ordinance of the Town Council and shall cause to be posted on the main entrance of such structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

(B) Each such ordinance shall be recorded in the office of the Register of Deeds of the county, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443(5).

(Ord. 19, passed 10-2-1979; Ord. 35, passed 7-3-1984) Penalty, see § 150.999

§ 150.092 COSTS OF LIEN ON PREMISES.

As provided by G.S. § 160A-443(6), the amount of the cost of any removal or demolition caused to be made or done by the Inspector pursuant to §§ 150.085 through 150.094 shall be a lien against real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. Chapter 160A, Article 10.

(Ord. 19, passed 10-2-1979; Ord. 35, passed 7-3-1984)

§ 150.093 ALTERNATIVE REMEDIES.

Neither §§ 150.085 through 150.094 nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce §§ 150.085 through 150.094 by criminal process, 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. 19, passed 10-2-1979; Ord. 35, passed 7-3-1984)

§ 150.094 BUILDING INSPECTOR DEFINED.

When reference is made to the *BUILDING INSPECTOR* or the *INSPECTOR* (when referring to the Building Inspector) the singular shall include the plural.

(Ord. 19, passed 10-2-1979; Ord. 35, passed 7-3-1984)

§ 150.999 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Minimum Housing Code.*

(1) It shall be unlawful for the owner of any building to fail, neglect or refuse to repair, alter or improve the same, or to fail to vacate and close and demolish and remove the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense.

(2) When the Inspector finds that a building is unfit for human habitation or dangerous within the meaning of §§ 150.001 through 150.003, 150.015

through 150.020, 150.035 through 150.041, 150.055 and 150.070 through 150.072 and has notified the owner to such effect and the time limit set by the Inspector for the correction of defects or vacating same has expired, no person shall receive rentals, offers for rent or occupy such building unfit for human habitation, and each day such offense continues shall be deemed a separate offense. Any person violating these provisions shall be guilty of a misdemeanor, and upon conviction such offender shall be punished by a fine of not more than \$50 for each separate offense.

(3) The violation of any provision of this code shall constitute a misdemeanor, as provided by G.S. § 14-4.

(Ord. 93, passed 9-7-1993)

CHAPTER 151: PROPERTY NUMBERING SYSTEM

Section

- 151.01 Numbering maps
- 151.02 Numbering systems
- 151.03 Quadrant systems
- 151.04 Street address suffixes
- 151.05 Owners to receive numbers
- 151.06 Numbers for future buildings
- 151.07 Unlawful to deface numbers

§ 151.01 NUMBERING MAPS.

The property numbering maps entitled "Property Numbering Maps of Boonville, North Carolina" are officially adopted as the official property numbering maps of the town, and all property numbers assigned shall be assigned in accordance with these numbering maps, and no other property numbers shall be used or displayed in the town, except numbers assigned in accordance with the official numbering maps. The property numbering maps shall be on file in the office of the Town Clerk.

(Ord. 71, passed 5-1-1990)

§ 151.02 NUMBERING SYSTEMS.

(A) On the property numbering maps, U.S. Highway 601 is hereby designated as the north-south axis and NC Highway 67 is hereby designated as the east-west axis, and all avenues, streets and roads running generally north and south shall be numbered from the east-west axis consecutively to the corporate limits of the extremity of such avenue, road and street. Avenues, streets or roads running generally east and west shall be numbered from the north-south axis in the same manner.

(B) One whole number shall be assigned for approximately every 50 feet of ground, whether improved property or vacant lot on every street within the corporate limits. Odd numbers shall be assigned to the left side of the streets, avenues and roads when going in a direction opposite of the intersection of U.S. Highway 601 and NC Highway 67, and even numbers shall be assigned on the right side of the road in the same manner.

(Ord. 71, passed 5-1-1990)

§ 151.03 QUADRANT SYSTEMS.

The town shall be divided into northwest (N.W.), northeast (N.E.), southeast (S.E.) and southwest (S.W.) quadrants. All properties located north of NC Highway 67 and west of U.S. Highway 601 shall be in the northwest quadrant. All properties located north of NC Highway 67 and east of U.S. Highway 601 shall be located in the northeast quadrant. All properties located east of U.S. Highway 601 and south of NC Highway 67 shall be in the southeast quadrant. All properties located south of NC Highway 67 and west of U.S. Highway 601 shall be in the southwest quadrant.

(Ord. 71, passed 5-1-1990)

§ 151.04 STREET ADDRESS SUFFIXES.

Street address suffixes shall be assigned according to which quadrant a property is located. Suffixes shall be either N.W., N.E., S.W. or S.E. The suffix shall follow the address number and street name in all incidences.

(Ord. 71, passed 5-1-1990)

§ 151.05 OWNERS TO RECEIVE NUMBERS.

(A) Every property owner of improved property shall be sent the appropriate address numbers by the town. Property owners shall display the numbers in a conspicuous location on said property. Those property owners needing assistance with the placement of the address numbers can contact the Town Hall for help.

(B) Replacement numbers shall be replaced by the town at a cost to the homeowner equal to the cost incurred by the town.

(Ord. 71, passed 5-1-1990; Ord. 80, passed 5-7-1991)

§ 151.06 NUMBERS FOR FUTURE BUILDINGS.

All residences and business buildings erected after the adoption of this chapter shall be assigned a number in accordance with the property numbering maps and shall display such number as provided in § 151.05.

(Ord. 71, passed 5-1-1990; Ord. 80, passed 5-7-1991)

§ 151.07 UNLAWFUL TO DEFACE NUMBERS.

It shall be unlawful for any person to alter, deface or take down any number placed on any property in accordance with this chapter, except for repair or replacement of such number.

(Ord. 71, passed 5-1-1990) Penalty, see § 10.99

CHAPTER 152: ZONING

Section

Legal Provisions

- 152.001 Enactment and authority
- 152.002 Purpose
- 152.003 Title
- 152.004 Official zoning map
- 152.005 Jurisdiction
- 152.006 Interpretation and conflict
- 152.007 Separability
- 152.008 Relation to other ordinances
- 152.009 Effective date
- 152.010 Extraterritorial jurisdiction

Administration

- 152.025 Staff
- 152.026 Boards
- 152.027 Zoning permits
- 152.028 Special use permits
- 152.029 Variances
- 152.030 Certificates of occupancy
- 152.031 Other permits
- 152.032 Administrative procedures
- 152.033 Vested rights

Changes and Amendments

- 152.045 Initiation of amendments
- 152.046 Action by the applicant
- 152.047 Action by the Planning Board
- 152.048 Action by Town Council
- 152.049 Withdrawal of the application
- 152.050 Protest petitions

Board of Adjustment

- 152.065 Establishment
- 152.066 Organization
- 152.067 Meetings

- 152.068 Quorum
- 152.069 Powers and duties
- 152.070 Rehearings and appeals from Board of Adjustment decision
- 152.071 Conflict of interest

General Provisions

- 152.085 Zoning affects all land and every building and use
- 152.086 Applicability to incorporated and extraterritorial areas
- 152.087 Street access
- 152.088 Required yards not to be used by building
- 152.089 Relationship of building to lot
- 152.090 Reduction of lot and yard areas prohibited
- 152.091 Business uses of modular homes
- 152.092 Swimming pools
- 152.093 Accessory structures and uses

Establishment and Intent of Districts and Boundaries

- 152.105 Zoning districts established
- 152.106 District boundaries shown on zoning map
- 152.107 Rules governing interpretation of district boundaries
- 152.108 Intent of zoning districts
- 152.109 Table of permitted uses; table of area, yard and height requirements

Additional Requirements

- 152.120 Accessory dwelling unit, attached or detached
- 152.121 Adult establishments

- 152.122 Agriculture, bona fide farms
- 152.123 Amusement parks, agricultural fairs, carnivals
- 152.124 Animal shelters, animal kennels, animal hospital and animal boarding and grooming services
- 152.125 Automatic teller machines (ATMs)
- 152.126 Automobile service station, convenience store
- 152.127 Banquet and event facilities
- 152.128 Bed and breakfast inn
- 152.129 Building material and lumber storage and sales
- 152.130 Car wash, automatic, self service
- 152.131 Car wash, full service
- 152.132 College or university
- 152.133 Continuing care facility (rest home, nursing home)
- 152.134 Customary home occupation
- 152.135 Day care center
- 152.136 Day care home
- 152.137 Dry cleaning services, laundry plants
- 152.138 Dwelling, two-family (duplex)
- 152.139 Group care facility, group care home
- 152.140 Hotel or motel
- 152.141 Industrial equipment, sales, supplies and repair
- 152.142 Internet sweepstakes cafés
- 152.143 Junkyard, auto salvage
- 152.144 Manufactured homes
- 152.145 Motor vehicle rental and leasing
- 152.146 Motor vehicle repair
- 152.147 Pet stores
- 152.148 Private club
- 152.149 Produce stand
- 152.150 Recreation facilities, public or private
- 152.151 Roofing repair and installation, sheet metal
- 152.152 Rooming quarters
- 152.153 Schools (public and private)
- 152.154 Storage facility, self-storage warehouse
- 152.155 Swimming pool sales, service and supplies
- 152.156 Telecommunications towers and facilities
- 152.157 Temporary personal storage unit
- 152.158 Temporary seasonal use and structures

- 152.159 Utility services
- 152.160 Wineries and microbreweries
- 152.161 Woodworking shop

Signage

- 152.175 Purpose
- 152.176 Applicability
- 152.177 General provisions
- 152.178 Sign placement
- 152.179 Permanent signs by zoning district
- 152.180 Sign height
- 152.181 Number of signs permitted
- 152.182 Sign area by zoning district
- 152.183 Permanent signs limited
- 152.184 Temporary signs limited
- 152.185 Prohibited signs
- 152.186 Enforcement of regulations

Landscaping, Screening and Buffer Areas

- 152.200 Purpose
- 152.201 Applicability
- 152.202 General provisions
- 152.203 Alternate methods of compliance
- 152.204 Required landscaping areas
- 152.205 Preservation of existing trees
- 152.206 Screening requirements
- 152.207 Unoccupied lot areas
- 152.208 Planting list

Parking, Off-Street Parking and Loading Requirements

- 152.220 Purpose and intent
- 152.221 Enforcement
- 152.222 Parking space to be required and permanent
- 152.223 Use of parking lots permitted (street parking)
- 152.224 Parking lot paving
- 152.225 Parking lot aisles
- 152.226 Parking lot spaces
- 152.227 Schedule of parking spaces
- 152.228 Lighting
- 152.229 Safety barriers
- 152.230 Parking areas adjacent to public areas
- 152.231 Loading and unloading

Definitions

- 152.245 Interpretation of certain terms and words
- 152.246 Definitions

G.S. Chapter 160A, Article 19, Part 3 and any special local legislation enacted by the General Assembly for the town.
(Ord. passed 10-2-2012)

Downtown Design Overlay District

- 152.260 Purpose
- 152.261 Applicability
- 152.262 Exemptions
- 152.263 Development standards
- 152.264 Procedures
- 152.265 Permit applications

§ 152.002 PURPOSE.

The purposes of these regulations are to: promote the health, safety, morals and general welfare of the community; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate and economic provision of public facilities and infrastructure; to conserve the value of buildings; and to encourage the most appropriate use of land throughout the corporate area and extraterritorial zoning jurisdiction, in accordance with adopted plans and policies.
(Ord. passed 10-2-2012)

Nonconformities

- 152.280 Purpose and applicability
- 152.281 Nonconforming uses
- 152.282 Nonconforming structures
- 152.283 Nonconforming vacant lots
- 152.284 Additional requirements for nonconforming accessory uses and structures
- 152.285 Changes of tenancy and/or ownership

§ 152.003 TITLE.

These regulations shall be known as the Zoning Ordinance of Boonville, North Carolina, and may be cited as the “zoning regulations.” The maps referred to herein titled Official Zoning Map, Boonville, North Carolina may be cited as the “zoning map.”
(Ord. passed 10-2-2012)

Enforcement and Penalties

- 152.300 Enforcement authority
- 152.301 Violations; violators
- 152.302 Equitable relief
- 152.303 Combination of remedies

§ 152.004 OFFICIAL ZONING MAP.

An official zoning map depicting the actual location of the zoning districts is made a part of this chapter and adopted by reference. The official zoning map, which is identified by the title “Zoning Map of Town of Boonville, North Carolina” shall be known as the “zoning map.” The official zoning map shall be maintained in the office of Town Clerk, shall bear the adoption date of this chapter and the date of any subsequent map amendments, and may consist of a series of maps.
(Ord. passed 10-2-2012)

- 152.999 Penalty

LEGAL PROVISIONS**§ 152.001 ENACTMENT AND AUTHORITY.**

These regulations are adopted pursuant to the authority vested in the town by its Charter, the Session laws and the General Statutes of the state, particularly

§ 152.005 JURISDICTION.

These regulations govern the development of land and structures within the corporate limits and the extraterritorial zoning jurisdiction (ETJ) of the town. (Ord. passed 10-2-2012)

§ 152.006 INTERPRETATION AND CONFLICT.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this chapter to interfere with, abrogate or annul any easements, covenants or other agreements between parties. However, where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open space than is imposed or required by other ordinance, rules, regulations or by easements, covenants or agreements, the provisions of this chapter shall govern. (Ord. passed 10-2-2012)

§ 152.007 SEPARABILITY.

If any section, specific provision or standard of these regulations, including any zoning district boundary that now exists or may exist in the future, is found by a court of competent jurisdiction to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect. (Ord. passed 10-2-2012)

§ 152.008 RELATION TO OTHER ORDINANCES.

If the provisions of this chapter conflict with the provisions of any other validly enforceable

ordinance(s), the most stringent provisions shall control.

(Ord. passed 10-2-2012)

§ 152.009 EFFECTIVE DATE.

These regulations shall become effective upon the date of their adoption by the Town Council. (Ord. passed 10-2-2012)

§ 152.010 EXTRATERRITORIAL JURISDICTION.

(A) By virtue of the authority granted by G.S. § 160A-360, the following described areas are hereby included in the extraterritorial jurisdiction of the town effective June 5, 2001:

(1) Those areas lying between the corporate limits of the town as it exist on of June 5, 2001, and that line designated as "Boundary Of Extraterritorial Jurisdiction Of The Town of Boonville" shown on that map recorded in Plat Book ____, Page ____, Yadkin County Registry, to which reference is hereby made; and

(2) Said areas are also described on that written description attached to the Ordinance passed June 5, 2001, as Schedule A and incorporated hereby referenced, a copy of which is available in the office of the Town Clerk.

(B) Upon and after June 5, 2001, the above described territory and its citizens and property shall be subject to all of the powers granted by G.S. Chapter 160A, Article 19.

(C) The Mayor of the town shall cause this delineation to be maintained in the manner provided by G.S. § 160A-22 for the delineation of the corporate limits of the town and shall cause this delineation to be recorded in the office of the Register of Deeds of the county.

(Ord. passed 6-5-2001)

ADMINISTRATION

§ 152.025 STAFF.

(A) *Zoning Administrator.* The Zoning Administrator shall have the following powers and duties to be carried out in accordance with these regulations, which include, but are not limited to:

(1) To serve as staff to the Town Council and the Board of Adjustment with regard to its functions under these regulations, and to inform such bodies of all facts and information at its disposal with respect to applications for amendments to the text of these regulations, amendments to the zoning maps, appeals, variances, permit requests and any other matters brought before them under this subchapter;

(2) To maintain the text of these regulations and the zoning maps;

(3) To maintain development review files and other public records related to the administration and enforcement of these regulations;

(4) To review applications for zoning permits filed under these regulations;

(5) To recommend and comment on proposed amendments to these regulations and to the zoning maps; and

(6) To establish such rules of procedure and permit application forms as are necessary and proper for the administration of their responsibilities under these regulations.

(B) *Zoning Enforcement Officer.* The Zoning Enforcement Officer is charged with enforcing the provisions of the zoning regulations as set out herein except for enforcement duties specifically assigned to the Zoning Administrator. If the Zoning Enforcement Officer shall find that any of the provisions of this chapter are being violated, he or she shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering that necessary actions be taken to correct the deficiency. He or she shall order discontinuances of illegal uses of

land, buildings or structures; removal of illegal buildings or structures, or of illegal additions, alterations or structural changes, discontinuance of any illegal work being done; and shall take any other action authorized by this chapter to ensure its compliance.

(C) *Mayor.* The Mayor shall appoint the Zoning Administrator and the Zoning Enforcement Officer and shall have the authority to exercise any and all duties and authorities assigned to such.
(Ord. passed 10-2-2012)

§ 152.026 BOARDS.

(A) *Town Council.* The Town Council shall have the following duties related to this chapter:

(1) To review and from time to time initiate changes to the town's land use regulations;

(2) To review and from time to time initiate changes to this chapter;

(3) To decide upon any application or request for an amendment to this chapter or the zoning map; and

(4) To take any other action not delegated to the Zoning Administrator or Zoning Enforcement Officer as the Council may deem desirable and necessary to implement the provisions of this chapter.

(B) *Planning Board.* The Planning Board shall have duties related to this chapter that include, but may not be limited to, the following:

(1) To review and from time to time initiate changes to this chapter;

(2) To review and make recommendations on applications for changes to this chapter or the zoning map; and

(3) To review and make recommendations on any permit application to be heard by the Town Council.

(C) *Board of Adjustment.* See §§ 152.065 through 152.071.
(Ord. passed 10-2-2012)

§ 152.027 ZONING PERMITS.

(A) *Zoning permit required.*

(1) A valid zoning permit shall be presented with any application for a building permit. No building permit shall be issued for any activity in a zoned area until such zoning permit is presented.

(2) It shall be unlawful to commence the excavation for, or the construction of, any building or other structure including accessory structures; or to commence the moving, alteration or repair of any structures; or the use of any land or building, including accessory structures, until the Zoning Administrator has issued a zoning permit for such work or use including a statement that the plans, specifications and intended use of such land, or structures, in all respects conforms with the provisions of this chapter. Application for a zoning permit shall be made in writing to the Zoning Administrator on forms provided for that purpose. Zoning permits shall be void after one year from the date of issue unless substantial progress on the project has been made by that time.

(B) *Approval of plans.* It shall be unlawful for the Zoning Administrator to approve any site plans or issue a zoning permit for any purpose regulated by this chapter until he or she has inspected such site plans in detail and found them in conformity with this chapter. To this end, the Zoning Administrator shall require that every application for a zoning permit be accompanied by a site plan or plat drawn to scale and showing the following in sufficient detail to enable him or her to ascertain whether the proposed activity is in conformance with this chapter. Site plans or detailed development plans approved by the Planning Board or Town Council may suffice for the requirements of this part.

(1) *Single-family residential structures.*

The site plan shall show the approximate location of the proposed structure on the lot, including distances from side, rear and/or front setback lines, as required. This type of site plan may be drawn by the applicant and does not require an engineer, surveyor or landscape architect's seal, unless such development appears to lie wholly or in part within a federally designated floodplain.

(2) *All other uses.* Excluding single-family residential structures, site plans for all other uses shall show:

(a) The approximate location of the proposed structure on the lot, including distances from side, rear and/or front setback lines and distances from other structures;

(b) Adjacent streets and street rights-of-way;

(c) Adjacent property lines, owners, uses and zoning districts;

(d) The location of any federally designated floodplain;

(e) The location of all existing and proposed public easements; and

(f) The location of any existing or proposed parking and loading areas and screening that may be required under the provisions of this chapter.

(C) *Issuance of zoning permits.* If the proposed activity, as set forth in the application, is in conformity with the provisions of this chapter, the Zoning Administrator or his or her assigns, shall issue a zoning permit. If any application for a zoning permit is not approved, the Zoning Administrator shall state in writing, on the application the cause for such disapproval. Issuance of a permit shall, in no case, be construed as waiving any provision of this or any other ordinance or regulation.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.028 SPECIAL USE PERMITS.

(A) *Permit required.* No zoning or building permit shall be issued until the Board of Adjustment has approved a special use permit for the requested use.

(B) *Applicants.* A request for a special use permit will be considered only if requested by the owner of the property in question or an authorized agent of the property owner.

(C) *Application.*

(1) Applications for all special use permits or amendments to any approved special use permit must be filed with the Zoning Administrator. Applications which are not complete shall be returned to the applicant, with a notation of the deficiencies in the application. The Zoning Administrator has the authority to waive any application requirements where the type of use or scale of proposal makes that information unnecessary or impractical.

(2) A complete application will include all of the following:

(a) A completed application form signed by all of the property owners of the area proposed for the permit, or a completed application form signed by the developer along with an affidavit signed by all property owners giving the applicant the permission to pursue the permit and to bind the property to the proposal and to conditions which the Board might impose;

(b) A complete explanation of the proposed use(s) of the property;

(c) Documentation containing facts which will be used to support the petition, including, but not limited to, deed restrictions, letter of sufficiency regarding public water and sewer, proposed homeowners association documents and appropriate county and state approvals;

(d) All appropriate fees;

(e) A complete listing of all owners of adjacent property, their addresses and tax identification numbers;

(f) A synopsis or overview of the project, including information relevant to use, density, lot layout, housing type, planned amenities and the like; and

(g) Any other information deemed by the Zoning Administrator to be necessary for sufficient review of the application.

(D) *Staff review.*

(1) *Applications.* The Zoning Administrator prior to Board of Adjustment review shall review all applications for special use permit. The Zoning Administrator shall determine the number of copies to be submitted by the applicant to ensure that there are sufficient copies to send to the Board and all other appropriate agencies for review and comment. The applicant shall submit a completed application no later than 30-working days prior to the Board meeting at which the application is to be heard. If the application is found to be incomplete or the development is found to be in conflict with the requirements of this section, the developer shall be notified and the application rejected.

(2) *Cooperation.* The developer is strongly encouraged to work closely with staff and neighboring property owners before and during the application and review process to minimize delays and address concerns which may arise in the review process.

(E) *Board of Adjustment action.*

(1) *Review.* The Board of Adjustment shall review the application to determine compliance with this subchapter and all applicable regulations within the town's planning jurisdiction.

(2) *Required general findings.* No special use permit shall be approved by the Board of Adjustment unless the following general findings of fact are made concerning the proposed special use:

(a) The use will not materially endanger the public health or safety if located, designed and proposed to be operated according to the plan submitted;

(b) The use complies with all regulations and standards of this chapter;

(c) The use will not substantially injure the value of adjoining property, or the use is a public necessity;

(d) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located;

(e) Public water and sewer service are available in adequate capacity, if needed; and

(f) The proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area in which it is located.

(F) *Withdrawal or amendment of a special use permit application.* An application for a special use permit may be withdrawn or amended as follows.

(1) A petitioner may withdraw the petition filed according to this subchapter at any time up to the scheduling of the date of the public hearing on the petition.

(2) If the petitioner wishes to withdraw the petition after the scheduling of the public hearing, the petitioner may file a request to withdraw with the Zoning Administrator. On the date scheduled for the hearing, the Board of Adjustment may approve the request for withdrawal if it finds that there are substantial circumstances favoring the withdrawal and that the withdrawal will not be detrimental to the interests of citizens affected by the petition.

(3) Once the petition has been filed, the petitioner shall not be allowed to amend it except by request to the Zoning Administrator no later than three weeks prior to the scheduled public hearing date. No changes to the petition shall be accepted in the

intervening weeks prior to the public hearing. No changes to the petition shall be made at the hearing, except that changes proposed by the petitioner Board of Adjustment, and other interested parties may be presented at the hearing and considered by the Board of Adjustment during its deliberations.

(4) If the Board of Adjustment deems any amendment to be a substantial change to the petition, it shall defer action on the petition for 30 days to allow interested parties the opportunity to comment on the amendment to the petition.

(5) If the Board of Adjustment deems any amendment to be an intensification of the petition, it shall call for a new public hearing.

(G) *Hearing.*

(1) A special use permit hearing will be conducted as a quasi-judicial hearing before the Board of Adjustment.

(2) Per G.S. § 160A-384, sufficient notice of the public hearing must be given through the following means:

(a) A notice of the public hearing shall be sent by first class mail to all contiguous property owners at least ten days prior to the public hearing; and

(b) A notice shall be published in a newspaper having general circulation in the town once a week for two consecutive weeks.

(3) The applicant has the burden of producing competent, material and substantial evidence establishing that:

(a) The proposed special use will comply with all of the lot, size, yard and other standards of this chapter, except as may be amended through an approved variance; and

(b) The proposed special use will comply with all general and specific standards required by the appropriate section of this subchapter for the issuance of a special use permit for this use.

(H) *Decision.* In considering an application for a special use permit, the Board of Adjustment may attach reasonable and appropriate conditions and safeguards to the location, nature and extent of the proposed use and its relationship to surrounding property, for the purpose of ensuring that the conditions of permit approval will be complied with and any potentially injurious effect of the special use on adjoining properties, the character of the neighborhood, or the health, safety and general welfare of the community will be minimized. Such conditions may relate to parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, intensity of site development, the timing of development and other matters the Board of Adjustment may find appropriate or the applicant may propose. The applicant will have a reasonable opportunity to consider and respond to any additional conditions or requirements prior to final action by the Board of Adjustment.

(I) *Effect of approval.* An approved application for a special use permit and all conditions which may be attached to the approval are binding on the property. All subsequent development and use of the property shall be in conformance with the special use permit and all plans, specifications and conditions, unless such are amended or the permit terminated by the Board of Adjustment.

(J) *Effect of denial.*

(1) If the Board of Adjustment denies an application for a special use permit, a reapplication for that special use on that property shall not be made within one year of the date of denial.

(2) The Board of Adjustment may allow re-submission of the application within the one-year restricted period, however, if it determines that since the date of action on the prior application one of the following criteria has been met:

(a) The Town Council has adopted a new or amended plan for the area that changes public policy regarding how the subject property and/or the general area affected by the special use permit should be developed;

(b) Construction or expansion of a road, water line, sewer line or other infrastructure has occurred or is to occur in such a time frame as to serve the property and comfortably accommodate the type and intensity of development which would be allowed under the proposed special use permit; or

(c) There has been a substantial change in conditions or circumstances, outside the control of the applicant, which justifies waiver of the one-year restriction on resubmission of a special use permit application for the property; this shall not include a change in the ownership of the subject property nor a change in the scale or features of the development proposed in the prior application.

(K) *Amendment to an approved special use permit.*

(1) Any major change to a development approved by special use permit shall require an amendment to the special use permit by the Board of Adjustment. Any proposed change in use, increase in density or intensity, decrease in open space and common recreational facilities, substantial change in the location of uses or streets from what is shown on the approved plans, any change in a condition imposed on the use by the Board of Adjustment or any other change the Zoning Administrator determines is significant shall be deemed a major change requiring an amendment to the special use permit. Factors to be considered by the Zoning Administrator in determining if a change is substantial include, but are not limited to, the extent of the change, the expected impact on adjacent properties and the impact on off-site streets and other public infrastructure. Otherwise, the Zoning Administrator may approve minor changes to a permit.

(2) The owner of property which is subject to an approved special use permit may petition for an amendment of the special use permit and accompanying conditions by following the procedures applicable to initiation of new special use permits.

(3) Evidence presented at the hearing on the proposed amendment will be limited to the effect of the proposal on the original special use permit, any

plans or conditions which were a part of the original special use permit, and the present standards and requirements in these zoning regulations.

(L) *Recognition of previously approved special use permits.* Special use permits which have been previously granted by the Board of Adjustment of the town will be recognized for building permit and other administrative purposes during the period of time the project was vested by the ordinance under which it was approved. After the vesting period, if construction of the development has not begun or there is no valid building permit in effect for the property, the conditional or special use permit will be considered null and void.

(M) *Expiration of a special use permit.*

(1) Approval of a special use permit shall confer upon the developer all vested rights as set forth in this chapter.

(2) In order for a special use permit to remain in effect for a particular development, a valid building permit must be issued for construction within the time period vested. If at any time after this date, construction has not been completed and no valid building permits are outstanding for construction within the development, the special use permit shall expire. No further construction may occur within the development until the Board of Adjustment has issued a new special use permit. Application for a new special use permit shall follow the procedures outlined in this subchapter.

(Ord. passed 10-2-2012)

§ 152.029 VARIANCES.

(A) When practical difficulties or unnecessary hardships would result from carrying out the strict letter of this chapter, the Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of this chapter relating to the use, construction or alteration of buildings or structures or the use of the land, except those specifically related to water supply watershed

requirements, so the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done.

(B) Anyone requesting a variance shall file such with the Zoning Administrator on a form provided by the Zoning Administrator. Applications shall be filed at least 30 days prior to the Board of Adjustment meeting at which it will be heard. After filing, the request shall be heard at the next available Board of Adjustment meeting.

(C) The Board of Adjustment, in considering an application for a variance, shall give due consideration to the following.

(1) No nonconforming use of land or structures in the same district, and no permitted use of land or structures in other districts shall be considered grounds for the granting of a variance.

(2) The request for a variance for a use that is expressly, or by inference, prohibited in the district involved shall not be granted.

(3) The fact that property may be utilized more profitably will not be considered in granting a variance.

(D) The Board of Adjustment, before granting a variance, shall make all of the following findings:

(1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the chapter. This shall be construed to mean:

(a) If the property owner complies with the provisions of this chapter, he or she can secure no reasonable return from, nor make reasonable use of, his or her property;

(b) The hardship results from the application of the requirements of this chapter;

(c) The hardship is suffered by the applicant's property;

(d) The hardship is not the result of the applicant's own actions; and

(e) The hardship is peculiar to the applicant's property.

(2) The variance is in harmony with the general purpose and intent of this chapter and preserves its spirit;

(3) In granting of the variance, the public safety and welfare have been assured and substantial justice has been done; and

(4) The reasons set forth in the application justify the granting of a variance, and that the variance is the minimum one that will make possible the reasonable use of land or structures.

(E) The Board of Adjustment, in granting a variance, may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this subchapter.
(Ord. passed 10-2-2012)

§ 152.030 CERTIFICATES OF OCCUPANCY.

A certificate of occupancy will be issued for building or land that the proposed use of conforms to the applicable provisions of this chapter. If the certificate of occupancy is denied, a member of the County Building Inspections shall state in writing the reasons for refusal, and the applicant shall be notified of the refusal. A business permit will be required if a change of ownership or nature of the business is changed.

(Ord. passed 10-2-2012)

§ 152.031 OTHER PERMITS.

The Zoning Administrator shall be authorized to issue other permits as required by this chapter or the Town Council.

(Ord. passed 10-2-2012)

§ 152.032 ADMINISTRATIVE PROCEDURES.

(A) *Public hearings.*

(1) Any case involving an appeal or variance requires a public hearing to be held by the Board of Adjustment and any case involving a change of zoning district classification, or other ordinance changes requires a public hearing to be held by the Town Council.

(2) Each Board or Council shall fix a date for hearing the appeal or request, to be held within 30 days of the date a complete application was submitted, and give public notice as required by law, as well as due notice to the parties in interest. At the hearing, any person or party may appear in person or by agent or attorney. Each Board or Council shall take action on a matter within a reasonable time after the termination of the proceedings.

(B) *Revocation of special use permits and variances.* After a public hearing has been held and approval granted for a special use or variance, the granting Board may reverse any decision with a public hearing upon finding:

(1) The approval was obtained by fraud;

(2) The use for which such approval was granted is not being executed;

(3) The use for which such approval was granted has ceased to exist or has been suspended for one year or more;

(4) The permit granted is being, or recently has been, exercised contrary to the terms for conditions of such approval;

(5) The permit granted is in violation of an ordinance or statute; or

(6) The use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

(C) *Appeals.*

(1) Appeals may be taken to the Board of Adjustment by any person, firm or corporation aggrieved, or by an officer, department or board of the town affected by any decision of an administrative official, charged with the enforcement or interpretation of this chapter, thought to be in error. Such appeals shall be filed with the Board of Adjustment by notice specifying the grounds for appeal. Appeals shall be filed within 30 days from the action being appealed. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken together with any additional written reports or documents as he or she deems pertinent. The Board of Adjustment may, after a public hearing, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or in part, or may modify any order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.

(2) Further appeals from the Board of Adjustment or from any action of the Town Council shall be taken directly to the courts as provided by law.

(D) *Fees.* Each applicant for an appeal from an administrative decision or decision of the Planning Board, for a variance or special use permit, or with a request for rezoning or other change in this chapter, shall pay a fee, according to the fee schedule available at Town Hall, to the town to cover the costs of advertising and administration. A receipt for this fee shall be issued by the town. However, this fee shall not apply to requests originating with any town department, board or agency.

(E) *Town may appeal.* In all cases, the Town Council reserves the right to appeal any decision of the Zoning Administrator to the Board of Adjustment and any decision of the Board of Adjustment to the courts.

(Ord. passed 10-2-2012)

§ 152.033 VESTED RIGHTS.

(A) *In general.* Any amendments, modifications, supplements, repeal or other changes in these regulations or the zoning maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses:

(1) For which a building permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to G.S. § 160A-418 and the building permit has not been revoked pursuant to G.S. § 160A-422;

(2) For which a certificate of zoning compliance has been issued prior to the effective date of the ordinance making the change so long as the certificate of zoning compliance remains valid and unexpired pursuant to this section; or

(3) For which a vested right has been established and remains valid and unexpired pursuant to this section.

(B) *Additional procedures for establishing a vested right.* A vested right to commence a planned development or use of property according to a site specific development plan shall be established upon approval of a special use permit by the appropriate town board. The vested right thus established is subject to the terms and conditions of the site plan. Only those design elements shown on or made a part of the site plan or certificate of zoning compliance shall be vested.

(C) *Term of a vested right.* A right, which has been vested by the town, shall remain vested for a period of three years from date of approval. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the town board which approves the modification or amendment. Any request for modification or extension of a vested right shall be required to follow the same notice and hearing requirements as the initial zoning action establishing

the vested right. A vested right obtained under this division (C) is not a personal right, but shall attach to and run with the subject property. A right which has been vested under the provisions of this division (C) shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit has been issued except that:

(1) When a vested development plan has been at least 50% completed by the end of the vesting period, the project as a whole shall be given two more years to complete development in conformance with the approved plan not to exceed a total vested period of five years; and

(2) (a) Prior to the vested right terminating at the end of the three-year period, the owner of the property may petition the appropriate Board for a one-time two-year extension of the vested right not to exceed a total vested period of five years. In its deliberations regarding the extension request, the Board may consider, among other things:

1. The percentage of the project completed;

2. A demonstration by the petitioner of good faith efforts made towards project completion;

3. The reasons for the delay of project build-out; and

4. The compatibility of the planned development with current town plans and the surrounding area.

(b) The Board may choose to extend the vested right for the entire project or only a portion of the project and may require one or more design features shown on the plan or incorporated in the certificate of zoning compliance to meet the current ordinance.

(D) *Declaration of a vested right upon voluntary annexation.* A petition for annexation filed with the town under G.S. §§ 160A-31 or 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties

subject to the petition has been established. A statement that declares that no zoning vested right has been established under G.S. §§ 160A-385.1 or 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right which may have existed shall be terminated.

(Ord. passed 10-2-2012)

CHANGES AND AMENDMENTS

§ 152.045 INITIATION OF AMENDMENTS.

The Town Council may, on its own motion, upon recommendation of the Planning Board, or upon petition by an interested person, amend, supplement, change, modify or repeal the regulations or district boundaries established by this chapter. A petition by an interested person shall be submitted to the Town Council through, and reviewed by, the Planning Board, which shall consider its merit and make a recommendation to the Town Council. In no case shall final action by the Town Council be taken on amending, changing, supplementing, modifying or repealing the regulations or district boundaries hereby established until the Town Council has held a public hearing.

(Ord. passed 10-2-2012)

§ 152.046 ACTION BY THE APPLICANT.

(A) *Initiation of amendments.*

(1) Proposed changes or amendments to the town zoning map and/or the text of this chapter, may be initiated by the Town Council, Planning Board, Zoning Administrator, Board of Adjustment or by the owner(s), designated agent(s) or any interested party of property within the area proposed to be changed.

(2) The text or map of this chapter shall not be amended, supplanted, changed, modified or repealed until after a public hearing has been held by the Town Council at which all parties in interest and

citizens shall have the opportunity to be heard. A notice of such public hearing shall be given once a week for two successive weeks in a newspaper of general circulation in the town, said notice shall be published for the first time not less than ten days and not more than 25 days prior to the date fixed for such public hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. In addition, before changing the zoning map, notice shall be mailed first class mail to adjoining property owners at least ten days before the hearing date. Notice shall also be provided by posting the subject property at least ten days before the hearing date.

(B) *Petition.*

(1) A petition for any change or amendment shall contain a metes and bounds description of the property or portion of the property identified on the petition, a statement of the present and proposed zoning regulation or district boundary, and the names and addresses of the owner or owners of the property involved. Such petition shall be filed no later than 21 days prior to the Planning Board meeting at which the petition is to be considered. There must be a separate petition prepared for each parcel of land that has different ownership.

(2) The petitioner shall schedule a meeting with the Zoning Administrator prior to submittal of the petition. This meeting will allow the petitioner and the Zoning Administrator to familiarize themselves with the proposal, land use regulations and any applicable regulations.

(C) *Fees.* A nonrefundable fee, according to the adopted fee schedule available at the Town Hall, shall be paid to the town for each application for an amendment, to cover costs of advertising and other administrative expenses involved.

(D) *Repetition for amendment.* With the exception of requests originating with the Planning Board, Board of Adjustment or Zoning Administrator, a petition for any rezoning of the same property or any petition for the same amendment to the zoning regulation text shall be permitted only once within any one-year period. The Town Council, by 80%

affirmative vote of its total membership, may waive this restriction if it finds an emergency exists. (Ord. passed 10-2-2012)

§ 152.047 ACTION BY THE PLANNING BOARD.

(A) Every proposed amendment (text and map), supplement, change, modification or repeal of this chapter shall be referred to the Planning Board for its recommendation and report. The Planning Board shall hold a public meeting, at which the Town Council may sit concurrently with the Planning Board if the Town Council so desires.

(B) The Planning Board shall advise and comment on whether the proposed amendment is consistent with any officially adopted comprehensive plan, land use plan, small area plan, community plan, community development plan, corridor plan, thoroughfare or transportation plan, and capital improvements plan. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board.

(C) (1) The following policy guidelines shall be followed by the Planning Board concerning zoning amendments and no proposed zoning amendment will receive favorable recommendation unless:

(a) The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories;

(b) There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group;

(c) There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants

state that they intend to make of the property involved.);

(d) There is convincing demonstration that the character of the neighborhood will not be materially or adversely affected by any use permitted in the proposed change; and

(e) The proposed change is in accord with the land use plan and sound planning principles.

(2) The Planning Board shall render its decision on any properly filed application within 30 days after the introduction of such application and shall transmit its recommendation and report, including the reasons for its determinations, to the Town Council.

(Ord. passed 10-2-2012)

§ 152.048 ACTION BY TOWN COUNCIL.

(A) Before adopting, amending or repealing any ordinance authorized by this subchapter, the Town Council shall hold a public hearing on it. In accordance with G.S. § 160A-364, notice of public hearing shall be published in a newspaper of general circulation in the town at least once each week for two successive weeks prior to the hearing. The first notice shall appear in the newspaper at least ten days but not more than 25 days prior to the hearing.

(B) Before taking such lawful action as it may deem advisable, the Town Council shall consider the Planning Board's recommendations on each proposed zoning amendment. If no written report is received from the Planning Board within 30 days of referral of the amendment to that Council, the Town Council may proceed in its consideration of the amendment without the Planning Board's report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

(C) A report from the Planning Board that a proposed amendment is inconsistent with an officially adopted plan shall not preclude consideration or approval of the proposed amendment by the Town Council.

(D) The applicant, the Planning Board and the Zoning Administrator shall be given written copies of the Town Council's decision and the reasons therefore.

(Ord. passed 10-2-2012)

§ 152.049 WITHDRAWAL OF THE APPLICATION.

Any application submitted in accordance with the provisions of this subchapter for the purpose of amending the regulations or district boundaries established by this chapter may be withdrawn at any time, but fees are nonrefundable.

(Ord. passed 10-2-2012)

§ 152.050 PROTEST PETITIONS.

(A) In the event of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the Town Council. Vacant positions on the Council and members who are excused from voting shall not be considered "members of the Council" for calculation of the requisite three-fourths supermajority.

(B) To qualify as a protest under this section, the petition must be signed by the owners of either 20% or more of the area included in the proposed change, or 5% of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel.

(C) The town may use the county tax listings to determine the owners of potentially qualifying areas.

(1) The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial

coverage of the ordinance as a result of annexation or otherwise if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved.

(2) No protest against any amendment to a zoning ordinance or zoning map shall be valid or effective unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed amendment, and unless it shall have been received by the Town Clerk in sufficient time to allow the town at least two full normal work days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.

(3) All protest petitions shall be on a form prescribed and furnished by the town, and such form may prescribe any reasonable information deemed necessary to permit the town to determine the sufficiency and accuracy of the petition.

(4) A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment.

(5) Only those protest petitions that meet the qualifying standards set forth in the G.S. § 160A-385 at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement.
(Ord. passed 10-2-2012)

BOARD OF ADJUSTMENT

§ 152.065 ESTABLISHMENT.

(A) A Board of Adjustment shall be established consisting of seven members. Four members shall be residents of the town and be appointed by the Town

Council; the remaining three members shall come from the one-mile extraterritorial planning area and be selected by the Board of County Commissioners. It is recommended that Board of Adjustment membership be comprised of a diverse mix including members of the business and agricultural community. Extraterritorial members shall have equal rights, privileges and duties as the other members of the Board in all matters. The Planning Board may function as the Board of Adjustment.

(B) All appointments shall be for three years.

(C) The governing body shall also appoint three alternate members to serve on the Board of Adjustment in the absence, for any cause, of any regular member. Two members shall be residents of the town and one shall be from the one mile extraterritorial area. Such alternate members shall be appointed for three-year terms provided. Such alternate members, while attending any regular or special meeting of the Board and serving in the absence of any regular member, shall have and exercise all the powers and duties of such regular member so absent.

(Ord. passed 10-2-2012)

§ 152.066 ORGANIZATION.

The Board of Adjustment shall elect a Chairperson and a Vice-Chairperson who shall serve for one year or until their successors are elected. The Board shall adopt rules and by-laws. The Town Council Commissioner of Administration or his or her designee shall serve as secretary and nonvoting member.

(Ord. passed 10-2-2012)

§ 152.067 MEETINGS.

All meetings of the Board of Adjustment shall be held at a regular place and time and shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact. Final disposition of permits, appeals or variances shall be recorded in the minutes,

indicating the reasons of the Board therefore, all of which shall become a part of the public record.
(Ord. passed 10-2-2012)

§ 152.068 QUORUM.

No final action shall be taken on any matter unless a quorum is present. For the purposes of granting variances, appeals and permits, a quorum shall be four-fifths of the membership of the Board. For the purposes of this section, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the Board" for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members. For the purposes of conducting other business related to the function of the Board, such as adopting or amending rules of procedure or approving the agenda, a quorum shall be a simple majority of the full membership of the Board.
(Ord. passed 10-2-2012)

§ 152.069 POWERS AND DUTIES.

(A) The Board shall have the powers enumerated below. The concurring vote of six members (four-fifths of the members of the Board) shall be necessary to reverse any order, requirement, decision or determination of the Zoning Enforcement Officer, or to decide in favor of the applicant any matter upon which it is required to pass under this chapter or to effect any variance authorized by this chapter.

(B) The Board of Adjustment shall have the following powers and duties:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Zoning Enforcement Officer;

(2) To hear and decide applications for decisions on conditional uses;

(3) To authorize upon appeal, in specific cases, such variance from the terms of this chapter as

will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in undue hardship; and

(4) To permit other uses not listed in the permitted use table in § 152.109 provided the other uses are similar in character to those permitted in the various zoning districts.
(Ord. passed 10-2-2012)

§ 152.070 REHEARINGS AND APPEALS FROM BOARD OF ADJUSTMENT DECISION.

(A) An application for a rehearing shall be made in the same manner as provided for an original appeal within a period of 30 days after the Board's decision has been filed with the Zoning Administrator or his or her designee. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in facts, evidence or conditions of the case, shall be presented in writing or graphically. The Board shall deny a rehearing, if, in its judgment, such change in facts, evidence or conditions has not been proven. In the event that the Board finds that a rehearing is warranted, it shall thereupon proceed in the same manner as for the original hearing.

(B) Upon the denial of an original application or adverse ruling on appeal, or upon the denial of an application for which a rehearing has been conducted, whichever is applicable, a waiting period of one year after the date of denial of the original application will be required before a similar application may be filed.

(C) Any person or persons, jointly or severally, aggrieved by any decision of the Board, may, within 30 days after the Board's decision, but not thereafter, present to a court of competent jurisdiction a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality, whereupon such decision of the Board shall be subject to review by Superior Court proceedings in the nature of certiorari as provided by law.
(Ord. passed 10-2-2012)

§ 152.071 CONFLICT OF INTEREST.

Pursuant to the G.S. § 160A-388, Article 388, a member of the Board of Adjustment or any other body exercising the functions of a Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.
(Ord. passed 10-2-2012)

GENERAL PROVISIONS**§ 152.085 ZONING AFFECTS ALL LAND AND EVERY BUILDING AND USE.**

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or structurally altered except in conformity with the regulations herein specified for the district in which it is located.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.086 APPLICABILITY TO INCORPORATED AND EXTRATERRITORIAL AREAS.

The provisions of the chapter are applicable in the incorporated areas of the town, or in the established extraterritorial jurisdictions of the town.
(Ord. passed 10-2-2012)

§ 152.087 STREET ACCESS.

No building shall be erected on a lot which does not abut a street or private street, or have access to a street or private street, provided that in a business district or in a planned project in a residential district, a building may be erected adjoining a parking area or other dedicated open space which has access to a street used in common with other lots.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.088 REQUIRED YARDS NOT TO BE USED BY BUILDING.

The minimum yards or other open spaces required by this chapter for each and every building shall not be encroached upon or considered as meeting the yard and open space requirements of any other building.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.089 RELATIONSHIP OF BUILDING TO LOT.

Every building hereafter erected, moved or structurally altered shall be located on a lot and in no case shall there be more than one principal building and its customary accessory buildings on the lot, except in the case of a specially designed complex of institutional, residential, commercial or industrial buildings in an appropriate zoning district.
(Ord. passed 10-2-2012)

§ 152.090 REDUCTION OF LOT AND YARD AREAS PROHIBITED.

No yard or lot existing at the time of passage of this chapter shall be reduced in size or area below the minimum requirements set forth herein, except for street widening. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.
(Ord. passed 10-2-2012)

§ 152.091 BUSINESS USES OF MODULAR HOMES.

No modular home shall be used in any manner for business or commercial purposes except when used for a sales office on a mobile home sales lot, or for temporary use approved by the Zoning Administrator.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.092 SWIMMING POOLS.

Swimming pools located on any site, including single-family residential sites, shall be:

(A) Located in a side or rear yard only;

(B) Located a minimum of 20 feet from any property line; and

(C) Completely enclosed by a fence or wall no less than four feet and no more than eight feet in height above grade as measured on the side of the fence or wall which faces away from the swimming pool. This fence or wall shall enclose the pool itself and may include any other additional portions of the lot. All fence or wall openings into the pool area shall be equipped with a gate that opens outward away from the pool and be self-closing and have a self-latching device.

(Ord. passed 10-2-2012)

§ 152.093 ACCESSORY STRUCTURES AND USES.

(A) In no event shall *ACCESSORY USE* or *ACCESSORY STRUCTURE* be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located.

(B) All accessory uses and accessory structures shall conform to the applicable requirements of this chapter, including all dimensional requirements and use, design and landscaping standards applicable to primary use/structure. The provisions of this section

establish additional requirements and restrictions for particular accessory uses and structures.

(C) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot are permitted in all districts. Accessory dwellings shall also meet the requirements of § 152.120.

(D) All accessory uses and structures shall require the issuance of a zoning permit.

(E) Accessory buildings shall meet the front, side and rear yard setback requirements for zoning district the lot is located (see Table of Area, Yard and Height Requirements, § 152.109). An accessory building or use may be located in a rear yard provided it is located not less than ten feet from the principal building.

(Ord. passed 10-2-2012)

updated 1/7/25

ESTABLISHMENT AND INTENT OF DISTRICTS AND BOUNDARIES

§ 152.105 ZONING DISTRICTS ESTABLISHED.

For the purposes of this chapter, the town is hereby dividing the town's zoning jurisdiction into zoning districts with the designations as listed below:

<i>District Abbreviations</i>	<i>District Name</i>	<i>Classification</i>
RA	Residential Agriculture District	Residential
R-15	Medium Density Residential District	Residential
R-10	High Density Residential District	Residential
C-S	Community Shopping District	Mixed Use

Section 152.093 Accessory Structures and Uses

(E) Accessory buildings in residential zoned areas only should be no less than 5 feet from the rear and side property lines. Accessory buildings in Community Shopping, Highway Commercial, and Industrial Districts, shall meet the front, side and rear yard setback requirements for zoning district lot is located (see Table of Area, Yard and Height Requirements, Section 152.109). An accessory building or use may be located in a rear yard provided is it located not less than 10 feet from the principal building.

(Passed 01-07-2025)

<i>District Abbreviations</i>	<i>District Name</i>	<i>Classification</i>
H-C	Highway Commercial District	Commercial
M-1	Industrial District	Industrial

(Ord. passed 10-2-2012)

§ 152.106 DISTRICT BOUNDARIES SHOWN ON ZONING MAP.

The boundaries of the districts are shown and made a part of the map accompanying this chapter, entitled "Zoning Map of Town of Boonville, North Carolina." The zoning map and all the notations, references and amendments thereto, and other information shown thereon are hereby made part of this chapter the same as if such information set forth on the map were fully described and set out herein. The zoning map, properly attested, is posted at the Town Hall and is available for inspection and review by the public.

(Ord. passed 10-2-2012)

§ 152.107 RULES GOVERNING INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply.

(A) Where such district boundaries are indicated as approximately following street or highway lines, such lines shall be construed to be such boundaries.

(B) Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.

(C) Where district boundaries are so indicated that they are approximately parallel to the centerline of streets or highways, or the rights-of-way of the same,

such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the zoning map.

(D) Where such district boundaries are indicated as approximately following rivers, creeks or streams, such lines shall be construed to be such boundaries.

(E) In case any further uncertainty exists, the Board of Adjustment shall interpret the intent of the map as to location of such boundaries.

(Ord. passed 10-2-2012)

§ 152.108 INTENT OF ZONING DISTRICTS.

(A) *RA Residential Agriculture District.* The regulations of this district are designed to maintain the open characteristics and agricultural nature of the land. All realty, all buildings and all structures whatsoever being used or to be used for agriculture, farming, livestock or poultry operations, so long as the operation is conducted on a bona fide farm, and all forestry land shall be exempt from each and every provision of this chapter.

(B) *R-15 Medium Density Residential District.* This district is intended for quiet, medium-density residential neighborhoods as well as limited home occupations and community uses. It is expected that municipal water facilities will be available to each lot, providing a healthful environment although the residential development may be dependent upon septic tanks for sewage disposal.

(C) *R-10 High Density Residential District.* This district is established as one in which the principal use of land is for single-family, two-family and multi-family residences. The regulations of this district are intended to provide areas in the community for those persons desiring small residences and multi-family structures in relatively high density neighborhoods. The regulations are intended to prohibit any use which, because of its character, would interfere with the residential nature of this district. It is expected that municipal water and sewerage facilities will be available to each lot in this district.

(D) *C-S Community Shopping District.* The C-S Community Shopping District is established as the district in which centrally located retail trade and consumer service uses will expand as the community's and the region's population increases.

(E) *H-C Highway Commercial District.* The H-C Highway Commercial District is established as a district in which the principal use of land is for the retailing of durable goods, the provision of commercial services to industrial areas and the provision of services to tourists.

(F) *M-1 Industrial District.* The M-1 Industrial District is established for those areas of the community where the principal use of land is for industrial and warehousing uses. These uses, by their nature, may create some nuisance and are not properly associated with residential, commercial and/or service establishments. These uses normally seek outlying locations on large tracts of land where the operations involved do not detract from the development potential of nearby undeveloped properties.

(Ord. passed 10-2-2012)

§ 152.109 TABLE OF PERMITTED USES; TABLE OF AREA, YARD AND HEIGHT REQUIREMENTS.

<i>Table of Permitted Uses</i>							
P = Permitted with a certificate of zoning compliance from Zoning Administrator P/C = Permit from Zoning Administrator, use must meet additional conditions S = Special use permit from Board of Adjustment S/C = SUP permit from Board of Adjustment, use must meet additional conditions T = Temporary use permit required							
	<i>Residential</i>			<i>Business</i>			<i>Additional Requirements</i>
	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>C-S</i>	<i>H-C</i>	<i>M-1</i>	
ABC store				P			
Accessory dwelling unit	P/C	P/C	P/C	P/C	P/C		152.120
Adult establishment						S/C	152.121
Agriculture, bona fide farm	P/C	P/C					152.122
Amusement arcade				S	S		
Amusement park, fairgrounds, carnivals					S/C	S/C	152.123
Animal grooming	S/C			S/C	S/C		152.124
Animal hospital (with outdoor kennel)	S/C						152.124
Animal hospital (indoor only)	S/C			S/C	P		152.124
Animal shelter/kennel	S/C						152.124

<i>Table of Permitted Uses</i>							
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	<i>Residential</i>			<i>Business</i>			<i>Additional Requirements</i>
	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>C-S</i>	<i>H-C</i>	<i>M-1</i>	
Antique store				P	P		
Appliance repairs and sales				P	P		
Art supply store				P	P		
Auditorium	S			S	S		
ATM				P/C	P/C	P/C	152.125
Auto parking lot, deck and the like				P	P	P	
Auto service station, autobody repair	S				P/C	P/C	152.126
Automotive supply store				P	P		
Bakery-retail	S			P	P		
Bakery-wholesale				P	P	P	
Banks, savings and loan, credit unions				P	P	P	
Banquet and event facilities	S/C			S/C	S/C	S/C	152.127
Barber shop				P	P		
Beauty salon				P	P		
Beauty supply store				P	P	P	
Bed and breakfast inn	S/C	S/C	S/C	S/C			152.128
Bicycle sales/service				P	P		
Billiard parlor				P	P		
Book store				P	P		
Bowling lanes				P	P		
Building material and lumber storage and sales					P/C	P/C	152.129
Car wash-auto, self-service				S/C	S/C	S/C	152.130

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	<i>Residential</i>			<i>Business</i>			<i>Additional Requirements</i>
	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>C-S</i>	<i>H-C</i>	<i>M-1</i>	
Car wash, full service				S/C	S/C	S/C	152.131
Cemetery	P						
China and tableware shop				P	P		
Church	P/C	P/C	P/C	P/C	P/C	P/C	
Cleaning and maintenance service-office				P	P	P	
Clock shop, repair				P	P		
Clothing store				P	P		
College or university	S/C			S/C	S/C		152.132
Community center	P	P	P	P	P		
Computer and data processing service				P	P		
Consignment store				P	P		
Continuing care facility (rest/nursing home)	S/C	S/C	S/C				152.133
Correctional facility						S	
Country club	S	S	S				
Customary home occupation	S/C	S/C	S/C	S/C	S/C	S/C	152.134
Dairy prod. processing and distribution (commercial)						P	
Day care center	S/C	S/C	S/C	S/C	S/C		152.135
Day care home	S/C	S/C	S/C				152.136
Department store				P	P		
Distribution center (product)						P	
Doctor's office				P	P		
Dry cleaning, laundry plant				S/C	S/C	S/C	152.137

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	<i>Residential</i>			<i>Business</i>			<i>Additional Requirements</i>
	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>C-S</i>	<i>H-C</i>	<i>M-1</i>	
Dwelling, modular home	P	P	P				
Dwelling, multi-family housing	S	S	S				
Dwelling, single-family	P	P	P				
Dwelling, two-family	S/C	S/C	S/C			S/C	152.138
Electric, heating, conditioning, ventilating, plumbing supplies and equipment sales					P	P	
Employment agency				P	P		
Fabric store				P	P		
Family care home	P	P	P				
Farm equipment sales and services					P	P	
Farm supply store					P	P	
Farmer's market	S	S	S	S	S	S	
Festivals	T	T	T	T	T	T	
Fitness center				P	P		
Floor covering store				P	P		
Florist-retail				P	P		
Florist-wholesale					P	P	
Flour and feed mills						S	
Food catering facility				P	P		
Formal wear-sales and rental				P	P		
Fraternal and service organization meeting facility	S			P	P		
Funeral home, mortuary	S	S			S	S	
Furniture store				P	p		

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	<i>Residential</i>			<i>Business</i>			<i>Additional Requirements</i>
	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>C-S</i>	<i>H-C</i>	<i>M-1</i>	
Garden supply store				P	p		
Gas station, convenience store				S	S	S	
Gift shop				P	P		
Glass contractor					P	P	
Golf course	S						
Grocery store				P	P		
Group care facility	S/C						152.139
Group care home A	P/C	P/C	P/C				152.139
Group care home B	P/C	P/C					152.139
Gun and ammunition sales				P	P		
Gunsmiths				P	P		
Hardware store				P	P		
Hobby, toy and craft shop				P	P		
Home electronics sales and repair				P	P		
Hospital					P		
Hotel or motel	S/C				P/C	S/C	152.140
Industrial equipment sales and repair						P/C	152.141
Insurance agency				P	P		
Internet sweepstakes						S/C	152.142
Jewelry sales and repair				P	P		
Junkyard and auto salvage						S/C	152.143
Laboratories-dental, medical, optical and research				S	S	S	
Laundromat				S	S		

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	<i>Residential</i>			<i>Business</i>			<i>Additional Requirements</i>
	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>C-S</i>	<i>H-C</i>	<i>M-1</i>	
Lawn and garden care service					P	P	
Library (public)	S	S	S	P	P		
Locksmith				P	P		
Lumber and saw mill						S	
Machine shop					P	P	
Manufactured goods, class 1						P	
Manufactured goods, class 2						S	
Manufactured home and recreational vehicle sales						S	
Manufactured homes, class A	P/C						152.144
Manufactured homes, class B	P/C						152.144
Manufactured home parks							
Meat packing plants						S	
Medical supply store				P	P		
Microbreweries	S/C			S/C	S/C	S/C	152.160
Mixed uses (commercial and residential uses in a common structure)				P			
Motor vehicle rental				P/C	P/C		152.145
Motor vehicle repair						P/C	152.146
Motor vehicle sales					P	P	
Museum				P	P		
Music store				P	P		
Newsstand				P	P		
Nursery or greenhouses					S	S	

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	<i>Residential</i>			<i>Business</i>			<i>Additional Requirements</i>
	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>C-S</i>	<i>H-C</i>	<i>M-1</i>	
Office equipment store				P	P		
Offices, public and private				P	P		
Optician and optical supply store				P	P		
Paint and wall coverings store				P	P		
Pawn shop				S	P	P	
Pet stores				P/C	P/C		152.147
Petroleum bulk sales and storage						S	
Pharmacy				P	P		
Photocopying service				P	P		
Photographic studio				P	P		
Photographic supply store, photo finish laboratory				P	P		
Post office				P	P		
Private club	S/C			S/C	S/C	S/C	152.148
Produce stand	S/C	S/C					152.149
Public safety station (police, fire, rescue)	P	P	P	P	P	P	
Real estate agency				P	P		
Recreation facilities, public and private	S/C	S/C	S/C	S/C			152.150
Recycling center						S	
Restaurant (drive-through)				S	S	S	
Restaurant (freestanding)				S	S	S	
Restaurant (within another facility)				S	S	S	
Roof repair and installation						P/C	152.151

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	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>C-S</i>	<i>H-C</i>	<i>M-1</i>	
Rooming house	P/C	P/C	P/C				152.152
Schools, public or private	P/C	P/C	P/C				152.153
School, vocational				P	P	P	
Shopping center (< 50,000 square feet)				S	P		
Shopping center (50,000—150,000 square feet)					P		
Shopping center (> 150,000 square feet)					S		
Sign painting shop				S	S	S	
Skating rink (indoor)					P		
Sporting goods and apparel store				P	P		
Storage facility/self storage warehouse					P/C	P/C	152.154
Swimming pool sales, service and supplies				S/C	P/C	P	152.155
Tailor and alterations				P	P		
Tanning salon				P	P		
Tattoo parlor					P	P	
Telecommunications antennas (on existing building)	P/C	P/C	P/C	P/C	P/C	P/C	
Telecommunications towers and facilities	S/C	S/C	S/C	S/C	S/C	P/C	152.156
Temporary portable storage unit	T	T	T	T	T	T	152.157
Temporary uses/structures				S/C	S/C	S/C	152.158
Theater (indoor)				P	P		
Tire sales and repair					P	P	

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	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>C-S</i>	<i>H-C</i>	<i>M-I</i>	
Travel agency				P	P		
Truck or bus terminal						S	
Upholstery shop				P	P		
Utility services	S/C	S/C	S/C	S/C	S/C	S/C	152.159
Video rental and sales				P	P		
Warehouse (industrial use)					S	P	
Welding shop					S	P	
Wholesale sales operation					P	P	
Wineries	S/C			S/C	S/C	S/C	152.160
Woodworking shop				P/C	P	P	152.161

<i>Table of Area, Yard and Height Requirements</i>						
Area, yard and height requirements for the various districts shall be as follows:						
<i>Zoning District</i>	<i>Minimum Lot Size (sq. ft.)</i>	<i>Minimum Yard Requirements (ft.)</i>				<i>Maximum Height (ft.)</i>
	<i>Lot Area</i>	<i>Avg. Lot Width</i>	<i>Front Yard Setback</i>	<i>Side Yard Setback</i>	<i>Rear Yard Setback</i>	
RA Residential Agriculture	20,000	125	50	20 ^(a)	30 ^(b)	35 ^(c)
R-15 Medium Density Residential	15,000	125	40	20 ^(a)	30 ^(b)	35 ^(c)
R-10 High Density Residential	10,000	100	40	15	20	35 ^(c)
C-S Community Shopping		70 ft. for first DU ^(d) plus 20 ft. for each additional DU	3 ^(f)	0 ^(e)	0 ^(e)	50 ^(e)

<i>Table of Area, Yard and Height Requirements</i>						
Area, yard and height requirements for the various districts shall be as follows:						
<i>Zoning District</i>	<i>Minimum Lot Size (sq. ft.)</i>	<i>Minimum Yard Requirements (ft.)</i>				<i>Maximum Height (ft.)</i>
	<i>Lot Area</i>	<i>Avg. Lot Width</i>	<i>Front Yard Setback</i>	<i>Side Yard Setback</i>	<i>Rear Yard Setback</i>	
H-C Highway Commercial	20,000		40	10	20	50 ^(c)
M-1 Industrial	50,000	80	50	20	20	50 ^(c)
^(a) On corner lots, the side yard adjacent to the street shall not be less than 50% of the front yard required on lots in rear of such corner lots						
^(b) Not less than 20% of the mean depth of the lot, provided that the rear yard need not exceed 30 feet						
^(c) Additional height above the specified limits for every foot or fraction thereof of building height specified above, if 1 additional foot of front, side and rear setback is provided						
^(d) DU = Dwelling unit						
^(e) Where any lot abuts any residential district, there shall be a side or rear yard of at least 10 feet						
^(f) Setback for sidewalks						

(Ord. passed 10-2-2012)

ADDITIONAL REQUIREMENTS

§ 152.120 ACCESSORY DWELLING UNIT, ATTACHED OR DETACHED.

(A) An accessory dwelling unit may be attached, within or separate from the principal dwelling.

(B) The principal use of the lot shall be residential and the principal structure on the lot shall be a residential building.

(C) No more than one accessory dwelling shall be permitted on a single lot of record in conjunction with the principal dwelling unit.

(D) The accessory dwelling shall be owned by the same person as the principal dwelling.

(E) The accessory dwelling shall not be served by a driveway separate from that serving the principal dwelling unless the accessory dwelling is accessed from a rear alley and the principal dwelling is accessed from a street.

(F) A detached accessory dwelling shall be located in the rear yard.

(G) The owner of the accessory dwelling shall live on the parcel containing the accessory dwelling. (Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.121 ADULT ESTABLISHMENTS.

(A) All windows, doors, openings, entries and the like for all adult establishments shall be so located, covered, screened or otherwise treated so that views into the interior of the establishment are not possible from any public or semi-public area, street or way.

(B) No adult establishment shall be established within 1,200 feet of any church, school, park, playground, synagogue, convent, library or areas where large numbers of minors regularly travel or congregate.

(C) No adult establishment shall be located within a 1,200-foot radius of another adult establishment. (Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.122 AGRICULTURE, BONA FIDE FARMS.

(A) To qualify for bona fide farm status, a minimum land area of ten acres is required.

(B) Outdoor storage of implements and equipment shall be located in the rear yard.

(C) No pens, enclosures, buildings or other structures intended or used for the containment of animals shall be permitted within 100 feet of the property line. This shall not include pastures, riding rings or similar areas intended or used for the containment of animals in such small numbers that they do not present any significant off-site impacts related to noise, odor or stormwater runoff.

(D) Two or more principal buildings used as part of the bona fide farm operation may be placed on a single lot of record when such buildings meet the location requirements of this chapter. (Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.123 AMUSEMENT PARKS, AGRICULTURAL FAIRS, CARNIVALS.

(A) Permanently established outdoor amusement facilities shall be separated by an opaque screen from any abutting property located in a residential district or containing a legal, conforming residential use.

(B) No permanently established outdoor amusement facilities, such as miniature golf courses or mechanical rides shall be located within 500 feet of the closest point of any abutting property located in a residential district.

(C) Hours of operation for both permanent and temporary amusement facilities shall be no earlier than 10:00 a.m. and no later than 11:00 p.m.

(D) Temporary amusement uses, such as agricultural fairs and carnivals, shall be allowed through the issuance of a temporary use permit of zoning compliance by the Zoning Administrator, provided that:

(1) The applicant for a temporary use permit of zoning compliance shall provide proposed location, intended activities, operation schedule, site plan layout or any other information deemed necessary to evaluate impact on the neighborhood or community in general; and

(2) On a case-by-case basis, the Town Council may regulate the use and location of proposed buildings, set time of operations or specify other conditions necessary to assure protection to the neighborhood or community in general. (Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.124 ANIMAL SHELTERS, ANIMAL KENNELS, ANIMAL HOSPITAL AND ANIMAL BOARDING AND GROOMING SERVICES.

(A) An animal boarding and/or kennel facility located outdoors in the RA District must have a minimum lot size of five acres.

(B) Any structure which houses animals and is not fully enclosed shall be located at least 250 feet from any abutting lot line.

(C) Any run located partially or wholly outdoors shall be located at least 500 feet from any abutting lot line.

(D) A maximum of 20 outdoor runs shall be permitted.

(E) All pens and kennels must be surrounded by a chain link fence not less than six feet in height.

(F) Two or more principal buildings used as part of the facility may be located on a single lot of record which such buildings meet the location requirements of this chapter.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.125 AUTOMATIC TELLER MACHINES (ATMs).

(A) Automatic teller machines shall be permitted as accessory uses to banks and other financial institutions as either freestanding or attached facilities.

(B) Automatic teller machines shall be permitted as accessory uses to any commercial use when located on the inside of a building or when attached to the exterior of the principal building.

(C) Automatic teller machines shall be permitted as freestanding facilities in shopping center parking lots only when the location of such facilities do not present a hazard to the motoring public using the parking lot and they are lighted and located in such a manner as to maximize the safety of the public using the facility.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.126 AUTOMOBILE SERVICE STATION, CONVENIENCE STORE.

(A) Gasoline pump islands shall be located no closer than 15 feet from any lot line.

(B) Pump island canopies may be constructed to extend to the street right-of-way, provided a special use permit has been obtained.

(C) Suitable landscaping shall be provided along all sides of the property which abut residential districts (RA, R-15, R-10) as per §§ 152.200 through 152.208.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.127 BANQUET AND EVENT FACILITIES.

(A) Outdoor seating and entertainment areas shall not be permitted adjacent to a public street in a residential district (RA).

(B) Hours of operation shall be no earlier than 9:00 a.m. and no later than 11:00 p.m.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.128 BED AND BREAKFAST INN.

(A) The establishment shall be allowed to serve food only to registered guests unless a special use permit has been obtained to serve food to the general public in an established dining room.

(B) Off-street parking in the side and rear yards shall be screened in accordance with parking lot landscaping and screening requirements. Parking shall be placed on the lot in a manner designed to have the least impact on adjoining residential uses.

(C) Bed and breakfast establishments shall comply with all regulations and requirements within 15A NCAC 18A.2200.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.129 BUILDING MATERIAL AND LUMBER STORAGE AND SALES.

All outdoor storage areas shall meet the requirements of §§ 152.200 through 152.208.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.130 CAR WASH, AUTOMATIC, SELF SERVICE.

(A) The outdoor service area of a car wash shall be placed and screened in accordance with the standards for on-site parking.

(B) Car washes, vacuums and similar devices shall be a minimum of 50 feet from the nearest portion of an adjacent residential zoning district or lot containing a legal, conforming residential use.

(C) Car washes accessory to a principal use shall be located in the side or rear yard only.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.131 CAR WASH, FULL SERVICE.

(A) The outdoor service area of a car wash shall be placed and screened in accordance with the standards for on-site parking.

(B) Car washes, vacuums and similar devices shall be a minimum of 50 feet from the nearest portion of an adjacent residential zoning district or lot containing a legal, conforming residential use.

(C) Car washes accessory to a principal use shall be located in the side or rear yard only.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.132 COLLEGE OR UNIVERSITY.

(A) Colleges/universities shall be located on streets sized to accommodate normal traffic volumes of existing uses plus the additional traffic projected to be generated.

(B) Accessory and incidental buildings shall be placed within established rear yards and side yards that do not abut a street.

(C) Where chain link and similar fencing material are installed in an established yard abutting a street, such fencing shall be planted on the exterior side with evergreen shrubs a minimum of six feet in height (at maturity).

(D) Two or more principal buildings used as part of the college or university may be permitted on a single lot of record when such buildings meet the location requirements of this chapter.

(E) Dormitories shall be permitted only as accessory uses to a college, university or boarding school.

(F) Off-street parking in the side and rear yards shall be screened in accordance with parking lot landscaping and screening requirements. Parking shall be placed on the lot in a manner designed to have the least physical impact on adjoining residential uses.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.133 CONTINUING CARE FACILITY (REST HOME, NURSING HOME).

(A) The density levels and minimum yard requirements shall be based on the regulations of the underlying zoning district.

(B) Two or more principal buildings used as part of the continuing care facility may be permitted on a single lot of record when such buildings meet the location requirements of this chapter.

(C) Driveway access to accessory structures shall be through the main entrance to the facility. Accessory structures must be arranged to provide for adequate on-site vehicular and pedestrian traffic.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.134 CUSTOMARY HOME OCCUPATION.

(A) Customary home occupations may be established in a principal dwelling unit or in an accessory building, provided a special use permit has been issued.

(B) The following requirements shall apply in addition to all other applicable requirements of this chapter for the district in which such principal dwelling unit is located.

(1) The home occupation shall be clearly incidental and subordinate to the residential use of the dwelling and shall not change the residential character of the dwelling.

(2) No outside storage of materials or equipment shall be allowed in connection with the home occupation.

(3) Use of the dwelling for the home occupation shall be limited to 25% of the heated finished area of the principal residential structure. Any portion of a garage or basement may also be devoted to the home occupation.

(4) If an accessory structure is used for the customary home occupation, it shall be located in the rear yard only.

(5) Residents of the dwelling plus a maximum of two nonresidents may be engaged in the customary home occupation or otherwise report to work at the dwelling.

(6) No display of products shall be visible from any adjoining streets or properties. Sales of products are limited to those made or reconditioned on the premises and those which are necessary to the service being provided.

(7) No external alterations inconsistent with the residential use of the dwelling shall be permitted.

(8) Only vehicles used primarily as passenger vehicles, such as automobiles, vans and pick-up trucks (maximum of one ton) shall be permitted in connection with the conduct of the customary home occupation.

(9) Chemical, mechanical or electrical equipment that creates odors, light emission, noises or interference in radio or television reception detectable outside of the principal dwelling unit shall be prohibited.

(10) Customary home occupations may be in operation at any time between the hours of 8:00 a.m. and 9:00 p.m.

(11) A customary home occupation located in a residentially zoned district (RA, R-15, R-10) is limited to either a wall sign or freestanding sign to identify the business. Only one sign is permitted per establishment. Wall signs are limited to four square feet in area and shall not extend above the parapet of the building. Freestanding signs are limited to five feet in height.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.135 DAY CARE CENTER.

(A) All outdoor play and/or recreation areas shall be surrounded by a fence or wall at least four feet in height.

(B) Outdoor activities are limited to the fenced area and to the hours between 7:00 a.m. and 6:00 p.m.

(C) At least one off-street passenger loading/unloading space separate from required parking shall be provided for each 20 children enrolled. Adequate on-site turnaround area shall be provided for all loading/unloading.

(D) Day care centers associated with churches/places of worship and which have enrollment capacities in excess of 25 enrollees shall be deemed separate uses and may be allowed subject to the regulations covering such uses in the underlying zoning district.

(E) Day care centers shall comply with all regulations and requirements within 10A NCAC Chapter 9 and G.S. Chapter 110.

(F) A day care center located in a residentially zoned district (RA, R-15, R-10) is limited to either a wall sign or freestanding sign to identify the business. Only one sign is permitted per establishment. Wall signs are limited to four square feet in area and shall not extend above the parapet of the building. Freestanding signs are limited to five feet in height.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.136 DAY CARE HOME.

(A) A day care home must be clearly incidental to the residential use of the dwelling and must not change the residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.

(B) All outdoor play and/or recreation areas shall be surrounded by a fence or wall at least four in height.

(C) Outdoor activities are limited to the fenced area and to the hours between 7:00 a.m. and 6:00 p.m.

(D) Care shall not be provided on a 24-hour basis in any residential district.

(E) The facility shall be staffed by persons residing in the dwelling in which the day care center is located; however, two nonresidents may report to work at the center.

(F) The owner of the day care center shall reside on the premises.

(G) The day care center shall be located in a structure originally constructed as and designed for a single-family dwelling and shall be the principal structure on the lot. The structure shall not be altered in any manner which diminishes its value as a single-family dwelling or which changes its exterior residential character.

(H) Day care centers shall comply with all regulations and requirements within 15A NCAC 18A.0200, 10A NCAC Chapter 9 and G.S. § 110.

(I) A day care home located in a residentially zoned district (RA, R-15, R-10) is limited to either a wall sign or freestanding sign to identify the business. Only one sign is permitted per establishment. Wall signs are limited to four square feet in area and shall not extend above the parapet of the building. Freestanding signs are limited to five feet in height. (Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.137 DRY CLEANING SERVICES, LAUNDRY PLANTS.

A maximum area of 2,000 square feet floor space is allowed in the Community Shopping (C-S) Zoning District, provided the emission of steam and other obnoxious byproducts are controlled. (Ord. passed 10-2-2012)

§ 152.138 DWELLING, TWO-FAMILY (DUPLEX).

(A) The entrances to each unit may face different streets.

(B) The dwelling shall meet the minimum front yard setback from both streets upon which a unit faces.

(C) The dwelling shall be designed and sited to complement and coordinate with the neighborhood in which it is located. This shall include the use of architectural features and site design techniques that are intended, as much as possible, to mimic the look and feel of a single-family detached residential structure and lot. (Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.139 GROUP CARE FACILITY, GROUP CARE HOME.

(A) If not state licensed, the group care home shall have written operating procedures or manuals, established goals and objectives for persons receiving therapy or treatment, a structure system of management with a Board of Directors, on-premises management/supervisory personnel and admission standards that allow only residents to have a commitment and desire to adjust to society and are not dangerous to other as defined in state law.

(B) A minimum of 100 square feet of heated building area shall be provided to each resident.

(C) A group care home may not be located within a distance of one-half mile from any other group care home. All measurements shall be made by

drawing straight lines from the nearest point of the lot line where the proposed group care home is to be located to the nearest point of the lot line of another group care home.

(D) No group care home shall be operated or occupied without a certificate of zoning compliance and certificate of occupancy.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.140 HOTEL OR MOTEL.

Retail uses and restaurants may be located as an accessory use within any motel or hotel.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.141 INDUSTRIAL EQUIPMENT, SALES, SUPPLIES AND REPAIR.

All service and open storage areas shall meet the requirements of §§ 152.200 through 152.208.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.142 INTERNET SWEEPSTAKES CAFÉS.

(A) *Hours of operation.* 8:00 a.m. through 8:00 p.m.

(B) *Maximum number of machines.* No more than five machines will be allowed per establishment.

(C) *Property separation.* No internet sweepstakes café shall be located within 500 feet of another internet sweepstakes café operation.

(D) *Age restriction.* No one younger than 18 years of age shall be allowed in an internet sweepstakes operation.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.143 JUNKYARD, AUTO SALVAGE.

(A) A minimum of two acres for the site shall be provided.

(B) The site shall be completely enclosed by a solid fence which shall extend from the surface of the ground to a uniform minimum height of at least six feet from the ground at any given point. All business activity, including storage of vehicles or other materials shall be conducted within the fenced area.

(C) Wrecked vehicles or other junk and scrap shall be stored at a height no greater than five feet.

(D) Any gasoline, oil and other materials spilled or collected on the site shall be contained and disposed of in accordance with state and federal laws.

(E) No outside storage of tires will be allowed over 30 days unless tire storage area is covered.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.144 MANUFACTURED HOMES.

(A) *Manufacture year.* All manufactured homes shall have been manufactured in 1976 or after and shall bear a valid seal indicating conformance with 42 U.S.C. §§ 5401 through 5426, the National Manufactured Housing Construction and Safety Standards Act of 1974.

(B) *Setup.* The structure shall be set up in accordance with the standards set by the North Carolina Department of Insurance (including tie-down standards). The structure shall have all wheels, axles, transporting lights and towing apparatus removed. If any of these items cannot be removed, they shall be screened from view with landscaping or fencing if it is still visible after the unit is underpinned.

(C) *Foundation.*

(1) The structure shall not be occupied unless it is supported on masonry blocks or jacks and provided with continuous underpinning from the bottom of the walls to the ground made of continuous brick, pressure-treated wood, vinyl, pre-painted aluminum material or other material specifically made for manufactured housing, un-pierced except for required ventilation and an access door.

(2) If pressure treated wood skirting is used, it shall consist of lumber and plywood treated in compliance with American Wood Preserver Bureau standards. All plywood and lumber used for skirting shall be stamped with trademarks identifying the appropriate grades of lumber and plywood and the treatment identification.

(D) *Occupancy*. No manufactured home shall be used as a storage building. No manufactured home shall be permitted to remain unoccupied for more than 90 days.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.145 MOTOR VEHICLE RENTAL AND LEASING.

(A) Any car washing or cleaning facilities shall be allowed as accessory uses only and shall be located in the side or rear yard only.

(B) Parking and storage of rental vehicles shall be limited to the side and rear yards and shall be placed and screened in accordance with the standards for on-site parking.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.146 MOTOR VEHICLE REPAIR.

(A) A motor vehicle repair, service, body or paint shop which has wrecked, partially dismantled or inoperative vehicles located on-site shall store these vehicles in an enclosed building or in a separate motor vehicle storage yard surrounded by a fence at a minimum height of five feet.

(B) Storage yards and buildings associated with motor vehicle repair establishments shall not be used for indefinite storage of wrecked, partially dismantled or inoperative vehicles. Such vehicles shall only be permitted to be stored on the site if they are actively in the process of being repaired; this storage period shall not exceed one year.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.147 PET STORES.

All facilities associated with a pet store shall be located indoors.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.148 PRIVATE CLUB.

(A) All facilities and structures related to the use shall be located at least 100 feet from any lot line if located in the RA District.

(B) Outdoor seating and entertaining areas shall not be permitted adjacent to a public street or within 50 feet of a residential use or residentially zoned lot.

(C) Hours of operation shall be no earlier than 8:00 a.m. and no later than 11:00 p.m. when the use is located in the RA District, abuts a residential use or a residentially zoned lot. This restriction shall not apply where such use is separated from a residential use or a residentially zoned lot by a major arterial street.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.149 PRODUCE STAND.

(A) A produce stand shall not be located in a road right-of-way.

(B) If located in an RA or R-15 District, a produce stand is not required to meet that District's setback requirements; a minimum 25 foot front yard setback shall be required.

(C) During the times of the year in which the produce stand is not in operation, the stand and any structure associated with it shall not be visible from any public road.

(D) All produce sold shall be grown on a lot under the same ownership as the lot upon which the produce stand is located. If located on a lot under different ownership, the owner/operator of the produce stand must have written permission from the property owner.

(E) A produce stand may be a principal or accessory use on the lot on upon which it is located.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.150 RECREATION FACILITIES, PUBLIC OR PRIVATE.

(A) Outdoor swimming pools shall be located at least 50 feet from any side or rear lot line.

(B) If located in a residential district (RA, R-15 or R-10), any recreation facility, except for parks and playgrounds, must be located on a lot with a minimum size of one acre.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.151 ROOFING REPAIR AND INSTALLATION, SHEET METAL.

All outdoor storage areas shall meet the requirements of §§ 152.200 through 152.208.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.152 ROOMING QUARTERS.

Rooming quarters may be allowed in a single-family dwelling, provided a special use permit has been issued and the following requirements are met:

(A) The rooming quarters must be in the same building as the principal dwelling;

(B) The principal dwelling, in which the rooming quarters are located, must be owner-occupied; and

(C) At all times, the character of the use shall be residential and shall be designed and maintained to appear as a single-family use.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.153 SCHOOLS (PUBLIC AND PRIVATE).

(A) Any school which has greater than 100 students must have access onto a major or minor thoroughfare or through a collector road.

(B) Two or more principal buildings used as part of the school facility shall be permitted on a single lot of record when such buildings meet the location requirements of this chapter.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.154 STORAGE FACILITY, SELF-STORAGE WAREHOUSE.

(A) Self storage warehouse spaces shall be used for storage only. No space shall be leased for any other purpose.

(B) In the Highway Commercial (H-C) Zoning District, all storage spaces shall be enclosed in a building. Outside storage areas shall be allowed in the Industrial (M-1) Zoning District only.

(C) Two or more principal buildings used as part of the warehouse facility shall be permitted on a single lot of record when such buildings meet the location requirements of this chapter.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.155 SWIMMING POOL SALES, SERVICE AND SUPPLIES.

When located in a commercially zoned district (C-S and H-C), display of goods shall be limited to the interior of the building only.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.156 TELECOMMUNICATIONS TOWERS AND FACILITIES.

(A) No new telecommunication tower may be established if there is space available on an existing communications tower within the geographic area that the proposed tower is to serve.

(B) No equipment, mobile or immobile, not used in direct support of the transmission or relay facility shall be stored or parked on the site unless repairs to the facility are being made.

(C) An opaque screen expected to reach a minimum of eight feet in height at maturity shall be planted around the perimeter of the area occupied by the tower, security fencing and auxiliary uses such as parking. In addition, existing on-site trees and other vegetation shall be preserved to the extent practicable to maintain the entire site of the tower (including any anchoring devices) in its pre-construction appearance.

(D) If a communication tower is located on a lot adjacent to a lot or lots located in a residential district, it must be located at least 200% of the total constructed tower height from all property lines adjacent to the residential district(s).

(E) To be permitted as an incidental accessory use in any zoning district, an accessory telecommunication facility shall be camouflaged on, with or in an existing or proposed conforming structure (e.g., inside church steeple, on utility transmission line tower). A detailed site plan and structural elevations must be submitted to the Zoning Administrator for approval.

(F) The maximum height of a communication tower shall be 180 feet.

(G) Towers shall be of a monopole construction (lattice and guyed towers shall not be permitted).

(H) No signs or logos of any type shall be allowed on any telecommunications tower at any time.

(I) Prior to erecting a telecommunications tower or antenna or accessory communication facility, or installing same on any structure, any builder, user, carrier and the like shall submit documentation that the telecommunications tower or antenna or accessory communication facility will meet the American National Standards Institute (ANSI) standards and applicable Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) regulations, and comply with all other federal, state and local laws and regulations. Moreover, at the time

of applying for a building permit to erect a telecommunications tower or antenna or accessory communication facility, or to install same on any other structure, and prior to erection or installation of the tower or antenna, a structural engineer licensed to work in the state shall certify that the plans for construction and erection or installation of the tower or antenna or accessory communication facility meet or exceed current safety and design standards of applicable codes.

(J) Co-location required.

(1) Telecommunications towers shall be structurally designed and constructed to support a minimum of four users. Moreover, prior to erecting a telecommunications tower, any builder, user, carrier and the like shall submit documentation that the owner of the tower or antenna is willing to permit other user(s) to attach accessory communications facilities which do not interfere with the primary purpose of the tower or antenna, provided that such other user(s) agree to negotiate a reasonable compensation to the owner from such liability as may result from such attachment.

(2) Subsequent co-location or shared use of antennas on existing telecommunications towers which do not increase the height of the existing tower shall not require a conditional use permit. Subsequent co-location of accessory communication facilities on other structures shall not require a conditional use permit.

(K) There shall be a minimum eight foot high fence installed and maintained by the owner of the telecommunications tower around the perimeter of the tower compound, except that security fencing shall not be required for accessory communication facilities.

(L) Nonconforming telecommunications towers or antennas or accessory communication facility shall be treated the same as any other nonconforming use under this chapter.

(M) Any telecommunications tower or antenna or accessory communication facility which is unused for the original permitted use for a period of 180 consecutive days shall be removed by the owner of

such tower or antenna or accessory communication facility, within 120 days of receipt of notification to that effect. If the owner fails to so remove the tower or antenna or accessory communication facility as required by this section, then the town may remove the tower or antenna or accessory communication facility, and the owner shall reimburse the town for all expenses incurred thereby, including without limitation all engineering, demolition, transportation, disposal and legal fees and costs.

(N) At the request of any local governing authority, a license shall be granted to such local governing authority to place public service communication antennas or other public service communication devices on the telecommunications tower or antenna, provided that such communication antennas or other public service communication devices do not interfere with the function of the telecommunications tower or antenna, or array of antennas of the operator or owner or other existing service providers located on the tower or antenna.

(O) All telecommunications towers and antennas and accessory communication facilities located within nonresidential zoning districts shall have a minimum setback from the base of the tower or antenna or accessory communication facility to the lot boundaries equal to 80% of the height of the tower or antenna or accessory communication facility, or equal to the minimum structure setback otherwise required by this subchapter, whichever is greater. Communication towers shall be located a minimum of 500 feet from the nearest public street.

(P) The height of an accessory communication facility shall be defined as 110% of the distance by which the accessory communication exceeds the height of the principal structure to which the accessory communication facility is attached.

(Q) Prior to erecting a telecommunications tower or antenna, or installing same on any structure, any builder, user, carrier and the like shall submit documentation that such antennas or communication device to be located on a communication tower cannot be accommodated on an existing tower or other structure due to the following reasons:

(1) The planned equipment would exceed the structural capacity of existing and approved towers, considering existing and planned use of those towers and the towers cannot be reinforced or replaced to accommodate the planned equipment;

(2) The planned equipment would cause radio frequency interference with other existing or planned equipment for these towers and the interference cannot be prevented at a reasonable cost; and

(3) Existing or approved towers do not have space on which the equipment can be placed so it can function effectively and reasonably in parity with similar existing approved equipment.

(R) In no case shall a telecommunications tower be located closer than one mile from another tower unless the builder, user, carrier and the like can establish through competent evidence and documentation either that:

(1) It is in the best interests of the community that the proposed tower be located less than one mile from another tower; or

(2) It is necessary for technical reasons that the proposed tower be located less than one mile from another tower, such as, for example, circumstances where the planned equipment would cause radio frequency interference with other existing equipment, or other existing equipment would cause radio frequency interference with the planned equipment, and the interference cannot be prevented at a reasonable cost.

(S) The entire facility must be aesthetically compatible with its environment. If not otherwise camouflaged, towers shall be of a coloration that will blend with the surroundings. Example: brown/green/gray. Telecommunications towers, antennas and accessory communication facilities shall not be artificially lighted, except where otherwise required by the FAA, FCC or other federal or state agencies. Where such agencies allow a choice between painting the tower or installing lighting, painting shall be the choice selected.

(T) Prior to erecting a telecommunications tower or antenna or accessory communication facility or installing same on any structure, any builder, user, carrier and the like, must be granted a conditional use permit by the Town Council, pursuant to the provisions of this section, except that a stealth telecommunications antenna may be erected or installed upon approval by the Zoning Administrator, with a right of appeal to the Board of Adjustment pursuant to § 152.070. The builder, user, carrier and the like may be granted a conditional use permit only upon submission of an application and fee payment to the town, who shall transmit the application to the Board of Adjustment; in the case of a stealth telecommunications antenna, approval by the Zoning Administrator may be granted only upon submission of an application and fee payment to the town. The application must be in the form prescribed by the Zoning Administrator and, in addition to any other or further requirements of this subchapter, must contain the following information prior to being granted:

(1) A network plan for that builder, user, carrier and the like, encompassing the area prescribed by a 12-mile radius circle showing:

(a) The total number of telecommunications towers, antennas and accessory communication facility sites;

(b) The required height from sea level of tower or antennas or accessory communication facilities;

(c) The required location of all towers and antennas and accessory communication facilities or co-locations of antennas on existing towers;

(d) The anticipated location(s) of all tower and antennas and accessory communication facility sites to be required within the next ten years from the date of the application; and

(e) A delineation of the boundaries of the maximum search range within which the proposed tower or antennas accessory communication facility equipment can function.

(2) A site plan showing the site and size of all existing structures within 1,320 feet of the site; plans and elevations for all proposed structures and descriptions of the color and nature of all exterior material; and plans for all landscaping, buffers and screens, including existing landscaping, buffers and screens;

(3) A listing of all telecommunications towers, antennas and other structures which may be used to locate communication facilities within a two-mile radius of the proposed site;

(4) An explanation of why the proposed telecommunications facilities cannot be co-located on any of the existing structures within the search range;

(5) Documentation from applicable state and federal agencies indicating requirements which affect the appearance of the proposed telecommunications tower, antenna or accessory communication facility, including lighting and color; and

(6) A listing of all property owners within 1,000 feet of the site on which the communications tower is proposed to be located.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.157 TEMPORARY PERSONAL STORAGE UNIT.

(A) A temporary use certificate of zoning compliance along with a registration form (see temporary portable storage unit registration) must be obtained for each unit within the jurisdiction of the town.

(B) Only one temporary portable storage unit shall be allowed per residential zoning lot.

(C) The gross square footage of an individual temporary portable storage unit shall not exceed 150 square feet.

(D) A temporary portable storage unit shall be allowed on a property for a period not to exceed 180 consecutive days, and may be renewed for up to an

additional 90 days with issuance of temporary use certificate of zoning compliance.

(E) The temporary portable storage unit may be placed in a driveway, a designated area or other location on the site. Unless located in a driveway or designated parking area, the storage unit must meet the setback requirements of this chapter.

(F) These standards do not apply to portable units for donating goods to a charitable organization (such as Goodwill drop off), temporary construction trailers, dumpsters or recycling facilities.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.158 TEMPORARY SEASONAL USE AND STRUCTURES.

(A) The establishment of temporary sales lots for Christmas trees and other seasonal agricultural products and related goods are permitted for a maximum of three months upon the issuance of a temporary use certificate of zoning compliance by the Zoning Administrator.

(B) The following conditions and exceptions shall apply.

(1) No more than one trailer shall be used to store goods for sale.

(2) The use may only be located on a vacant lot, on a lot occupied by a nonresidential use, or on the site of a bona fide farm operation.

(3) Off-street parking may be provided behind or to the side of the established use but not in front of the street right-of-way.

(4) On-site parking may be provided on a dust-free, pervious surface area and need not comply with additional paving requirements.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.159 UTILITY SERVICES.

Buildings and facilities associated with utility services (including electricity, natural gas, telephone, cable television and internet, water and sewer) shall require the issuance of a special use permit.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.160 WINERIES AND MICROBREWERIES.

(A) *Location.* The facility must be located in such a manner that visual impact to adjoining properties used or zoned for residential or agricultural purposes is minimal.

(B) *Setback.* All structures, buildings, storage areas and the like (except fences or walls) associated with the winery or microbrewery must be twice (two times) the setback for the applicable zoning district from all property lines or street rights-of-way.

(C) *Vineyards.* A facility serving as an established cooperative winery or as an independent commercial winery may be permitted without the presence of an on-site vineyard, if, in the Board's estimation, the facility will benefit, cater to and serve the vineyards of the surrounding areas.

(D) *Lighting.* Outdoor lighting shall be designed to minimize light directly hitting adjacent property or any public right-of-way.

(E) *Screening and fencing.* All parking and storage areas associated with the winery or microbrewery shall be buffered or screened from adjoining properties used or zoned for residential or agricultural purposes.

(F) *Additional requirements.* Associated small-scale processing or catering facilities (i.e., cheese making, restaurant, wine tasting rooms) that are incidental to the winery or microbrewery, but may

enhance the overall property in relation to tourism, may be permitted on a case-by-case basis by the Board of Adjustment. The Board of Adjustment shall hold a public hearing and upon approval issue a special use permit for each use. Associated uses are subject to the above requirements as well.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.161 WOODWORKING SHOP.

(A) The site shall be utilized in a manner that prevents noise and dust from adversely impacting adjacent properties.

(B) All outdoor storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

(Ord. passed 10-2-2012) Penalty, see § 152.999

SIGNAGE

§ 152.175 PURPOSE.

This section is intended to regulate and control signs and their placement throughout the town for the following purposes:

(A) To provide a pleasing overall environmental setting and good community appearance, which is deemed vital to the continued economic attractiveness of the town;

(B) To create a more productive, enterprising, professional business atmosphere;

(C) To allow signs appropriate to the planned character and development of each zoning district;

(D) To ensure that permitted signs do not become a hazard or nuisance;

(E) To promote traffic safety;

(F) To prevent business and advertising signs from conflicting with public safety signs; and

(G) To protect and enhance the value of properties.

(Ord. passed 10-2-2012)

§ 152.176 APPLICABILITY.

(A) It shall be unlawful to construct, enlarge, modify, move or replace any sign or cause the same to be done, without first obtaining a zoning permit for such sign from the town or its designee.

(B) Notwithstanding the above, changing or replacing the permanent copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign so as to render it in violation of this chapter.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.177 GENERAL PROVISIONS.

The following regulations shall apply to all signs.

(A) Construction standards.

(1) All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building Code.

(2) All temporary signs shall be constructed of materials and printed on by inks capable of withstanding normal weather conditions.

(3) All signs, except for banners, flags, temporary signs and window signs conforming in all respects with the requirements of this chapter shall be constructed of permanent materials and shall be permanently attached to the ground, a building or another structure by direct attachment to a rigid wall, frame or structure.

(B) *Electrical standards.* All illuminated signs shall be installed in accordance with the applicable provisions of the North Carolina State Electrical Code and all detached signs shall be illuminated by an underground electrical source.

(C) *Maintenance of signs.* All signs shall be maintained in good structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs shall be evidence of a lack of maintenance.

(D) *Obstructions prohibited.* No sign shall be placed so as to obstruct the clear sight triangle at a street intersection nor shall any sign obstruct the view of motorists entering or leaving an off-street parking area.

(E) *Relation to other building elements.*

(1) Signs shall relate in their placement and size to other building elements without obscuring building elements such as windows, cornices or decorative details, except that signs may be placed on the inside of windows.

(2) Sign material, style and color shall complement the building facade in terms of design, scale, color and materials.

(3) Individual shop signs in a single storefront shall relate to each other in terms of design, size, color, placement on the building and lettering style.

(4) Signs placed on the inside of the window areas shall conceal no more than 25% of the area of the window on which the signs are located.

(F) *Sign lighting.*

(1) Neon, argon and similar lighting fixtures shall not be used anywhere on the exterior of a building; however, such signs if non-flashing and non-moving may be mounted on the inside of store windows.

(2) Signs shall be lighted with indirect light sources (e.g., backlighting); knockout signs are encouraged. Ground mounted floodlights may also be used if the light is directed only on the sign and not onto adjacent properties or roadways and the light fixtures are fully shielded from view through the use of landscaping.

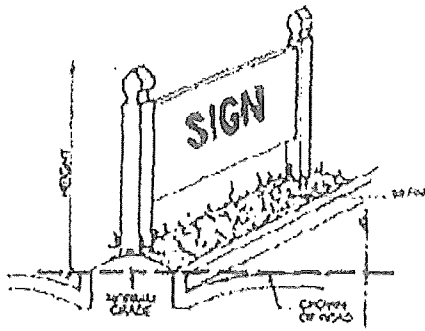
(G) *Sign height computation.*

(1) Sign shall be computed as the lower of:

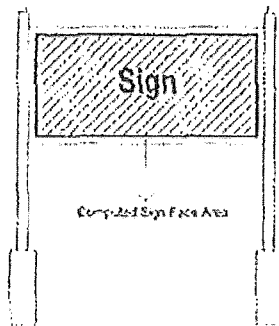
(a) Existing grade prior to construction; or

(b) The newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. The calculation of the height of any sign placed upon a berm or mound shall include the height of the berm or mound.

(H) *Sign area computation.* The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing or decorative fence or wall when such fence or wall otherwise meets zoning regulations and is clearly incidental to the display itself.



Sign Height Computation



Area Computation of Individual Signs

(I) Sign area computation for multi-faced signs.

The sign area for a sign with multiple faces shall be computed by adding together the area of all sign faces visible from any one point. When a sign is composed of two or more sign faces, only one of which can be viewed from any one point, and when such sign faces are part of the same structure, the sign area shall be computed by the measurement of one of the faces.

(J) *Forfeiture of illegal signs placed on or over public property.* Any sign installed or placed on or over public property, except in conformance with the requirements of this section, shall be forfeited to the public and be subject to confiscation and disposal. In addition to other remedies provided by this section and the town code of ordinances, the town shall have the right to recover from the sign owner and/or installer the full costs of removal and disposal of such sign.

(K) Maintenance and removal of signs.

(1) All signs shall be maintained in good structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs shall be evidence of a lack of maintenance.

(2) Within six months after the termination of business at a particular location, the owner of the property shall remove or eliminate all signage related to the terminated or relocated business. If the property owner fails to remove the signage within the specified time, the Zoning Enforcement Officer may order whatever actions are necessary (at the owner's expense) to eliminate the signage.

(Ord. passed 10-2-2012)

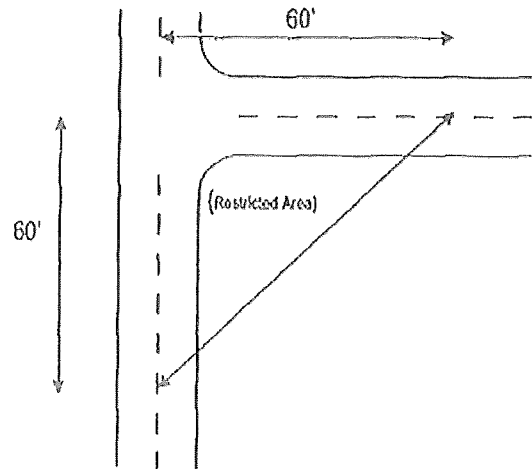
§ 152.178 SIGN PLACEMENT.

The following provisions shall apply to the placement of all signs in all districts.

(A) In general.

(1) Signs must be located entirely on private property, unless otherwise permitted by this section.

(2) No sign may be located so that it blocks the sight triangle at any driveway or public street intersection.



(B) *Wall signs.* Wall mounted signs shall not extend above the eave or parapet of any building.

(C) *Freestanding signs.*

(1) All parts of freestanding signs must be set back a minimum of ten feet from the property line.

(2) No freestanding sign shall be located closer than 15 feet from another structure on the same zoning lot.

(3) No portion of a freestanding sign, including projections, may extend into or over an existing public right-of-way, unless expressly permitted by this subchapter.

(D) *Temporary signs.*

(1) Temporary signs shall be located on private property unless expressly permitted by this section to be posted on public property.

(2) All temporary signs shall be anchored, attached or otherwise affixed to a structure or support so that the sign cannot be easily dislodged by strong winds or heavy rains.

(E) *Sandwich or menu board signs.*

(1) Sandwich or menu board signs shall be placed on the sidewalk directly in front of the associated use and within four feet of the curb.

(2) No portable sandwich or menu board signs shall be located on a sidewalk where the sidewalk is less than nine feet in width.

(3) Sandwich or menu board signs shall be at least ten feet from any intersection and at least five feet from any crosswalk or fire hydrant.

(4) Sandwich or menu board signs shall be displayed only during operational hours of the business being advertised, removed each day at the close of business, and shall not be lighted.

(5) Sandwich or menu board signs shall be constructed of materials that present a finished appearance. Rough cut plywood is not acceptable. The sign lettering shall be professionally painted or applied. Chalkboard signs shall be permitted. The written message of the sign shall be kept to the minimum necessary to communicate the name of a business or a special message of the business.

(6) Any person erecting a sandwich or menu board sign shall indemnify and hold harmless the town and its officers, agents and employees from any claim arising out of the presence of the sign on town property or rights-of-way. The person erecting a sandwich or menu board sign shall sign an indemnification agreement, approved by the Town Attorney, prior to the issuance of a sign permit. The indemnification agreement shall be accompanied by evidence of insurance covering the liability assumed in this subsection and the agreement.
(Ord. passed 10-2-2012)

§ 152.179 PERMANENT SIGNS BY ZONING DISTRICT.

(A) Signs shall be permitted and prohibited within certain zoning districts as follows:

<i>Permanent Signs by Sign Type and Zoning District</i>						
<i>Sign Type</i>	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>H-C</i>	<i>C-S</i>	<i>M-1</i>
Canopy/awning	-	-	-	-	Z	Z
Directional/incidental ¹	P	P	P	P	P	P
Directory	-	-	-	-	Z	Z
Flag	P	P	P	P	P	P
Freestanding	Z	Z	Z	Z	Z	Z
Marquee	-	-	-	-	Z	Z
Monument	Z	Z	Z	Z	Z	Z
Outdoor advertising	-	-	-	-	-	-
Planned development	-	-	-	-	Z	Z
Portable	-	-	-	-	-	-
Projecting	-	-	-	-	Z	Z
Sandwich or menu board	-	-	-	-	P	-
Suspended	-	-	-	-	Z	Z
Wall	Z	Z	Z	Z	Z	Z
Window	-	-	-	-	P	P
P = permitted without a permit						
Z = permitted only upon issuance of a valid zoning permit						
- = not permitted						
¹ Height limit applies only to freestanding signs.						

(B) Sign types not specifically listed in this table are not permitted.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.180 SIGN HEIGHT.

The following provisions shall apply to the height of all signs.

(A) Supporting elements of freestanding signs shall not extend above the sign face and shall be included in the measurement of sign height.

<i>Maximum Number of Signs Per Sign Type Per Zoning Lot</i>						
<i>Sign Type</i>	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>H-C</i>	<i>C-S</i>	<i>M-1</i>
Directory	-	-	-	-	1 ³	1 ³
Flag	4	4	4	4	4	4
Freestanding	1	1	1	1	1	1
Marquee	-	-	-	-	1	1
Monument	1	1	1	1	1	1
Outdoor advertising	-	-	-	-	-	-
Planned development	-	-	-	-	1	1
Portable	-	-	-	-	-	-
Projecting	-	-	-	-	1	-
Sandwich or menu board	-	-	-	-	1	-
Suspended	-	-	-	-	1	-
Wall	1 ²	1 ²	1 ²	1 ²	1 ²	1 ²
Window	N/A	N/A	N/A	N/A	N/A	N/A
¹ Per canopy or awning						
² Per storefront						
³ Per street front or development entrance						

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.182 SIGN AREA BY ZONING DISTRICT.

The amount of sign area permitted for each sign on a zoning lot shall be as follows:

<i>Maximum Sign Area Per Sign Per Zoning Lot (in sq. ft.)</i>						
<i>Sign Type</i>	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>H-C</i>	<i>C-S</i>	<i>M-1</i>
Canopy/awning	-	-	-	-	*	*
Directional/incidental ¹	2	2	2	2	2	2
Directory	7	-	-	-	18	18
Flag	N/A	N/A	N/A	N/A	N/A	N/A
Freestanding	24	24	24	24	30	30

<i>Maximum Sign Area Per Sign Per Zoning Lot (in sq. ft.)</i>						
<i>Sign Type</i>	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>H-C</i>	<i>C-S</i>	<i>M-1</i>
Marquee	-	-	-	-	1	1
Monument	24	24	24	24	36	36
Outdoor advertising	-	-	-	-	-	-
Planned development	-	-	-	-	32	32
Portable	-	-	-	-	-	-
Projecting	-	-	-	-	3	-
Sandwich or menu board	-	-	-	-	8	-
Suspended	-	-	-	-	#	-
Wall	1	2	2	2	2	2
Window	-	-	-	-	3	3
¹ Shall not exceed 75% of the size of the marquee						
² Shall not exceed 25% of the wall area of the facade on which it is located						
³ Shall not exceed 25% of the window area						
* Shall not exceed 10% of the canopy or awning						
# Shall not exceed one-half the size of the nearest window or door on the same building or facade						

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.183 PERMANENT SIGNS LIMITED.

(A) Notwithstanding § 152.179 and in addition thereto, the following permanent signs shall be permitted without a zoning permit:

(1) Historical markers, regulatory signs, public interest signs and warning signs erected and maintained by the town or state or an agent of such;

(2) On-premises directional signs not exceeding four feet in height nor four square feet in area;

(3) Identification signs not exceeding two square feet in area nor two feet in height;

(4) Incidental signs;

(5) Flags on permanent poles;

(6) Any sign not legible or easily noticeable from public property or a public right-of-way and obviously not intended to attract the attention of the public;

(7) Any public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance;

(8) Traffic control signs on private property, the face of which meets Department of Transportation standards and which contain no commercial message of any kind; and

(9) Electronic changeable readerboards. Electronic changeable readerboards may be allowed on part of a freestanding sign provided the sign is included in the overall area calculations for that sign and complies with the following:

(a) The minimum time in between message changes shall be ten seconds;

(b) No animation shall be allowed;

(c) The electronic changeable readerboard shall not exceed 20% of the total area of the sign face;

(d) The sign shall in no way flash, blink, rotate or use lights of varying intensities that may distract driver; and

(e) The light emitted from such signs shall not exceed 5,000 nits during the day and 500 nits during nighttime hours.

(B) Notwithstanding § 152.179 and in addition thereto, the following permanent signs shall be permitted upon the issuance of a valid zoning permit: any sign not expressly listed as permitted without a permit shall require the issuance of a valid zoning permit prior to installation.

(Ord. passed 10-2-2012)

§ 152.184 TEMPORARY SIGNS LIMITED.

(A) *Temporary signs permitted without a permit.* The following temporary signs are permitted without a zoning permit in all zoning districts, but shall be in conformance with all other requirements of this chapter:

(1) Campaign or election signs shall be permitted provided that:

(a) Individual signs shall not exceed 16 square feet in area nor four feet in height;

(b) All signs shall be removed within seven days after the election for which they were made; and

(c) No signs shall be permitted in the public right-of-way.

(2) Real estate signs, excluding temporary development signs provided that:

(a) Signs advertising all residential lots, buildings, units or spaces for sale or for lease shall not exceed six square feet in area nor four feet in height;

(b) Signs advertising all nonresidential lots, buildings, units or spaces for sale or for lease shall not exceed a sign face area of 32 square feet or exceed a height of six feet;

(c) Only one sign per street front of the advertised property shall be erected;

(d) Signs shall not be illuminated; and

(e) Signs shall be removed within seven days after the sale is closed or rent or lease transaction finalized.

(3) Construction signs are permitted provided that:

(a) Signs located on residential lots, excluding multi-family sites, shall not exceed six square feet in area. The maximum height of such signs shall be six feet;

(b) Signs for all multi-family development sites and nonresidential uses shall not exceed a sign face area of 32 square feet or a height of six feet;

(9) Electronic changeable readerboards

(A) Electronic changeable readerboards may be allowed on part of a free-standing sign provided the sign is included in the overall area calculations for that sign and complies with the following:

~~(a) The minimum time in between message changes shall be ten (10) seconds.~~

~~(b) No animation shall be allowed~~

(a) ~~(e)~~ The electronic changeable readerboard shall not exceed 20% of the total area of the sign face.

(b) ~~(d)~~ The sign shall in no way use lights of varying intensities that may distract driver.

(c) ~~(e)~~ The light emitted from such signs shall not exceed 5,000 nits during the day and 500 nits during nighttime hours.

(c) Signs are confined to the site of construction;

(d) Only one sign per street front of the property under construction shall be erected;

(e) Signs shall not be illuminated; and

(f) Signs shall be removed within seven days after the completion of the project.

(4) Temporary farm products signs are permitted provided that:

(a) Signs are located on the premises where the products are sold;

(b) Signs advertise products produced on-site only;

(c) Signs shall not exceed 24 square feet in area nor five feet in height;

(d) Only one sign shall be erected; and

(e) Signs shall be removed within seven days of the termination of sale activities.

(5) Temporary special event signs or banners for religious, charitable, civic, fraternal or similar organizations, are permitted provided that:

(a) Signs shall not exceed 32 square feet in area nor five feet in height; and

(b) Signs shall be erected no sooner than 14 days before and removed seven days after the event.

(6) Holiday lights and decorations;

(7) Any sign not legible or easily noticeable from public property or a public right-of-way and obviously not intended to attract the attention of the public; and

(8) Any public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance.

(B) *Temporary signs requiring a permit.* Temporary signs permitted upon issuance of a valid zoning permit shall be limited as follows:

(1) Temporary banners in commercial districts, provided that:

(a) Only one banner per establishment shall be allowed at a time;

(b) All banners shall be attached in total to a building wall or permanent canopy extending from a building;

(c) No paper banners shall be allowed;

(d) Banners shall be erected for a period not to exceed two weeks;

(e) No more than six such signs per establishment shall be erected within a calendar year; and

(f) No banner shall extend above the second occupiable floor level of a building.

(2) Temporary off-premises signs or banners for special community events, open to the general public and sponsored by non-commercial civic, charitable, community or similar organizations, provided that:

(a) Temporary signs shall be located outside of the public right-of-way or at least 11 feet from the edge of any public street if the right-of-way cannot be determined;

(b) Every temporary off-premises sign or banner shall be separated by a distance of 400 feet from any other such temporary off-premises sign on the same side of a street, and by a distance of 200 feet from any other sign on the opposite side of a street;

(c) Nothing in this provision shall be construed to authorize the posting of such signs or banners upon trees, utility poles, traffic control signs, lights or devices in any place or manner prohibited by the provisions herein, nor on private property without written consent of the owner; and

(d) Any temporary sign not expressly permitted without a permit.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.185 PROHIBITED SIGNS.

Notwithstanding § 152.179 and in addition thereto, the following signs, both permanent and temporary, are prohibited in all zoning districts:

(A) Signs extending into the public right-of-way other than those expressly permitted by this subchapter or otherwise approved by the Town Council, if placed along public streets;

(B) Roof signs;

(C) Flashing, fluttering, swinging, wind-activated, rotating, animated signs and other digital or electronic message boards, excluding flashing time and/or temperature signs that are not otherwise permitted in §§ 152.175 through 152.186;

(D) Any sign which obstructs the view of motorists, pedestrians or cyclists using any street, sidewalk, bike path or driveway, or which obstructs the approach to any street intersection or railroad crossing, or which interferes with the effectiveness of any traffic sign, device or signal;

(E) Illuminated or highly reflective signs which hamper the vision of motorists or cyclists;

(F) Any sign that resembles traffic signals, traffic signs or emergency vehicle lights and any other sign not erected by a public authority which may be erroneously construed as governmental signs or emergency warning signs;

(G) Beacons, pennants and strings of lights not permanently mounted to a rigid background, except those permitted as temporary signs;

(H) Any sign that interferes with free passage from or obstructs any fire escape, downspout,

window, door, stairway, ladder or opening intended as a means of ingress or egress or providing light or air except for permitted window signs;

(I) Any sign placed on any curb, sidewalk, post, pole, hydrant, bridge, tree or other structure or surface located on, over or across any public street right-of-way or property unless expressly authorized by this subchapter or the Town Council;

(J) Off-premises signs advertising adult establishments;

(K) Off-premises signs on parcels of land that are zoned residential, used primarily for residential purposes, or which do not include an active permitted use as established by this subchapter;

(L) Inflatable devices or balloons;

(M) High intensity searchlights;

(N) Any object displayed in a manner which is intended to attract attention to a site, product or event;

(O) Any sign listed as not permitted in § 152.179; and

(P) Any sign not expressly permitted by this subchapter.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.186 ENFORCEMENT OF REGULATIONS.

Any sign, structure or other form of advertising defined as a sign herein that is erected or placed anywhere in the town after adoption of this chapter that is not in compliance with the provisions of this section shall be subject to the enforcement provisions outlined in §§ 152.300 through 152.303 and 152.999.
(Ord. passed 10-2-2012) Penalty, see § 152.999

**LANDSCAPING, SCREENING AND
BUFFER AREAS**

§ 152.200 PURPOSE.

The landscaping, screening and buffer regulations, adopted and prescribed in this chapter, are found by the Town Council to be necessary and appropriate to:

(A) Encourage a high quality appearance for development, thoroughfares and streets;

(B) Reduce soil erosion and increase infiltration in permeable land areas essential to stormwater management and aquifer recharge;

(C) Preserve existing native vegetation as an integral part of the wildlife habitats and incorporate native plants into the landscape design;

(D) Screen unsightly equipment or materials from the view of persons on public streets or adjoining properties and buffering from uncomplimentary land uses;

(E) Preserve and improve the visual quality, the sense of privacy and values of property; and

(F) Encourage the creation of attractive and harmonious communities by establishing minimum standards as a guideline for enforcing and achieving the above.

(Ord. passed 10-2-2012)

§ 152.201 APPLICABILITY.

(A) *Exemptions.* These requirements shall not apply to:

(1) Single-family detached dwellings or two-family dwellings on their own lots;

(2) Multi-family developments containing four or fewer dwelling units in a single zone (building) lot; and

(3) Property lines abutting railroad rights-of-way and utility easements in excess of 60 feet in width.

(B) *Application.* These requirements shall apply to the following:

(1) *New principal building or use.* Principal buildings or open uses of land constructed or established after the adoption of this chapter; and

(2) *Expansions or reconstruction.* Expansions which will result in a parking or building square footage increases of more than 3,000 square feet for developments existing on the effective date of this chapter. In such cases the landscaping requirements shall apply only to the expansion.
(Ord. passed 10-2-2012)

§ 152.202 GENERAL PROVISIONS.

(A) *Planting and maintenance.* Landscaping, trees and plant material shall be planted in a growing condition according to accepted horticultural practices and they shall be maintained in a healthy growing condition. Any landscaping, trees and plant material in a condition that does not fulfill the intent of these regulations shall be replaced by the property owner during the next planting season.

(B) *Screening fences and walls.* A screening fence or wall area shall be maintained by the property owner, in good condition, throughout the period of the use of the lot.

(C) *Protection of existing vegetation.* To the extent possible, existing trees, vegetation and unique site features shall be retained and protected. Existing healthy, mature trees, if properly located, shall be fully credited against the requirements of these regulations.

(D) *Size and spacing of landscape materials.*

(1) Canopy trees shall be a minimum eight feet in height, with a minimum circumference of one and one-half inches, immediately after planting. When mature a canopy tree should be at least 40 feet high

and have a minimum crown width of 30 feet. Canopy trees shall be planted 25 to 35 feet on center, depending on species.

(2) Understory trees shall be a minimum of four feet high, with a minimum caliper of one inch. When mature, an understory tree should be between 15 and 35 feet high.

(3) Evergreen trees shall be a minimum of six feet immediately after planting.

(4) Shrubs and hedges shall be a minimum of two feet in height immediately after planting.

(5) Ground cover may include any plant material that reaches an average height of not more than 12 inches. Alternative materials may be used in lieu of grass provided they present a finished appearance and provide reasonably complete coverage at the time of planting.

(6) Plants that restrict sight visibility at intersections of streets or driveways, such as tall shrubs or low branching trees, shall be avoided.

(E) *Type of landscape material.* Species native to the North Carolina Piedmont which are drought tolerant are encouraged due to their higher likelihood of survival.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.203 ALTERNATE METHODS OF COMPLIANCE.

Where lot size, shape, topography or existing structures make it not feasible to comply with the provisions of this chapter, the Zoning Administrator may modify these provisions provided the alternate proposal will afford a degree of landscaping screening and buffering equivalent to or exceeding the requirements of these regulations.

(Ord. passed 10-2-2012)

§ 152.204 REQUIRED LANDSCAPING AREAS.

(A) *Front landscaped area.* A front landscaped area shall be required for all nonresidential uses and for multi-family developments with more than four units.

(1) The required landscaped area shall be contiguous to the front lot line of the property and have a minimum width of ten feet. In the Community Shopping (C-S) Zoning District, the required minimum width shall be five feet.

(2) If the required building setback is less than the required planting yard minimum width, the building setback shall control, reducing the required planting yard width only alongside the building.

(3) The landscaped area shall be covered with grass or other ground cover and shall include appropriate trees and shrubs. At a minimum, one canopy tree and ten shrubs shall be planted within the front landscaped area for each 50 feet or fraction thereof of lot frontage. In circumstances where a canopy tree cannot be planted, due to the interference with utility lines or other site complications, two understory trees may be substituted for every one canopy tree, with permission from the Zoning Administrator.

(B) *Buffer area.* A buffer area shall be required to separate and screen incompatible land uses from each other. A buffer area shall be required along all boundaries of a two-family, multi-family or a nonresidential lot abutting a less intensive use. Such buffer shall comply with the following minimum standards.

(1) A buffer area shall be located within the boundaries of the subject property. The buffer may be located on abutting property, provided the owners of all abutting properties agree in writing to the proposal. Said agreement must be recorded and run with the land and provide stipulations for maintenance and upkeep, as deemed necessary.

(2) The minimum width (in linear feet) of the buffer area shall be following the buffer matrix below:

<i>Proposed Use</i>						
Commercial (CM)	15	10	5	-	-	-
Industrial (IND)	25	20	15	10	10	-
Multi-Family (MF)	15	10	5	-	-	-
Office (OF)	10	5	-	-	-	
Single-Family (SF)	-	-	-	-	-	-
Two-Family (TF)	10	-	-	-	-	-
	<i>SF</i>	<i>TF</i>	<i>OF</i>	<i>CM</i>	<i>MF</i>	<i>IND</i>
	<i>Adjacent Use</i>					

(3) The buffer area shall consist of trees and shrubs of such a type, height, spacing and arrangement to effectively buffer the activity on the lot from the neighboring area. At a minimum, the planting shall consist of:

(a) Five ten-foot buffers: five trees, of which two shall be canopy trees and three shall be understory trees, and ten shrubs per 100 linear feet, 50% of which shall be evergreen;

(b) Fifteen 20-foot buffers: ten trees, of which four shall be canopy trees and six shall be understory trees, and 15 shrubs per 100 linear feet, 50% of which shall be evergreen; and

(c) Twenty-five-foot buffers: 20 trees, of which eight shall be canopy trees and 12 shall be understory trees, and 20 shrubs per 100 linear feet, 50% of which shall be evergreen.

(4) An earthen berm, fence or wall of a location, height, design and material approved by the Zoning Administrator may be substituted for any portion of the required planting and/or buffer area. Trees and shrubs shall supplement earthen berms, fences or wall areas.

(a) Fences and walls shall be constructed of materials congruous with the materials of the main building.

(b) Fences and walls shall not contain advertising signs, logos or other lettering unless expressly permitted by the Zoning Administrator.

(c) Fences and walls shall be installed and maintained so as not to interfere with the sight distance needs of drivers in parking areas and at entrance and exit locations.

(d) Landscaping berms shall not be used for the display of vehicles or merchandise.

(C) *Landscaped parking areas.* Parking areas shall comply with the following minimum standards.

(1) All uses required to have 20 or more off-street parking spaces shall have at least ten square feet of interior landscaping, within the paved portion of the parking area, for each parking space and at least one canopy tree for every ten parking spaces or fraction thereof. In circumstances where a canopy tree cannot be planted, due to the interference with utility lines or other site complications, two understory trees may be substituted for every one canopy tree, with permission from the Zoning Administrator.

(2) Each interior landscaped area shall contain a minimum of 200 square feet and shall be planted with shrubs and trees.

(3) A landscaped area shall be provided along the perimeter of any parking area. The required landscaped area shall have a minimum width of five feet and shall be planted with two canopy trees and ten shrubs per 100 linear feet of perimeter area. In circumstances where a canopy tree cannot be planted, due to the interference with utility lines or other site complications, two understory trees may be substituted for every one canopy tree, with permission from the Zoning Administrator.

(4) Interior landscaped areas shall be spaced throughout the lot to reduce the visual impact of long rows of parked cars. At a minimum, landscaped areas shall be distributed approximately once every ten spaces for residential developments and once every 15 spaces for other types of development.

(5) Landscaped areas shall be provided at the ends of parking aisles and shall be planted with shrubs and/or trees.

(6) The required number of parking spaces may be reduced by one parking space for each 150 square feet of interior planting area, not exceeding 10%.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.205 PRESERVATION OF EXISTING TREES.

(A) Preserving trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community and help minimize opposition to a proposed development.

(B) It is recommended that groups of trees be preserved, as well as individual trees.

(C) Existing trees preserved may be credited towards required trees and vegetation in landscaping areas, in accordance with the requirements contained within this section.

(1) *Preservation credits.*

(a) Preserved trees may be credited at the following rate:

<i>Preserved Tree Size</i>	<i>Preservation Credit Earned</i>
2—6 inch caliper tree	1 canopy tree
7—12 inch caliper tree	2 canopy trees
13—18 inch caliper tree	3 canopy trees
19—24 inch caliper tree	4 canopy trees
25 + inch caliper tree	5 canopy trees

(b) To receive preservation credit, the preserved tree must be in good health and condition. No credit will be allowed for any dead tree, any tree in poor health, or any tree subjected to grade alterations. The death of any tree used for preservation credit shall require the owner to plant new trees equal to the number of credited trees.

(c) Trees designated to be preserved must be indicated on the site plan and on landscape and grading plans. Protective barriers, if utilized, must also be shown on the landscape and grading plans.

(d) Trees located in any right-of-way maintained by the state or the town cannot be utilized for credit. Such trees may not be pruned or removed without written permission from the town.

(e) Trees survive the stress of construction best when they are left in stands or larger groupings. For that reason, the preservation of existing stands of trees is encouraged.

(2) *Protection of existing trees.* It is the intent of this section to establish minimum standards of protection in order to ensure that trees which are to be saved remain undamaged, thus improving their long-term chances of survival.

(a) No grading or other land-disturbing activity can occur on a site with existing trees which are designated to be preserved in order to meet landscaping requirements until protective barriers are installed by the developer and approved by the Zoning Administrator or his or her designee. Trees designated for preservation which are counted toward the landscape requirements must be protected by barriers, while trees designated for preservation which do not count toward the landscape requirements are encouraged to be protected by barriers.

(b) Protective barriers shall be placed around the critical root zone of preserved trees that are within 50 feet of any grading or construction activity. The critical root zone is a circle extending around the tree with a one-foot radius for every inch of tree diameter. For example, a ten-inch diameter tree would have a barricade surrounding it, erected ten feet away from the trunk. All protective barriers must be maintained throughout the building construction process. Protective barriers shall consist of one or more of the following:

1. A fence which is at least three feet high and constructed in a post and rail configuration, using two-by-four posts and one-by-four rails; or

2. A fence with posts placed no farther than ten feet apart covered with four-foot orange polyethylene laminar safety fencing.

(c) All contractors must be made aware of the areas designated for preservation. No disturbance can occur within the tree protection areas, including the following:

1. Grading;

2. Filling, unless an aeration system certified by a registered landscape architect, certified arborist or state agricultural extension specialist, is installed to protect the tree from suffocation;

3. Parking;

4. Storage of debris or materials, including topsoil;

5. Disposal of hazardous wastes or concrete washout; and

6. Attaching of nails, ropes, cables, signs or fencing to any tree designated for preservation.

(d) If any area within the critical root zone of the tree designated for preservation will be disturbed for any reason, a registered landscape architect, certified arborist or state agricultural extension specialist must recommend measures to minimize any potential impact and certify that the activity will not damage the tree under normal circumstances.

(e) The site developer should coordinate with utility providers early in the design process to resolve potential conflicts about the placement of utilities and landscape requirements. Utilities must either be placed outside of the tree protection area or, with the approval of the Zoning Administrator, tunneled at least two feet directly below the tree roots, to minimize root damage. (Ord. passed 10-2-2012)

§ 152.206 SCREENING REQUIREMENTS.

(A) *Outdoor storage areas.* Outdoor storage areas shall be screened from view of adjacent streets,

and from all residentially zoned land by a double row of evergreen shrubs or trees planted to form a continuous hedge of at least six feet in height within two years of installation.

(B) *Mechanical equipment.* All nonresidential uses shall screen from view from public places and neighboring properties all mechanical equipment, such as, but not limited to, ground or roof mounted air conditioning, air conditioners or pumps, through the use of features such as berms, fences, false facades or dense landscaping compatible with the site.

(C) *Central solid waste area.* All new buildings and uses, except for single-family and two-family dwellings, shall provide facilities for the central storage of solid waste within the lot. Where such facilities are provided outside of a building they shall be screened from adjacent property by an enclosure constructed of materials congruous with the materials on the exterior wall of the main buildings.
(Ord. passed 10-2-2012)

§ 152.207 UNOCCUPIED LOT AREAS.

All areas of a developed lot not occupied by buildings, structures, pedestrian and vehicle circulation ways, off-street parking and outside storage shall be appropriately improved with ground cover, trees, shrubbery or mulch. No exposed soils shall be permitted after issuance of the certificate of occupancy, except for agricultural activities or extraction of earth products.
(Ord. passed 10-2-2012)

§ 152.208 PLANTING LIST.

The following trees and shrubs by way of example, but not by way of limitation, are suitable for use in the town area:

<i>Large Trees</i> (mature height 35 feet or greater and 35 feet spacing)	
Black Gum	
Chinese Elm	

English Oak
Ginkgo
Japanese Katsuratree
Japanese Scholartree
<i>Large Trees</i> (mature height 35 feet or greater and 35 feet spacing)
Japanese Zelkova
Littleleaf Linden
London Plane-tree
Pin Oak
Red Maple
River Birch
Scarlet Oak
Shumard Oak
Southern Magnolia
Sugar Maple
Tulip Poplar
White Oak
Willow Oak
<i>Medium Trees</i> (mature height to 35 feet and 30 feet spacing)
American Holly
Eastern Redbud
Golden-Rain Tree
Ironwood
Kwanzan Cherry
Mountain Ash
Mountain Silverbell
Pistachio
Redwood Linden
Saucer Magnolia
Sour wood

Thornless Honeylocust
Weeping Cherry
Yellowwood
Yoshino Cherry
<i>Small Trees</i> (mature height less than 25 feet and 25 feet spacing)
Amur Maple
Crabapple
Crepe Myrtle
Flowering Dogwood
Japanese Dogwood
Japanese Maple
Russian Olive
Smoketree
Star Magnolia
Wax Myrtle
<i>Shrubs</i> (mature height approximately 36 inches)
<i>Evergreen</i>
Azalea
Dwarf Burford Holly
Euonymous
Japanese Holly
Juniper
Leatherleaf Viburnum
Mugo Pine
Warty Barberry
<i>Deciduous</i>
Dwarf Burning Bush
Dwarf Nandina
Forsythia
Japanese Flowering Quince

Nandina
Oakleaf Hydrangea
Oregonholly Grape
Ornamental Grass Varieties
<i>Deciduous</i>
Potentilla
Red Chokeberry
Thunberg Spirea
Viburnum
<i>Screening Plants</i> (installation height 6 feet)
American Holly
Arborvities
Burford Holly
<i>Screening Plants</i> (installation height 6 feet)
Eastern Red Cedar
Hetz Juniper
Japanese Black Pine
Nellie Stevens Holly
Wax Myrtle

(Ord. passed 10-2-2012)

PARKING, OFF-STREET PARKING AND LOADING REQUIREMENTS

§ 152.220 PURPOSE AND INTENT.

The purpose of this subchapter is to establish standards for motorized vehicle parking and loading areas. These standards are established in order to provide for the safe movement of motorized vehicles and reduce hazards to public safety.

(Ord. passed 10-2-2012)

§ 152.221 ENFORCEMENT.

(A) Each application for a zoning permit or certificate of occupancy shall include information as to the location and dimensions of off-street parking space and the means of ingress and egress between such space and a street. This information shall be in sufficient detail to enable the Zoning Enforcement Officer to determine whether or not the requirements of this chapter are met.

(B) The certificate of occupancy of the use of any structure or land where off-street parking space is required shall be withheld by the Zoning Enforcement Officer until the provisions of this division (B) are fully met. If at any time such compliance ceases, any certificate of occupancy which has been issued for the use of the property shall immediately become void. (Ord. passed 10-2-2012)

§ 152.222 PARKING SPACE TO BE REQUIRED AND PERMANENT.

(A) Off-street parking space shall be provided in accordance with this subchapter in all districts.

(B) The off-street parking space required by this subchapter shall be permanent space and shall not be used for any other purposes.

(C) Each parking space shall not be less than ten feet by 20 feet, exclusive of adequate egress and ingress drives, landscaping and maneuvering space. (Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.223 USE OF PARKING LOTS PERMITTED (STREET PARKING).

(A) The required parking space for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use at the same time.

(B) No portion of any street right-of-way shall be considered as fulfilling or partially fulfilling the

area requirements for off-street parking required by the terms of this chapter.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.224 PARKING LOT PAVING.

(A) All driveway and parking areas shall be paved with asphalt, concrete or brick pavers except for areas used for overflow, special events and peak parking. This standard does not apply to single-family detached residential lots and shall only apply to that portion of an industrial lot that is used for and serves employee and/or visitor parking.

(B) All parking areas shall be curbed; however, broken curbing is allowed to permit the free flow of stormwater. This standard does not apply to single-family detached residential lots and shall only apply to that portion of an industrial lot that is used for and serves employee and/or visitor parking.

(C) Any non-paved surface used for overflow, special events and peak parking that cannot be maintained with healthy, living turf grass or similar ground cover shall be paved with asphalt, concrete, pervious pavement or brick pavers. This standard does not apply to single-family detached residential lots. (Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.225 PARKING LOT AISLES.

(A) No more than two parking aisles (defined as a travel lane and the parking located on each side) shall abut. Parking aisles shall be separated from each other by planted medians which may include pedestrian walkways. (See §§ 152.200 through 152.208 for landscaping requirements.)

(B) No more than 30 parking spaces shall be contained within one parking aisle.

(C) Parking aisles shall be a minimum of 24 feet in width if serving two-way traffic and a minimum of 12 feet in width if serving one-way traffic.

(D) No parking aisle serving the general public that contains more than ten parking spaces shall dead end. Any parking aisle that dead ends shall be provided a suitable turnaround.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.226 PARKING LOT SPACES.

(A) Required parking shall be provided on-site or adjacent to the development site requiring the parking. Shared parking areas are encouraged and shall be permitted whenever the Zoning Administrator determines that the minimum parking requirements can be met for each use.

(B) Parking spaces shall be clearly marked on the ground for all uses except single-family detached residential.

(C) Each automobile parking space shall not be less than ten feet wide and 20 feet long, exclusive of adequate entrance and exit drives and maneuvering space as determined by the Zoning Administrator. Such space shall be provided with vehicular access to a street or alley and shall be designed by use of landscaping or wheel guards to prevent commercial traffic from backing onto any public roadway.
(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.227 SCHEDULE OF PARKING SPACES.

A *PARKING SPACE* is an area for storage of vehicles separate from driveways and circulation aisles.

<i>Uses</i>	<i>Parking Requirements</i>
Auto service station, autobody repair	At least 1 off-street space passenger loading and unloading space separate from the parking area; plus adequate turnaround area, shall be provided; plus 5 parking spaces for each grease rack or work rack
Bed and breakfast inn	1 space per room plus 2 spaces
Churches	1 space for each 3 seats in such place of assembly, plus 1 space for each 100 square feet of floor or ground area used for amusement or assembly, but not containing fixed seats
Colleges/technical institutes	2 spaces for each 3 employees, 1 space for each vehicle used in the operation, and 1 space for each 3 students during the period of largest enrollment
Continuing care facility	1 space for each 3 patient beds
Customary home occupation	1 space per dwelling with maximum of 3 spaces
Day care centers and homes	1 space for each 600 square feet of gross floor area
Dwelling, multi-family	2 spaces per dwelling unit plus 1 visitor space per unit
Dwelling, two-family (duplex)	2 spaces per dwelling unit

<i>Uses</i>	<i>Parking Requirements</i>
Hotel, motel	1 space for each room or unit to be rented, plus 1 space for each 2 employees on the work shift of the largest employment
Library (public)	1 space per each 150 square feet of gross floor area for public use, plus 1 space per each 2 employees on shift of average greatest employment
Manufactured goods (class 1 and 2)	1 space per each two employees on the shift of average greatest employment, plus 1 space for each vehicle used directly in the conduct of such use
Other office, business, industrial and commercial uses	1 space for each 200 square feet of gross floor area
Post office	1 space per each 200 square feet of gross floor area, plus 1 space per each two employees on the shift of greatest average employment
Restaurants (all)	1 space for each 3 seating accommodations, plus 1 space for each 2 employees on the shift of largest employment
Rooming houses	1 space for each room for rent plus normal residential requirement
Schools	
Elementary	1 space for each employee, plus adequate parking for buses
High	1 space for each teacher or administrative staff member, 1 space for each 4 pupils, and adequate bus parking spaces
Shopping centers	1 space for each 200 square feet of gross floor area

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.228 LIGHTING.

Access ways, walkways and parking areas shall be lighted adequately by lighting fixtures which shall be so installed as to protect the street and neighboring properties from direct glare or hazardous interference of any kind.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.229 SAFETY BARRIERS.

Curbs, walls, fences or similar devices shall be located along the perimeter of parking lots, garages and storage areas, except at entrances and exits indicated in approved parking plans. Such barriers shall be so designed and located as to prevent parked vehicles from extending beyond property lines of parking lots and garages and to protect public rights-of-way and adjoining properties from changing effects of surface drainage.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.230 PARKING AREAS ADJACENT TO PUBLIC AREAS.

Where off-street parking facilities are located adjacent to a public alley the width of such alley may be accounted as a portion of the required maneuvering and access area, but not as part of the parking spaces required.

(Ord. passed 10-2-2012)

§ 152.231 LOADING AND UNLOADING.

(A) *Area to be required.*

(1) At the time of the erection or expansion of any main building or part which is used for commercial or industrial use, off-street loading and unloading space shall be required as specified in this subchapter.

(2) Off-street loading and unloading spaces shall be designed and constructed so that all maneuvering to park vehicles for loading and unloading can take place entirely within the premises. These spaces shall be provided so as not to interfere with the free, normal movement of vehicles and pedestrians on the public right of way.

(B) *Schedule of loading spaces.*

(1) For purposes of this subchapter, an off-street loading berth shall have minimum dimensions of 12 feet by 30 feet and 14 feet overhead clearance with adequate means of ingress and egress.

(2) For any structure containing less than 20,000 square feet of gross floor area, no berths shall be required. Larger structures, however, shall provide berths as specified below:

<i>Square Feet of Floor Area of Commercial and Industrial Uses</i>	<i>Required Number of Berths</i>
0—19,999	0
20,000—39,999	1
40,000—59,999	2
60,000—109,999	3
110,000—159,999	4
160,000+	Add 1 berth for each additional 80,000 sq. ft.

(Ord. passed 10-2-2012) Penalty, see § 152.999

DEFINITIONS

§ 152.245 INTERPRETATION OF CERTAIN TERMS AND WORDS.

For the purpose of this chapter, certain words or terms used are herein defined. Except as defined herein, all other words used in this chapter shall have their customary dictionary definition.

(A) Interpretations shall be guided by statements of intent.

(B) Words used in the present tense include the future tense and words used in the future tense include the present tense.

(C) Words used in the singular number include the plural and words used in the plural number include the singular.

(D) The word **PERSON** includes a firm, association, organization, partnership, corporation, trust and company, as well as an individual.

(E) The word **LOT** includes the word **PLOT** or **PARCEL** or **TRACT**.

(F) The word **BUILDING** includes the word **STRUCTURE** and the word **STRUCTURE** includes the word **BUILDING**.

(G) The word **SHALL** is always mandatory and not merely directory. The words **SHALL**, **MUST** and **WILL** are mandatory, implying an obligation or duty to comply with the particular provision.

(H) The words **USED** or **OCCUPIED** as applied to any land or building shall be construed to include the words **INTENDED**, **ARRANGED** or **DESIGNED** to be used or occupied.

(I) The word **MAP**, **ZONING MAP** or **TOWN OF BOONVILLE ZONING MAP** shall mean the "Official Zoning Map of the Town of Boonville, North Carolina."

(J) The word **TOWN COUNCIL** shall mean the governing Town Council of the Town of Boonville as stated in G.S. § 160A-1(3).

(K) The term **THIS CHAPTER** shall refer to the town zoning regulations.

(L) The word **MAY** is permissive, except when the context of the particular use is negative, then it is mandatory (e.g., "may not").

(M) The word **SHOULD**, whether used in the positive or the negative, is a suggested guideline.

(N) References to **DAYS** will always be construed to be business days, excluding weekends and holidays, unless the context of the language clearly indicates otherwise.

(O) Words used in the masculine gender include the feminine gender.

(P) The word **STREET** includes the words road, avenue, place, way, drive, lane, boulevard, highway and any other facility principally designed for motor vehicle traffic, except an alley or an easement solely for utilities or pedestrians.

(Q) The term **PLANNING BOARD** shall mean the Planning Board of the Town of Boonville, North Carolina.

(R) The term **ZONING ADMINISTRATOR** shall mean the Zoning Administrator of the Town of Boonville, North Carolina.

(S) The term **BOARD OF ADJUSTMENT** shall mean the Board of Adjustment of the Town of Boonville, North Carolina.

(T) The term **STATE** shall mean the State of North Carolina.

(U) Any reference to a section shall mean a section of the town zoning regulations, unless otherwise specified.
(Ord. passed 10-2-2012)

§ 152.246 DEFINITIONS.

For the purpose of interpreting this chapter, certain words and terms used in this chapter are defined as follows. Except as defined herein, all other words used in this chapter shall have their usual, customary dictionary meaning.

ABC STORE. Short for Alcoholic Beverage Control, a store that sells alcoholic beverages, such as beer, wine and distilled spirits.

ACCESSORY BUILDING. A building customarily located on a lot in association with a principal building or use and incidental and subordinate to the principal building or use.

ACCESSORY COMMUNICATION ANTENNAS. An antennas configuration that is attached to a building water tower or other existing

structure where the communication facility is customarily incidental to the main or principal building or structure.

ACCESSORY DWELLING UNIT, ATTACHED.

A second dwelling unit located within an accessory structure, which is located more than three feet from the principal structure and is restricted in area, purpose and occupancy in accordance with this chapter.

ACCESSORY DWELLING UNIT, DETACHED. A dwelling unit located within an accessory structure, which is located more than three feet from the principal structure and is restricted in area, purpose and occupancy in accordance with this chapter.

ACCESSORY STRUCTURE OR USE. A use or structure that is customarily or typically subordinate to and serves a principal use or structure; is clearly subordinate in area, extent or purpose to the principal use or structure served; and is located on the same lot as the principal use or structure. ***ACCESSORY STRUCTURE*** shall include freestanding satellite dishes, any other devices that access satellites and amateur radio antennas.

ADULT ESTABLISHMENT. Any structure or use of land which meets the definition of ***ADULT ESTABLISHMENT*** as outlined in G.S. § 14-202.10, including adult video stores, hotels and motels, but excluding massage therapy.

AMUSEMENT ARCADE. A commercial facility providing recreational activities that typically include coin-operated amusement machines such as pinball machines, electronic video games and skeet ball machines.

AMUSEMENT PARK, FAIRGROUNDS, CARNIVAL. A commercially operated park with stalls and shows for amusement, on either a temporary or permanent basis.

ANIMAL GROOMING. A professional establishment engaged in the washing, brushing and trimming of an animal's coat.

ANIMAL HOSPITAL. A place where animals are given medical or surgical treatment and the boarding of animals is incidental to the hospital use. All facilities associated with an ***ANIMAL HOSPITAL***, except for kennels used for boarding purposes, shall be located indoors.

ANIMAL SHELTER. A public, non-profit or not-for-profit facility at which dogs, cats and other domesticated animals are kept (primarily outdoors) for purposes of distribution to the general public.

AUDITORIUM. A large room, usually with a stage and seating area for an audience, used for lectures, talks and performances.

AUTOMATIC TELLER MACHINE (ATM). A type of banking and financial service with automated or self-service banking features with no staff or personnel provided.

AUTOMOBILE SERVICE STATION, AUTOBODY REPAIR. Any building, premises and land in which or upon which the primary use of land is a business which involves the painting, maintenance or servicing of vehicles. Also a use where vehicular fuels are sold at the retail level and where the installation of such automobile items as lubricants, tires, batteries and similar accessories takes place and where minor automobile repair and maintenance work is conducted.

AUTOMOBILE PARTS SUPPLY STORE. An establishment which sells new and/or rebuilt automobile parts and accessories but does not include junk yards, used auto part sales or the installation of such parts.

BAKERY (RETAIL). The use of a structure or building for the production of bakery products including, but not limited to, bread, cakes, pastries and doughnuts. When identified in this chapter as a retail use, the ***BAKERY*** products produced are for the direct sale to the consumer with no wholesale production or sales.

BAKERY (WHOLESALE). The use of a structure or building for the production of bakery products including, but not limited to, bread, cakes,

pastries and doughnuts, on a large scale and for distribution to retail outlets, rather than directly to the consumer.

BANK, SAVINGS AND LOAN, CREDIT UNION. A facility engaged in deposit banking or extending credit in the form of loans.

BANQUET AND EVENT FACILITIES. A facility for lease for private parties. Such facilities may or may not provide catering, photography or similar services associated with private parties, weddings, birthdays and similar occasions.

BED AND BREAKFAST INN. A use that:

(1) Takes place within a building that prior to such establishment, was designed and used as a single-family residence;

(2) That consists of renting one or more dwelling rooms on a daily basis to tourists vacationers and similar transients;

(3) Where the provision of meals, if provision of meals is made, is limited to the breakfast meal, available only to guest(s); and

(4) Where the bed and breakfast operation is conducted primarily by persons who reside in the dwelling unit, with the assistance of not more than the equivalent of one full-time employee.

BILLIARD PARLOR. A commercial establishment where people play cue sports including pool, snooker or carom billiards.

BONA FIDE FARM.

(1) Crop lands, timber lands, pasture lands or other farm lands, any other farm buildings or housing to be occupied by the farm owner, relatives or other employees of the farm (more than 50% of adult occupants or household income shall be from the farm), except that any such use of such property for non-farm purposes shall be subject to such regulations.

(2) For the purposes of this definition, a **BONA FIDE FARM** shall be defined as any parcel-lot of record having ten or more acres being in active agricultural use as defined by G.S. § 105-277.1 et seq., or as determined by any other available method upon approval of the Zoning Administrator.

BUILDING MATERIAL AND LUMBER STORAGE AND SALES. An establishment engaged in selling lumber and a general line of building materials and hardware to the public.

CAR WASH, AUTOMATIC. An unattended, automated, mechanical facility for the washing of automobiles, small recreational vehicles and light trucks wherein the customer remains in the vehicle during the service.

CAR WASH, FULL SERVICE. An attended facility wherein the customer pays for the labor, materials and equipment necessary to wash or otherwise clean an automobile, small recreational vehicle or light truck. This type of car wash may or may not be partially automated. Typically, the customer does not remain in the vehicle during the service.

CEMETERY. Property used for the interment of the dead, which use may include the commercial sale and location of burial lots, crypts or vaults for use exclusively on the subject property. A **CEMETERY** shall not be used for the preparation of embalming of bodies or the cremation of bodies. Setbacks for **CEMETERIES** shall be measured from the nearest structure or gravesite. This definition shall be construed to include bona fide **PET CEMETERIES**.

CHURCH (or OTHER HOUSE OF WORSHIP). A building or structure, or group of buildings or structures, which by design and construction are primarily intended for the conduction of organized religious services, and whose site may include an accessory area for the interment of the dead. Day care centers (which have enrollment capacities in excess of 25 enrollees) and/or schools operated by the **CHURCH** on the facilities of the **CHURCH** shall be considered separate principal uses.

CLUB, PRIVATE. A for profit establishment as defined in G.S. § 18B-1000(5) which holds an ABC permit from the state.

CLUB, PRIVATE NON-PROFIT. A building or land used for the activities of a **NON-PROFIT PRIVATE CLUB** or social organization and not adjacent to, operated as or in connection with a public tavern, café or other place open to the public. This term shall include, but shall not be limited to, saddle clubs, civic organizations, fraternities and sororities and similar groups and activities.

COLLEGE or UNIVERSITY. An institution of higher education offering undergraduate and/or graduate degrees.

COMMUNITY CENTER. A building used for recreational, social, educational and cultural activities, usually owned and operated by a public or non-profit group or agency.

COMPUTER AND DATA PROCESSING SERVICE. A commercial establishment that offers services involving the digital transformation of data into information for use by business clients.

CONSIGNMENT STORE. A retail store that stocks and sells good on a consignment basis.

CONTINUING CARE FACILITY. A residential complex which contains a variety of living facilities which may include independent living units (i.e., apartments, condominiums, cottages) assisted living facilities and/or nursing home beds. Residents of such a facility may either pay rent or purchase their living quarters. If the unit is occupant-owned, the unit normally reverts to the development owner or a surviving spouse upon the death of the resident.

CORRECTIONAL FACILITY. A jail or other institutional facility used to confine and provide treatment or rehabilitation to violators of criminal laws, including facilities for persons who are participating in supervised work-release programs, whether such facilities provide confinement for all of each 24-hour period or only a portion thereof; but not including temporary holding facilities that are accessory to a police station.

COUNTRY CLUB. A land area and buildings containing recreational facilities, clubhouses and usual accessory uses, open to members and their guests, which is privately operated. Uses at a **COUNTRY CLUB** frequently include golf courses, swimming pools (outdoors) and clubhouses. Meal service may be available, but is generally limited to members and their guests. A **COUNTRY CLUB** may be developed as a freestanding entity or a part of a residential community or planned residential development.

CUSTOMARY HOME OCCUPATION. Any use conducted for gain entirely within the dwelling and carried on by the occupants thereof, which use is clearly incidental and subordinate to the residential use, and which does not change the character thereof. When observed from beyond the lot on which it is located, the **HOME OCCUPATION** does not give visual, audible, sensory or physical evidence that the property is used for any nonresidential purpose.

DAY CARE CENTER. Any child or adult care arrangement for individuals who receive care away from their primary residence by persons other than their parents, children, grandparents, aunts, uncles, brothers, sisters, first cousins, nieces, nephews, guardians or full-time custodians, where care is provided on a regular basis at least once per week for more than four but less than 24 hours per day.

DAY CARE HOME. A residential dwelling unit occupied by the operator that provides daytime care of not more than five preschool age children, including children that live in the home and not more than three school age children unrelated by blood or marriage to, and not the legal wards or foster children of, the attendant adult, within an occupied residence.

DEPARTMENT STORE. A large retail store organized into departments offering a variety of merchandise and commonly part of a retail chain.

DISTRIBUTION CENTER. A warehouse or other specialized building, often with refrigeration or air conditioning, which is stocked with products (goods) to be distributed to retailers, wholesalers or directly to consumers.

DOCTOR'S OFFICE. An office facility containing space for patient waiting rooms and laboratory space for medical doctors (M.D.s), osteopaths, chiropractors, dentists, podiatrists, acupuncturists, physiologists, licensed nurse/midwives, licensed physical therapists, licensed respiratory therapists or optometrists.

DRY CLEANING, LAUNDRY PLANT. A building, portion of a building or premises used for cleaning fabrics, textiles, apparel or articles of any sort by immersions in volatile solvents including, but not limited to, petroleum distillates, chlorinated hydrocarbons and any process incidental thereto.

DUPLEX. A building on one lot arranged and designed to be occupied by two families living independently of each other. Shall also include the term **TWO-FAMILY DWELLING**.

DWELLING, ATTACHED. A single-family dwelling attached to two or more one-family dwellings by common vertical walls.

DWELLING, DETACHED. A dwelling unit that is developed with open yards on all sides.

DWELLING, MODULAR. A factory built home constructed of prefabricated three-dimensional modules, entire rooms and larger, which are transported on flat-bed trucks to a home site and assembled, usually using a crane for placement.

DWELLING, MULTI-FAMILY. A building, or portion thereof, used or designed as a residence for three or more families living independently of each other, including apartment houses and group housing projects.

DWELLING, SINGLE-FAMILY. A detached building designed for or occupied exclusively by one family.

DWELLING, TWO-FAMILY. See **DUPLEX**.

DWELLING UNIT. One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and

sanitary facilities provided therein. Units in dormitories, hotels, motels and shelters for the homeless or other structures designed for transient residents are not **DWELLING UNITS**.

EMPLOYMENT AGENCY. An organization that finds people to fill particular jobs or finds jobs for unemployed people.

FAMILY CARE HOME.

(1) **FAMILY CARE HOMES** (also called **GROUP HOMES**) are facilities that provide health, counseling or related services to a small number of persons in a family type environment. Both state and federal laws affect zoning regulation of these facilities. G.S. § 168-22, added to the statutes in 1981, provides that certain **FAMILY CARE HOMES** must be treated as single-family homes by local zoning ordinances. They cannot be prohibited in a district that allows single-family residences nor can they be subject to any special review requirements, such as a special or conditional use requirement.

(2) To qualify for this treatment, the facility must be designed to provide room, board and care for six or fewer handicapped persons in a family environment. **HANDICAPPED PERSONS** include those with physical, emotional or mental disabilities, but not those who have been deemed dangerous to themselves or to others.

FARM EQUIPMENT SALES AND SERVICE.

A commercial establishment that sells and services mechanical farming devices, including tractors and implements.

FARM SUPPLY STORE. An establishment where feed, seed, animal and agricultural supplies are primarily sold in bulk quantities.

FITNESS CENTER. A health club (commonly referred to as a gym) is a place which houses exercise equipment for the purpose of physical exercise.

FLAG. A piece of durable fabric of distinctive design attached to a permanent pole, which is used as a symbol or decorative feature.

FLORIST, RETAIL. A retail commercial establishment where flowers or ornamental plants are sold.

FLORIST, WHOLESALE. A large scale operation where flowers or ornamental plants are sold at a reduced cost to businesses and on a limited basis, to the general public.

FLOUR AND FEED MILL. A mill for grinding grain into flour for either human consumption or as a component of animal feed.

FOOD CATERING FACILITY. A facility at which a pre-arranged amount and type of food is prepared for consumption off-premises or in a meeting room on-premises. A **FOOD CATERING FACILITY** differs from a restaurant in that food is not offered for sale to the general public on a retail basis.

FRATERNAL AND SERVICE ORGANIZATION MEETING FACILITY. A facility operated by an association of persons for activities which include, but are not limited to, social, literary, political, educational, fraternal, charitable or labor activities, but which are not operated for profit or to render a service which is customarily conducted as a business.

FUNERAL HOME, MORTUARY. An establishment engaged in undertaking services, such as preparing the human dead for burial and in arranging and managing funerals. This definition includes crematories and mortuaries.

GARDEN SUPPLY AND SEED STORE. A retail establishment at which animal feed, crop seeds and related products are sold.

GAS STATION, CONVENIENCE STORE. A one-story retail store containing less than 3,000 square feet of gross floor area that is designed and stocked to sell primarily fuel, food (packaged and/or prepared), beverages and other household supplies to customers who purchase a relatively few items. It is designed to attract and depends upon a large volume of stop and go traffic.

GOLF COURSE. An area designed for golf, including a Par 3 golf course, having at least nine holes, each with a tee, fairway and green and which may have one or more hazards. A clubhouse, pool and other facilities associated with a country club built around a **GOLF COURSE** are considered part of the **GOLF COURSE**.

GROCERY STORE. An establishment that may sell fresh produce, canned and packaged food items, small household goods and similar items which are consumed and used off premises. In addition, the **STORE** may contain a delicatessen section in which prepared foods are sold and may be consumed on premises in a specially designed sit-down area.

GROUP CARE FACILITY.

(1) A **GROUP CARE FACILITY** is a transitional housing facility for not more than 20 people licensed by the state, which provides room and board, personal care and rehabilitation services while persons receive therapy and/or counseling for one or more of the following purposes:

(a) To assist them to recuperate from the effects of or refrain from the use of drugs or alcohol;

(b) To provide emergency and temporary shelter for persons in distress such as runaway children and battered individuals; and

(c) To provide shelter and support for older adults and persons who are handicapped.

(2) A **GROUP CARE FACILITY** shall not serve primarily as an alternative to incarceration. Such facilities may have accessory uses conducted on the premises, including, but not limited to, schooling of residents, training programs in occupational fields and production of goods and crafts to be sold off-premises.

GROUP CARE HOME A. A home for six or less individuals with support and supervisory personnel that provides room and board, personal care

and habilitation services in a family environment for resident persons with a temporary or permanent physical, emotional or mental disability including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in G.S. § 122C-3(11b).

GROUP CARE HOME B. A home for seven to 20 individuals with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for resident persons with a temporary or permanent physical, emotional or mental disability including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in G.S. § 122C-3(11b).

GUNSMITH. A person who repairs, modifies, designs or builds firearms.

HARDWARE STORE. A retail store where articles for the house and garden, such as tools, nails and pans are sold.

HOBBY, TOY AND CRAFT SHOP. A retail store that sells traditional toys, electronic toys, board games, art supplies, hobby kits for cross-stitch, home decor painting, scrap booking, floral arranging and crocheting goods.

HOME ELECTRONICS SALES AND REPAIR. A commercial establishment that sells and repairs household devices such as TVs, VCRs, radios, walkie-talkies, hi-fi stereo, home theater, handheld and software-based games.

HOSPITAL. An institution providing physical and mental health services primarily for human in-patient medical or surgical care for the sick or injured, including related facilities such as laboratories, out-patient services, training facilities, emergency services and staff offices.

HOTEL. A building containing more than four individual rooms for the purpose of providing

overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities and on-site management and reception services. **HOTELS** may or may not provide on-site parking and access to hotel rooms is generally provided through interior hallways.

INDEPENDENT LIVING FACILITY. An unlicensed facility providing living arrangements for the elderly and their spouses in single-family, duplex or multi-family units designed to allow a predominantly independent lifestyle within the framework of a larger, unified, health maintenance environment.

INSURANCE AGENCY. An office composed of individuals under common management whose goal is to sell and service insurance.

JUNK YARD, AUTO SALVAGE. The use of more than 200 square feet of the area of any lot for the outdoor storage, keeping or abandonment of junk, including scrap metals or other scrap materials or for the dismantling, demolition or abandonment of automobiles, vehicles or machinery, or parts thereof.

KENNEL, ANIMAL. A use or structure intended and used for the breeding or accommodation of small domestic animals for sale and/or for the training or overnight boarding of animals for persons other than the owner of the lot. This definition shall not include a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of the animals.

LABORATORY, DENTAL, MEDICAL, OPTICAL AND RESEARCH. An establishment primarily engaged in providing professional analytic or diagnostic services to the medical profession or to the patient on direction of a physician or an establishment primarily engaged in making dentures, artificial teeth and orthodontic appliances to order for the dental profession.

LANDFILL, CONSTRUCTION AND DEMOLITION. A landfill which accepts construction or demolition debris or waste including solid waste

from construction, remodeling, repair or demolition operations on pavement, buildings or other structures.

LANDFILL, LAND CLEARING AND INERT DEBRIS. A landfill that is limited to receiving land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood and yard trash.

LANDFILL, SANITARY. A facility for the disposal of all types of solid wastes, excluding hazardous wastes or toxic substances.

LAUNDROMAT. A commercial facility open to the general public where coin-operated washing and drying machines are available for use.

LIBRARY, PUBLIC. A publicly operated facility housing a collection of books, magazines audio and video tapes or other material for use by the general public.

LOCKSMITH. A professional who makes and repairs locks.

LUMBER AND SAW MILL. A manufacturing facility where logs are cut into boards.

MACHINE SHOP. A workshop in which work is machined to size and assembled.

MANUFACTURED GOODS, CLASS 1. A manufacturing establishment primarily engaged in the manufacture of foodstuffs, textiles, electrical components or tobacco products, and the fabrication of wood, leather, paper, water or plastic products. Because of the nature of its operations and products, these establishments could impact adjoining properties due to noise, odor, vibration, glare and/or air and water pollution.

MANUFACTURED GOODS, CLASS 2. A manufacturing establishment primarily engaged in the processing and manufacturing of materials or products not otherwise classified under manufactured goods class 1. Includes the processing and manufacturing of products from extracted or raw materials, the assembly of large or heavy machinery and the storing or using of flammable, explosive, hazardous or toxic

materials in the manufacturing process. Because of the nature of its operations and products, these establishments could impact surrounding properties due to noise, odor, vibration, glare and/or air and water pollution.

MANUFACTURED HOME. A structure designed and manufactured for use as a dwelling unit and that meets all of the following requirements:

(1) Is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be installed or assembled on the building site;

(2) Exceeds 32 feet in length and eight feet in width; and

(3) Is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings.

MANUFACTURED HOME, CLASS A. A manufactured home meeting or exceeding the United States Department of Housing and Urban Development standards (all manufactured homes built after June 14, 1976), which is of multi-sectional or double-wide design, and meets the following appearance criteria:

(1) Has a minimum width of 16 feet;

(2) Has exterior siding, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction, consisting of one or more of the following:

(a) Vinyl or aluminum lap siding whose reflectivity does not exceed that of flat white paint;

(b) Cedar or other wood siding;

(c) Wood grain, weather resistant press board siding;

(d) Stucco siding; or

(e) Brick or stone siding.

(3) Has a gable roof having a pitch with a minimum vertical rise of three and one-half feet for each 12 feet of horizontal run;

(4) Has a roof finished with roofing material with a fire rating of class C or better and that is commonly used in standard residential construction; and

(5) Has a roof structure that provides an eave projection of no less than six inches, which may include a gutter.

MANUFACTURED HOME, CLASS B. A manufactured home constructed to meet or exceed United States of Housing and Urban Development Code requirements for manufactured homes, and which has a gable roof having a pitch with a minimum vertical rise of three and one-half feet for each 12 feet of horizontal run.

MANUFACTURED HOME, CLASS C. A manufactured home constructed to meet or exceed North Carolina Mobile Home Standard A119.1 or which has received a limited certificate of compliance from the North Carolina Department of Insurance. These are normally manufactured homes constructed after August 31, 1971.

MANUFACTURED HOME, CLASS D. Any manufactured home which does not meet the definitional criteria of a class A, B or C manufactured home. These are normally manufactured homes constructed prior to September 1, 1971.

MANUFACTURED HOME PARK. Any lot, tract or parcel of land used, maintained or intended to be used, leased or rented for occupancy by four or more manufactured homes or trailers together with accessory structures provided in connection therewith. This definition shall not include manufactured home sales lots on which unoccupied manufactured homes are parked for the purpose of inspection and sale.

MEAT PACKING PLANT. A facility in which animals are slaughtered and the meat prepared for consumer sale.

MICRO-BREWERY. A small scaled business located in a building where the primary use is for restaurant, retail or tasting room and which specializes in producing limited quantities of wine or beer.

MINI-WAREHOUSE. A structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

MODULAR HOME. A factory fabricated transportable building designed and built at a point other than the building site. The term is intended to apply to major assemblies, not including prefabricated panels, trusses, plumbing trees and other pre-manufactured sub-elements which are to be incorporated into a structure at the site. In addition to the other requirements of this definition, modular units must meet all structural, electrical, mechanical, plumbing, heating and other provisions of the North Carolina State Building Code or amendments.

MOTEL. A building containing more than four individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities and on-site management and reception services. **MOTELS** provide on-site parking and access to most rooms is provided directly from a parking area.

MOTOR - VEHICLE, BODY AND PAINT SHOP. An establishment primarily engaged in body work, painting or customizing of automobiles or other motor vehicles.

MOTOR VEHICLE REPAIR AND MAINTENANCE. An establishment engaged in providing mechanical automotive maintenance and repair, such as engine repair, exhaust system replacement and transmission repair and/or providing other related services such as upholstery or glass replacement. This use includes service stations but does not include body work or painting.

MOTOR VEHICLE SALES, RENTAL AND LEASING. Any use where automobiles, other motor vehicles or manufactured homes are stored and/or

displayed for the purpose of sale or lease as an entire or complete unit.

MOTOR VEHICLE STORAGE YARD. An outdoor area for the storage of more than one wrecked, damaged or inoperative motor vehicle awaiting insurance adjustment, major body work or other repair.

MUSEUM. A building, place or institution devoted to the acquisition, conservation, study, exhibition and educational interpretation of objects.

NEWSSTAND. A stall where newspapers and other periodicals are sold.

NURSERY, HORTICULTURAL GREENHOUSE. An establishment primarily engaged in the retail sale of trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools and other garden supplies to the general public. These establishments primarily sell products purchased from others, but may sell some plants which are grown at the establishment.

OFFICE. A use or structure in which business or professional services are conducted or rendered.

OPTICIAN, OPTICAL SUPPLY STORE. An establishment where health practitioners engage in the practice of optometry by providing patients with eye examinations to determine visual acuity or the presence of visual problems. **OPTICAL SERVICES** also include the prescription and sale of such products as eye glasses, contacts or other instruments needed to enhance visual perception.

PACKAGE TREATMENT PLANT. A small self-contained sewage treatment facility built to serve developed area that lie beyond the service area of sanitary sewers.

PAWN SHOP. A shop where money is lent on the security of personal property pledged. Such property may then later be sold at the shop.

PET STORE. A retail business which sells different kinds of animals and pet food, supplies and accessories.

PHARMACY. A place where drugs and medicines are prepared and dispensed by prescription from a hospital, medical or dental clinic.

PRODUCE STAND. The sale of any form of agricultural or horticultural products at a retail stand on a property under the same ownership as the lot upon which the produce is grown.

PUBLIC SAFETY STATION. A facility operated by a public agency or a private non-profit organization and used for the base of operations and/or housing of equipment for the provision of dispatched public safety services including law enforcement, fire protection, rescue services and/or emergency medical services. Such a facility may contain living quarters for on-duty personnel. It may also contain up to four holding cells for the temporary custody of persons under arrest. Facilities for the maintenance of equipment housed on the operation site are also permitted.

PUBLIC WORKS FACILITY. All production, storage, transmission and recovery facilities for water, sewage, telephone and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the North Carolina Utilities Commission. This definition does not include pump stations, lift stations, water towers, utility substations or similar appurtenances.

RECREATIONAL FACILITY. An area or facility designed to meet the demand for active recreation, including play fields, ball diamonds, parks with picnic and playground equipment, golf courses, tennis courts, swimming pools and similar uses.

RECREATIONAL VEHICLE. A vehicle type accommodation, other than a manufactured home, designed as temporary accommodations for travel, vacation or recreational purposes, which is propelled by its own power or is mounted on or drawn by another vehicle.

RECREATIONAL VEHICLE PARK. Any lot or parcel of land used or intended to be used for the accommodation of two or more recreational vehicles or non-vehicle campers for transient dwelling purposes.

RECYCLING CENTER. A facility at which recovered resources, such as newspapers, glassware, and metal and aluminum cans are collected, stored, flattened, crushed or bundled within a completely enclosed building.

RENTAL CENTER. An establishment where household items and goods (as distinguished from an establishment which deals in goods primarily for use by industrial establishments) are offered for rent (and eventual sale) to the general public.

RESTAURANT. A commercial establishment other than a drive-through, drive-in or fast food restaurant where food and drink are prepared, served and consumed primarily within the principal building.

RESTAURANT, DRIVE-THROUGH. An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state either on the restaurant premises or off-premises. Unlike a fast food restaurant, a **DRIVE-THROUGH RESTAURANT** does not contain any indoor customer dining areas. Unlike a drive-in restaurant, orders are taken from customers from centrally located drive-in windows rather than from individual calling stations.

ROOMING HOUSE. A single-family dwelling, a portion of which is provided by the resident owner to no more than four lodgers and where separate bathroom and kitchen facilities are not provided for any lodger.

SCHOOL, PRIVATE. A structure used primarily by and for any two or more age or grade levels not operated by the public school system but registered with the North Carolina Department of Public Instruction. Any school for children six or under not meeting these requirements shall be considered a day care facility for purposes of this chapter.

SCHOOL, PUBLIC. A structure used primarily by and for any two or more age or grade levels in grades kindergarten through 12 and operated by the public school system.

SCHOOL, VOCATIONAL. A secondary or higher education facility primarily teaching usable skills that prepares students for jobs in a specific trade or vocation upon graduation.

SHOPPING CENTER. A group of two or more retail establishments constructed and developed in one or more phases with customer and employee parking and merchandise and other loading facilities provided on-site. A shopping center may be located and developed on one or more lots and may include one or more principal buildings.

SIGN. Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

SIGN AREA. The area of a sign face.

SIGN, BANNER. A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations or ornamentation applied to plastic or fabric of any kind, excluding flag and emblems of political, professional, religious, educational or corporate organizations.

SIGN, BEACON. Any sign with one or more beams directed into the atmosphere or directed at one or more points not on the same zoning lot as the light source; also, any light with one or more beams that rotate or move.

SIGN, CAMPAIGN OR ELECTION. A sign that advertises a candidate or issue to be voted upon in a local, state or federal election process on a definite election day.

SIGN, CANOPY AND AWNING. A sign attached to or painted or printed onto a canopy or awning. Any sign that is a part of, or attached to, an awning, canopy, fabric or plastic, or structural protective cover over a door, entrance, window or service area.

SIGN, CHANGEABLE COPY. A sign or portion thereof with characters, letters or illustrations

that can be changed or rearranged without altering the remaining face or the surface of the sign.

SIGN, CONSTRUCTION. A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier or others involved in the development of the project.

SIGN, COPY. Any words, letters, numbers, figures, characters, symbols, logos or insignia that are used on a sign face.

SIGN, DIRECTIONAL OR INCIDENTAL. An on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "entrance," "exit," "parking," "one-way," "warning," "no trespassing" or similar direction or instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

SIGN, DIRECTORY. A sign other than an identification sign, listing the names, uses or locations of the various businesses or activities conducted within a building or group of buildings that is centrally located and intended to provide direction.

SIGN FACE. The part of a sign that is or can be used to identify, advertise or communicate information that is used to attract the attention of the public for any purpose. This definition includes any frame, structural member or other part of the sign when such is the designed or used, including the use of color or lighting, to attract the attention of the public.

SIGN, FLAG. Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision or other entity.

SIGN, FLASHING. A sign that uses an intermittent or flashing light source to attract attention.

SIGN, FREESTANDING. Any sign supported by structures or supports that are placed on, or anchored in the ground and that are independent from any building or other structure.

SIGN, GOVERNMENT. Any temporary or permanent sign erected and maintained for any governmental purposes.

SIGN, GROUND MOUNTED. A sign which extends from the ground or which has a support which places the bottom thereof less than three feet from the ground.

SIGN HEIGHT. The distance from the base of the sign at normal grade to the top of the highest attached component of the sign.

SIGN, MARQUEE. Any sign attached to, in any manner, a marquee. For the purposes of this definition, a **MARQUEE** is defined as a permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

SIGN, MEMORIAL OR PLAQUE. A sign designating the name of a building and/or date or erection and other items such as architect, contractor or others involved in the building's creation, cut into or attached to a building's surface.

SIGN, MONUMENT. A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or solid structural features other than support poles where the base of the sign is on the ground or no more than 12 inches above the adjacent grade.

SIGN, OFF-PREMISES. A sign that directs attention to a business, commodity or service, conducted, sold or offered on the premises on which the sign is erected.

SIGN, ON-PREMISES. A sign that directs attention to a business, commodity or service, that is conducted, sold or offered on the premises on which the sign is erected.

SIGN, PENNANT. Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.

SIGN, PORTABLE. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs converted to A- or T-frames; balloons used as signs and umbrellas used for advertising.

SIGN, PROJECTING. Any wall sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

SIGN, REAL ESTATE. A sign that is affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

SIGN, ROOF. Any sign erected and constructed wholly or partially on or over the roof or parapet of a building.

SIGN, SANDWICH OR MENU BOARD. A sign or double-faced moveable sign that is intended to be used on a sidewalk or pedestrian way in front of the business for which the commercial message is intended. A **SANDWICH OR MENU BOARD SIGN** as defined by and in conformance with this chapter is not considered a portable sign.

SIGN, TEMPORARY. A sign that is not permanently installed in the ground or affixed to any structure or building.

SIGN, WALL. Any sign attached to a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, and which is supported by such wall.

SIGN, WINDOW. Any sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service that is placed inside a window or upon the windowpanes or glass and is visible from the exterior of the window.

STORAGE FACILITY. A facility designed for the storage and safekeeping of materials and goods.

STUDIO. A working place or place of study for a painter, sculptor, photographer, dancer or person engaged in a similar artistic pursuit.

TAILOR AND ALTERATIONS. A commercial establishment that makes, repairs and alters garments such as dresses, suits, coats and pants.

TANNING SALON. A commercial structure lined with sunlamps in which one stands or reclines in order to acquire a suntan.

TATTOO PARLOR. A commercial establishment which people visit to get tattoos and sometimes body piercings.

TELECOMMUNICATIONS EQUIPMENT BUILDING. The building in which the electronic receiving and relay equipment for a telecommunication facility is housed.

TELECOMMUNICATION TOWERS AND FACILITIES. A **TELECOMMUNICATIONS FACILITY** consists of the equipment and structure(s) (including any accessory structures required to house transmitting or maintenance equipment) designed to support antennas used for transmitting or receiving communications and data transmissions. Towers, antennas or similar structures installed in or attached to tops of buildings, water tanks or similar facilities as "stealth" locations, shall be included in this definition. This definition also includes accessory buildings and related equipment required for the **TELECOMMUNICATION FACILITY**. This definition does not include ham radio operations, radio broadcast towers or television broadcast towers. Examples of **TELECOMMUNICATIONS TOWERS** include monopoles and lattice construction steel structures.

TEMPORARY PORTABLE STORAGE UNIT. A transportable unit designed for the temporary storage of household goods, personal items and other materials which is placed on a site for the use of occupants of a dwelling or building on a limited basis.

Such containers are uniquely designed for their ease of loading to and from a transport vehicle.

TERMINAL, BUS OR TAXI. A facility for the storage, maintenance and dispatch of buses or taxi and associated customer ticketing and waiting areas.

TERMINAL, FREIGHT. Any facility for handling freight, with or without storage and maintenance facilities.

THEATER, INDOOR. An establishment for the indoor viewing of motion pictures by patrons.

TOWNHOUSE. A one-family dwelling in a row of at least three such units in which each has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls. **TOWNHOUSES** are single-family attached dwellings, which usually have separate utilities, but for purposes of zoning are classified as multi-family development.

TRAVEL AGENCY. A commercial business that attends to the details of transportation, itinerary and arrangements for travelers.

TREE. A large, woody plant having one or more self-supporting stems or trunks and numerous branches. May be classified as deciduous or evergreen.

TREE, CANOPY. A single or multi-stem tree which normally reaches a height of 30 feet or more.

TREE, UNDERSTORY. A single or multi-stem tree which normally reaches a height of between 8 and 30 feet.

UPHOLSTERY SHOP. A commercial business that covers furniture with padding, webbings, springs, fabric and/or leather.

USE, ACCESSORY. A use customarily incidental and subordinate to the principal use or structure and located on the same lot with such principal use or structure.

USE, PRINCIPAL. The primary or predominant use of any lot.

USE, TEMPORARY. A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

UTILITY SERVICES. Facilities of any agency which, under public franchise or ownership, provides the general public with electricity, gas, oil, water, sewage or rail transportation. The term **UTILITY SERVICES** shall not be construed to include the following: corporate or general offices; storage or service buildings or yards; gas or oil processing, manufacturing or storage facilities; transmission towers or postal facilities.

VETERINARY OFFICE. Any facility used for the purpose of giving licensed medical treatment to animals or pets and any other customarily incidental treatment of the animals, such as grooming, boarding or selling of pet supplies.

WAREHOUSE. A building or group of buildings used primarily for the storage of goods or wares belonging either to the owner of the facility or to one or more lessees of space in the facility.

WAREHOUSE, SELF-STORAGE. Establishment primarily engaged in the rental or leasing of mini-warehouses and self-storage units.

WHOLESALE SALES OPERATION. A place of business primarily engaged in selling merchandise to retailers; industrial, commercial, institutional or professional business users; or to other wholesalers. The majority of all sales of such businesses shall be for resale purposes. The Zoning Administrator may require proof of this through sales tax reports. Wholesale clubs and similar membership warehouses, where membership is easily available to the consuming public and similar businesses shall not be deemed **WHOLESALE SALES OPERATIONS**.

WINERY. A manufacturing facility or establishment engaged in the processing of grapes to produce wine or wine-like beverages.
(Ord. passed 10-2-2012)



MANUFACTURED BUILDING

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MIKE CAUSEY, INSURANCE COMMISSIONER & STATE FIRE MARSHAL

BRIAN TAYLOR, CHIEF STATE FIRE MARSHAL

MEMORANDUM

Date: February 15, 2019 (replaces October 21, 2015 Tiny Homes in North Carolina memo)

To: Code Officials, Manufacturers, Consumers, and other Interested Parties

From: C. Patrick Walker, PE
Technical Services Manager
Manufactured Building Division
Office of State Fire Marshal/NC Department of Insurance

Re: Guidelines for Tiny Homes in North Carolina

There has been a nationwide movement recently regarding the usage of "Tiny Homes" as a viable single-family dwelling. Tiny Homes are acceptable as permanent single-family dwellings in North Carolina provided they meet the following minimum requirements.

NOTE: This is not intended to be an all-inclusive list of requirements. All code references are to the *North Carolina State Residential Code, 2018 edition* unless otherwise noted.

Tiny Homes in North Carolina

Administrative Requirements

1. Must be permitted by the local building official having jurisdiction over the building site – *Section 106.1 - NC Administrative Code and Policies, 2018 Edition*
2. Must be of open construction so unit can be fully inspected by the local building official – *Section 107.1 - NC Administrative Code and Policies, 2018 Edition*
3. May be constructed of closed construction at an off-site location if the off-site construction is inspected and certified under the NC Modular Construction Program.
NC General Statute GS § 143-139.1
4. Must meet local zoning and set-back requirements as applicable
5. Must meet community protective covenant requirements as applicable

Construction Requirements

1. Unit and its foundation must comply with the *North Carolina State Residential Code, 2018 Edition – Section 101.3.2.10 NC Administrative Code*.
2. Habitable Space is defined as a space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered *habitable spaces*. - *Section R202*

OFFICE OF STATE FIRE MARSHAL

3. Habitable rooms must have not less than 70 square feet (6.5 m²) of floor area - *Section R304.1* - Exceptions: Kitchens
4. Habitable rooms must not be less than 7 feet (2134mm) in any horizontal dimension - *Section R304.2*
5. Ceilings Height Effect on Room Area – Portions of a sloped ceiling measuring less than 5 ft. or a furred ceiling measuring less than 7 ft. (2134mm) from the finished floor the finished ceiling shall not be considered as contributing to the minimum required habitable area for that room. *Section R304.3*
6. Ceiling heights must be a minimum 7 foot (2134mm) in habitable spaces, hallways, bathrooms, and toilet rooms – *Section R305*
7. Every dwelling unit must have toilet facilities – water closet, lavatory, and a bathtub or shower – *Section R306.1*
8. Must have a kitchen area with a sink – *Section R306.2*
9. All plumbing fixtures must be connected to a sanitary sewer or to an approved private sewage disposal system – *Section R306.3* (Storage tanks are not acceptable)
10. Must be provided with a heating facility – *Section R303.8*
11. Must meet the means of egress requirements - *Section R311*
12. Must meet the energy conservation requirements – *Section N1101.1*
13. **IF the unit is constructed through the NC Modular Construction Program**, the unit must also meet the following minimum construction and design standards for modular homes - *NC General Statute GS § 143-139.1.*,
 - (1) Roof pitch. - For homes with a single predominant roofline, the pitch of the roof shall be no less than five feet rise for every 12 feet of run.
 - (2) Eave projection. - The eave projections of the roof shall be no less than 10 inches, which may not include a gutter around the perimeter of the home, unless the roof pitch is 8/12 or greater.
 - (3) Exterior wall. - The minimum height of the exterior wall shall be at least seven feet six inches for the first story.
 - (4) Siding and roofing materials. - The materials and texture for the exterior materials shall be compatible in composition, appearance, and durability to the exterior materials commonly used in standard residential construction.
 - (5) Foundations. - The home shall be designed to require foundation supports around the perimeter. The supports may be in the form of piers, pier and curtain wall, piling foundations, a perimeter wall, or other approved perimeter supports. (1971, c. 1099; 1989, c. 653, s. 2; 2003-400, s. 17.)
14. **IF the unit is constructed through the HUD Manufactured Housing Construction Program** the unit must also contain a minimum of 320 sq. ft. of floor area when erected. *24 CFR 3280.2 - Definition of Manufactured Home*

NCDOI NOTE: This memo addresses structures intended for use as a permanent single-family dwelling. Units that are manufactured and certified by the **Recreational Vehicular Industry Association (RVIA)** are considered recreational vehicles and should be treated as such.

NCDOI NOTE: See the NCDOI Recreational Park Trailer Memo for Requirements for Recreational Park Trailers (Park Models, Park Model RV's)

Motorcoach/Rv Parks and Tiny Houses

Recreational Vehicle (RV) means a vehicle, which is:

- A. Built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck;
- D. Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- E. Is fully licensed and ready for highway use. (For the purpose of this article, "Tiny Homes/Houses" and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.)

*Kevin Austin, Chairman of Board
David Moxley, Vice Chairman
Cliff Collins, Commissioner
Marion Welborn, Commissioner
Frank Zachary, Commissioner*



*Ed Powell, County Attorney
Lisa Hughes, County Manager
Tanya Gentry, Clerk to the Board*

For Immediate Release: March 22, 2022

"Tiny Homes. What is required?"

In recent years, the desire to build and live in small residential structures, commonly referred to as tiny homes, has increased. Before deciding to invest in such a venture, it is important to understand the requirements on the local and state level.

NC 2018 Residential Code defines a dwelling as any building that contains one or two dwelling units used, intended or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

Furthermore, a dwelling unit is a single unit (or room) providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

North Carolina no longer requires a total minimum square footage for a residence, however the total minimum square footage for each dwelling unit (or room) is 70 square feet with at least one dimension being a minimum of seven (7) feet. This includes living areas and bedrooms. In addition, dwellings are required to have a kitchen sink, restroom facilities, and an automatic clothes washer connection.

In order to be permitted as a residence, any structure, regardless of size, must verify that it complies with the current North Carolina Building, Residential, and Energy Code. This can be done in three ways:

- Application of a HUD (US Department of Housing and Urban Development) label and placard. Manufactured homes, commonly referred to as Doublewides and Singlewides fall into this category. This label certifies that the manufactured home meets residential requirements as a dwelling through the federal government.
- Application of a modular stamp through the North Carolina Department of Insurance. Modular homes fall into this category. These units are built and inspected in a factory off site and are certified to be in compliance with North Carolina Building, Residential, and Energy Code.
- Construction of a new home via a licensed contractor and inspected by a certified building inspector with local jurisdiction throughout the building process. A private individual may act as their own private contractor if they own the property on which the new home is located and occupy the home as their primary residence for at least 12 months upon issuance of a Certificate of Occupancy.

All of these options require construction of a dwelling on a permanent foundation and must meet the requirements of the Yadkin County Zoning Ordinance.

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www.yadkincountync.gov

A common misconception is that a recreational vehicle may be used as a permanent residence or tiny home. Recreational vehicles are constructed to standards put in place by the National Fire Protection Association and are not intended or allowed to be used as permanent dwellings. Furthermore, building officials in North Carolina are not permitted to inspect the internal construction of recreational vehicles. Building officials may only inspect and permit temporary utility connections located within campgrounds or RV parks and not the dwellings themselves. Recreational vehicles may not be connected to permanent utilities outside of established campgrounds or RV parks.

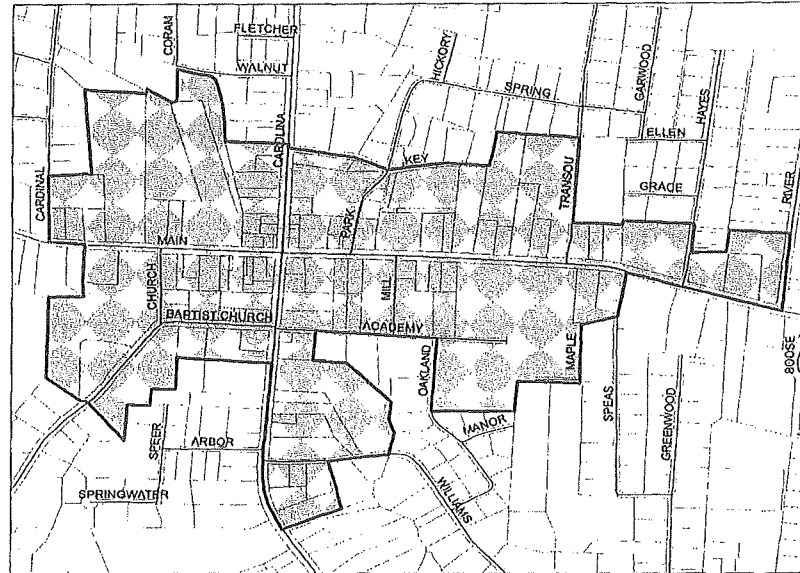
Park model trailers, while having the appearance of a site built home, are in fact classified as recreational vehicles. Should a person desire to construct a tiny home using a trailer or other mobile vehicle, the dwelling would be considered a recreational vehicle and would fall under the same requirements.

The location of campgrounds and RV parks is governed by the Yadkin County Zoning Ordinance.

Any individual with questions regarding the construction of a dwelling unit, regardless of size, or the establishment of a recreational vehicle park or campground must consult with Yadkin County Central Permitting located at 213 E. Elm St. Yadkinville, NC. The department can be reached at 336-849-7905.

Authority of Lisa Hughes, County Manager

DOWNTOWN DESIGN OVERLAY DISTRICT



Downtown Design Overlay District Boundary

§ 152.260 PURPOSE.

The purpose of establishing supplementary requirements for development in the downtown is to enhance the visual character of development and to preserve the unique streetscape of downtown by encouraging compatibility among downtown structures. It is not the intent of this overlay district to eliminate freedom or discourage innovative design but rather to complement the town's existing zoning regulations.

(Ord. passed 10-2-2012)

§ 152.261 APPLICABILITY.

Buildings within the Downtown Design Overlay (DDO) District exhibit design elements that contribute to the unique sense of character of downtown Boonville. Specifically buildings tend to have flat or low pitch roofs concealed by the front facade parapet, no front or side yard setback, large storefront windows on the street level floor and strong horizontal separations between the first and any upper floors created by windows and/or changes in facade materials. The following standards shall apply to all new construction, additions and substantial modifications to existing structures located within the Downtown Design Overlay (DDO) District except that the Planning Board may waive or modify one or more requirements whenever, in its opinion, such waiver or modification is consistent with the intent of this subchapter and results in a development which meets the findings of fact required herein. For the purposes of this section ***SUBSTANTIAL MODIFICATION*** shall be defined as any work which involves the alteration of the building's footprint, construction of additional stories, changes in roof pitch, modification of building fenestration and entryways, material changes to the building facade or painting which does not use natural material colors.

(Ord. passed 10-2-2012)

§ 152.262 EXEMPTIONS.

When in compliance with all other town ordinances, the following types of projects are exempt from the development standards of the Downtown Design Overlay (DDO) District:

(A) Interior and exterior projects on buildings that were originally designed and built for single-family residential use and continue to be used for single-family residential use;

(B) Underground construction. Underground construction which will not leave any significant, permanent marks on the surface after completion; utility boxes, pipes and poles may be considered **SIGNIFICANT PERMANENT MARKS**;

(C) Maintenance work on buildings, landscaping or grounds, (including parking lots), which does not significantly alter the appearance or function of the building, landscaping or grounds;

(D) Interior remodeling work;

(E) Landscape maintenance and upkeep, including relatively minor replacement of plants other than trees;

(F) Temporary uses and structures as defined in § 152.246; and

(G) Routine roof maintenance and repair.
(Ord. passed 10-2-2012)

§ 152.263 DEVELOPMENT STANDARDS.

(A) *Awnings and canopies.* Awnings and canopies are encouraged and should have a single color or two-color striped pattern. Lettering and trim, utilizing other colors is allowed but will be considered as sign area. Awning shape shall relate to the window or door opening. Barrel shaped awnings are encouraged be used to complement arched windows. All awnings are encouraged to be constructed with weather fast materials, washed regularly and replaced when faded or torn. When there are several businesses in one building, awnings of the same color are

encouraged to be used with simple signs on the valence flap that may vary in type and style and color to differentiate the individual businesses within the building.

(B) *Building height.* Any new building or addition to an existing building is recommended not to be significantly higher than the height of surrounding historic structures in the downtown. In no case shall any new building exceed the height of the underlying zoning district.

(C) *Building presentation.* Building entrances shall face the street and be accessible from the public sidewalk. Any portion of a building facing an adjacent street right-of-way shall be considered a building front and shall be subject to the presentation, entrance and fenestration requirements of this section, except that any building with three or more sides facing a street shall only be required to designate one side as a building front.

(D) *Building width.* Additions and new construction shall maintain the existing building wall by extending the building front from side lot line to side lot line, except that an appropriate architectural wall or similar design feature may be used instead of a building extension.

(E) *Color.* Additions and new construction is encouraged to relate paint colors to natural material colors found on neighboring buildings. One base color is encouraged to be used for the entire facade. Different trim colors are encouraged, but should not exceed three different colors. Different window frame and sash colors are encouraged but should complement the main color of the building. Primary colors (red, yellow and blue) are prohibited on the exterior of all facades. Stripes, polka dots, checkerboard patterns and other distracting paint combinations are prohibited.

(F) *Fenestration (the arrangement and design of windows and doors in a building).* New construction and remodeling of existing buildings in the Downtown Design Overlay District are encouraged to maintain the prevalent pattern and spacing of windows and doorways on downtown buildings that are significant. This may be accomplished by the following.

(1) The predominant difference between upper story openings and street level storefront openings are encouraged to be maintained. Typically there is much greater window area at the storefront level for pedestrians to have a better view of the merchandise displayed behind, as opposed to upper stories that have smaller window openings.

(2) Whenever an infill building is proposed which has two adjacent commercial structures, the characteristic rhythm, proportion and spacing of existing door and window openings are encouraged to be maintained.

(3) Window glass is encouraged to be clear, transparent glass and always be set back from the building face rather than flush.

(4) Storefront windows are encouraged be as large as possible and no closer than 18 inches from the ground (bulkhead height). By limiting the bulkhead heights, the visibility to the storefront displays and retail interior is maximized. Maximum bulkhead heights for new construction is recommended to be 32 inches above the sidewalk.

(5) Introducing or changing the location or size of windows or other openings that alter the architectural rhythm, alignment or character of the original building is not encouraged.

(6) Use of windows and shutters that are not in keeping with the original style of the building is not encouraged.

(7) Window replacement. If a window has deteriorated beyond repair or is missing, the replacement is recommended to match the original window in terms of design and materials. Replacement windows may fill the existing opening and duplicate the original window pattern. For example, a double hung sash window should not be replaced by a single fixed pane of glass.

(G) *Front build-to line.* The fronts of all new buildings constructed in the Downtown Design Overlay are recommended to abut existing public

sidewalks, where provided, except for outdoor café-type uses when a low wall or fence is carried across the right-of-way to continue the visual continuity of building faces.

(H) *Horizontal rhythms.* Downtown building patterns traditionally emphasized a strong horizontal design element. New construction and additions to or remodeling of existing buildings are recommended to maintain a clear visual division between street level and any upper floors. The division of floors may be accomplished by any historically significant architectural feature used to accomplish this effect.

(I) *Materials.* Facade materials found in the downtown primarily include brick and stone and occasionally wood. Additions and new construction are recommended to use facade materials that are compatible in quality, color, texture, finish and dimension to those common in the downtown area on buildings that are historically significant. Acceptable materials for additions and new construction include, but may not be limited to, clear glass and glass block for storefronts only, glass block and leaded glass for transoms, new or used face brick, cut stone, rusticated block (cast stone), stucco and horizontal wood or cement clapboard for building walls and ceramic tile, brick, stone or wood for bulkheads. Imitation masonry, reflective or opaque glass, rough sawn or natural (unfinished) wood, "pecky" cedar, vertical wood siding, coarsely finished, rustic or "rough-sawn" materials (e.g., wood shakes, barn wood, board and batten or T-111 siding) are typically not appropriate for downtown buildings and are strongly discouraged. Metal siding, unfinished concrete block or vinyl siding are not encouraged.

(J) *Parking, driveways and drive-through windows.* Off-street parking, where provided, should not be prominent when viewed from Main Street and may be restricted to the side and rear yards of any principal building and should occur behind, between or within structures. Parking areas are recommended to be screened from view with landscaping, wrought-iron fencing, masonry walls or a combination of the above. Drive-through windows are generally

not in keeping with the traditional pattern of downtown development and are strongly discouraged. If a drive-through window is determined to be a necessity it may be accessed by a driveway, alley or parking area located off Main Street and may not be visible from Main Street.

(K) *Preservation of traditional decoration.* Many times in the remodeling of storefronts, original decorative details are intact as visual “leftovers” or simply covered up with new construction. If a building is to be refurbished or renovated, these forgotten details should not be wasted. If enough of them remain, they can be restored as part of the original design. If only a few remain, they can be incorporated as design features in a new storefront. In either case, the design of any improvements should grow out of the remaining traditional details and create a harmonious background that emphasizes them.

(L) *Removal of elements inconsistent with original facade.* Building owners contemplating restoration or renovation are encouraged to remove building elements incompatible with the original facade design. These include overdone exterior embellishments and “modernized” elements such as board and batten siding or “themed” materials.

(M) *Roofs.* Additions and new construction are strongly encouraged to utilize a flat pitch or low pitch roof consistent with surrounding buildings. Cornice lines of new buildings that are the same number of stories are recommended to be aligned with buildings on adjacent properties to avoid divergent clashes in building height. Additions and new construction using a flat pitch or low pitch roof design (anything under 3:12) may install parapet walls on all sides or cap the walls with a cornice treatment that provides articulation to the roofline. Standing seam metal or other metal roofing, tile of a neutral color and rolled rubber roofing are the preferred roofing materials in the Downtown Design Overlay (DDO) District. Crushed stone built-up roofing, wood shakes, brightly colored tile, corrugated fiberglass and asphalt sheeting are discouraged roofing materials in the Downtown Design Overlay (DDO) District.

(N) *Signs.*

(1) *Generally.* An effective sign and graphics system functions not as a separate entity but as an integral part of the built environment. Carefully planned, signs communicate essential information, while also ordering and enhancing the architectural character of downtown. A sign’s use of color, size, shape, placement and selection of lettering can attract or detract from its effectiveness.

(2) *Effectively designed sign.* An effectively designed sign should:

(a) Be compatible with the surrounding physical and visual character of the area;

(b) Promote the “individuality” of establishments;

(c) Identify the business clearly and attractively;

(d) Enhance the building on which it is located; and

(e) Reduce the amount of visual clutter caused by excessive and poorly placed signage.

(3) *Preferred sign types.* The following sign types are preferred in the Downtown Design Overlay District: under canopy signs; business wall-mounted ID signs in sign board area at upper portion of first story; awning signs; projecting signs; permanent painted window signs limited to 25 % of the first floor window area; building signs containing the name of the business at rear entrances used by customers; and signs made of carved or sandblasted wood or metal.

(4) *General design guidelines for signs.*

(a) *Clear sign message.*

1. Use a brief message. The fewer the words, the more effective the sign. A sign with a brief, succinct message is simpler and faster to read, looks cleaner and is more attractive.

2. Avoid hard-to-read, overly intricate typefaces. These typefaces are difficult to read and reduce the sign's ability to communicate.

3. Lettering should be in proportion to the size of the sign. As a rule of thumb, the recommended size of letters is between one-third to one-half the height of the sign.

4. Avoid signs with strange shapes. Signs that are unnecessarily narrow, oddly shaped or unrelated to the product or services being provided on the site can restrict the legibility of the message. If an unusual shape is not symbolic, it is probably confusing.

5. Use widely recognized logos rather than print/text whenever possible.

6. Make signs smaller if they are oriented to pedestrians. The pedestrian-oriented sign is usually read from a distance of 15 to 20 feet; the vehicle-oriented sign is viewed from a much greater distance. The closer a sign's viewing distance, the smaller the sign needs to be.

(b) *Sign color.*

1. Colors shall be selected to contribute to legibility and design integrity of signage. Even the most carefully thought out sign may be unattractive and a poor communicator because of poor color selection.

2. A substantial contrast should be provided between the color and material of the background and the letters or symbols to make the sign easier to read in both day and night.

3. Limit colors to three on a single sign. Color is most effective when used simply. Too many colors, particularly accent colors, may distract the reader, reduce legibility and make the sign less effective.

4. Vertical or horizontal wooden signs can be effectively utilized in a variety of ways on windows, building surfaces or as accent bands. A wooden wall sign can be painted or stained and sealed

for a more natural look, depending upon the appearance of the surrounding structures. Lettering can consist of metal or raised wood and when placed within a sign band, will serve to unify the building facade. Carved or sandblasted wood signs are also appropriate.

5. Metal sign panels can utilize raised lettering on metal bands. Printing and lettering can also be applied directly to a flat metal band with letters consisting of wood, acrylic or metal.

(c) *Sign architectural compatibility.*

1. Signs should make a positive contribution to the general appearance of the street and neighborhood in which they are located.

2. Sign size should be proportionate. The size and shape of a sign should be proportionate with the scale of the structure.

3. Signs should be an appropriate scale with the building on which they are placed and should not overwhelm the architecture of the building and the character of the neighborhood.

4. Place wall signs to establish facade rhythm, scale and proportion where facade rhythm doesn't exist. In many buildings that have a monolithic or plain facade, signs can establish or continue appropriate design rhythm, scale and proportion.

5. As an alternative to an attached sign, lettering may be attached directly on the building facade.

(5) *Regulations.* All signs in the Downtown District Overlay (DDO) district shall follow the type, area, height and number regulations listed in §§ 152.175 through 152.186.

(O) *Streetscape protection.* Any damage to the existing streetscape, including street trees, light posts, sidewalks and curb and gutter by development, use or

condition of private property shall be corrected by the property owner at the owner's expense to the satisfaction of the town, prior to the release of the certificate of occupancy. Any damage not corrected by the owner shall be corrected by the town, the cost of which is to be billed to the owner, including any town administrative costs.

(P) *Walls and entrances.* Walls and entrances in the Downtown Design Overlay (DDO) District are encouraged to be designed to encourage and complement pedestrian-scale activity. Recessed doorways are strongly encouraged.

(Q) *Communications antennas.* Antennas may not be affixed on or within 15 feet of any building facade, except in the case of devices designed visually to blend with or be entirely hidden by structural components of the building itself, in a manner consistent with the overall building design.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.264 PROCEDURES.

(A) Prior to the construction of any new building, structure, addition to an existing building or parking area or the substantial renovation of such, a conditional use permit must be secured from the Board of Adjustment.

(B) In considering applications for such permits, the Board of Adjustment shall conduct a public hearing and shall make the following findings of fact:

(1) The construction or renovation as proposed fulfills the intent of §§ 152.260 through 152.265;

(2) The construction or renovation as proposed will not substantially injure the value of adjoining or abutting property; and

(3) The construction or renovation as proposed maintains the historic character and integrity of the downtown.

(Ord. passed 10-2-2012)

§ 152.265 PERMIT APPLICATIONS.

Applications for a conditional use permit for new construction, additions to an existing building, substantial modifications to an existing building or construction of a new parking lot in the Downtown Design Overlay District shall be accompanied by supporting material sufficient to determine compliance with the standards outlined in this section. Such material shall include, but not be limited to, a detailed site plan, street elevations, material samples or specifications, and, where necessary, the location of all public utilities. Such information is recommended to be sealed by a registered engineer, surveyor, architect or landscape architect licensed in the state. No application will be considered by the Board of Adjustment unless it has been properly completed and submitted to the Zoning Administrator with all supporting documents at least 30 days prior to the meeting at which it is to be reviewed. Application requirements may be waived by the Zoning Administrator who has the authority to waive any application requirements where the type of use or scale of proposal makes that information unnecessary or impractical.

(Ord. passed 10-2-2012)

NONCONFORMITIES

§ 152.280 PURPOSE AND APPLICABILITY.

The purpose of this subchapter is to regulate and limit the continued existence of uses and structures that were established prior to the effective date of these regulations and that do not conform to these regulations. Any nonconformity created by a change in the text of these regulations or by the reclassification of property shall be regulated by the provisions of this chapter. The *EFFECTIVE DATE* referenced below shall be the date the text of these regulations or the zoning map is amended to render a particular use, structure or lot nonconforming. Many nonconformities may continue, but the provisions of

this subchapter are designed to curtail substantial investment in nonconformities, and to bring about their eventual improvement or elimination.
(Ord. passed 10-2-2012)

§ 152.281 NONCONFORMING USES.

(A) Nonconforming uses of land or structures may continue only in accordance with the provisions of this section.

(B) A nonconforming use shall not be expanded.

(C) A nonconforming use shall not be changed to any other use unless the new use conforms to the standards of the zoning district in which it is located. Once a nonconforming use is changed to a conforming use, a nonconforming use shall not be re-established.

(D) Where a nonconforming use is abandoned for a period of 180 days, then the use shall not be reestablished or resumed and any subsequent use of the land or structure shall conform to the requirements of these regulations.

(E) No structural changes shall be made in any structure occupied by a nonconforming use except as follows:

(1) Those structural changes ordered by an authorized official in order to ensure the safety of the structure shall be permitted;

(2) Maintenance and repairs to keep a structure in sound condition shall be permitted;

(3) Structural changes necessary to convert the nonconforming use to a conforming use shall be permitted;

(4) An existing nonconforming residential structure may be enlarged or altered provided that no additional dwelling units result therefrom. Any such enlargement or alterations shall be in compliance with all yard requirements of the district and/or use; and

(5) The structure and its accompanying use may be moved to another location on the lot so long as the structure meets all applicable requirements of the district.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.282 NONCONFORMING STRUCTURES.

(A) A nonconforming structure, devoted to a use permitted in the zoning district in which it is located, may continue only in accordance with the provisions of this section.

(B) Normal repair and maintenance may be performed to allow the continuation of a nonconforming structure.

(C) Any nonconforming structure may be enlarged if the expansion does not increase the nonconformity.

(D) A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located.

(E) A nonconforming structure, destroyed or damaged so that more than 25% of the value of such structure remains, may be repaired or restored if a building permit for the repair or restoration is issued within six months of the date of the damage. A nonconforming structure destroyed or damaged so that no more than 25% of its value remains, may be repaired or restored only if the structure conforms to the standards of these regulations for the zoning district in which it is located. The extent of damage or destruction shall be determined by comparing the estimated cost of repair or restoration with the current assessed tax value.

(F) A nonconforming structure shall not be replaced with another nonconforming structure regardless of the degree of nonconformity.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.283 NONCONFORMING VACANT LOTS.

(A) Except as provided in division (B) below, a nonconforming vacant lot may be used for any of the uses permitted by these regulations in the zoning district in which it is located, provided that the use meets all yard, parking and landscape requirements of this chapter for the zoning district in which it is located.

(B) If two or more adjacent, nonconforming, unimproved lots are held in single ownership, such lots shall be considered to be a single building lot for the purposes of this subchapter. If the combination results in the creation of a building lot that is more than one and one-half times the width and area required in the zoning district, then the two lots may be legally re-subdivided into two lots of equal width and area, both of which may be developed under the authority of division (A) above.

(Ord. passed 10-2-2012)

§ 152.284 ADDITIONAL REQUIREMENTS FOR NONCONFORMING ACCESSORY USES AND STRUCTURES.

No nonconforming accessory use or accessory structure shall continue after the principal use or structure is terminated by abandonment, damage or destruction unless such accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.285 CHANGES OF TENANCY AND/OR OWNERSHIP.

There may be a change in tenancy or ownership of an existing nonconforming use or structure, provided there is no change in the nature or character of such nonconforming use or structure except as provided herein and all other applicable requirements of this subchapter are met (e.g., parking, screening, landscaping and the like).

(Ord. passed 10-2-2012)

ENFORCEMENT AND PENALTIES

§ 152.300 ENFORCEMENT AUTHORITY.

This chapter shall be enforceable in accordance with provisions available in the General Statutes of the state, particularly G.S. Chapter 160A, Article 19, Part 3 and any special local legislation enacted by the General Assembly for the town.

(Ord. passed 10-2-2012)

§ 152.301 VIOLATIONS; VIOLATORS.

(A) Violation.

(1) It is unlawful and a violation of this chapter to establish, create, expand, alter, occupy or maintain any use, land development activity or structure, including, but not limited to, signs and buildings, that violates or is inconsistent with any provision of this chapter or any order, approval or authorization issued pursuant to this chapter. Approvals and authorizations include, but are not limited to, special use permits, building permits, zoning permits, certificates of occupancy, variances, development plans, planting plans, site plans, sign plans and conditions of such permits, certificates, variances and plans. It is also a violation to engage in any construction, land development activity or use without all approvals and authorizations required by this chapter.

(2) Each day of a violation is a separate and distinct violation.

(B) *Violator. VIOLATORS* include any person who owns, leases, occupies, manages, designs or builds any structure or land development activity in violation of this chapter and any person who owns, leases or occupies a use in violation of this chapter. A violation may be charged against more than one violator.

(C) *Complaints regarding violations.*

(1) When a violation of this chapter occurs, or is alleged to have occurred, any person may file a written or verbal complaint. Such complaint shall state fully the cause and basis thereof and shall be filed with the Zoning Administrator, or his or her authorized agent. An investigation shall be made within ten days. Actions as provided in these regulations shall be taken.

(2) When a violation is discovered and is not remedied through informal means, written notice of the violation shall be given. This notice shall be delivered by hand or certified mail to the violator's last known address, or hand delivery to or posting the notice at the property in violation.

(3) The notice shall include the following:

(a) A description of the violation and its location;

(b) The measures necessary to correct it;

(c) The possibility of civil penalties and judicial enforcement action;

(d) Notice of right to appeal; and

(e) The time period allowed, if any, to correct the violation, which time period may vary depending on the nature of the violation and knowledge of the violator.

(4) This notice is an administrative determination subject to appeal as provided below.

(D) *Appeal to the Board of Adjustment.* A violator who has received a notice of violation may appeal the determination that a violation has occurred to the Board of Adjustment by making a written request and paying the appropriate fee within 30 days of receipt of the notice of violation. Citations that follow the original notice of violation may not be appealed to the Board. The Board shall hear the appeal and may affirm, or reverse, wholly or partly, or may modify the determination of the violation. If

there is no appeal, the determination of the Zoning Administrator is final.

(E) *Failure to comply with notice or Board of Adjustment decision.* If the violator does not comply with a notice of violation, which has not been appealed, or with a final decision of the Board of Adjustment, the violator shall be subject to enforcement action as prescribed by state law or by this chapter.

(Ord. passed 10-2-2012) Penalty, see § 152.999

§ 152.302 EQUITABLE RELIEF.

The town may apply to the District Court, Civil Division or other court of competent jurisdiction for an appropriate equitable remedy. It shall not be a defense to the town's application for equitable relief that there is an adequate remedy at law.

(Ord. passed 10-2-2012)

§ 152.303 COMBINATION OF REMEDIES.

The town may choose to enforce this chapter by any one, all or combination of the procedures in §§ 152.300 through 152.302 and 152.999.

(Ord. passed 10-2-2012)

§ 152.999 PENALTY.

(A) *Criminal penalties.* Any person, firm or corporation violating any section or provision of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be fined not more than \$100 or imprisoned not more than 30 days for each violation. Each day such violation continues, however, shall be a separate and distinct offense, punishable as herein before provided.

(B) *Civil remedies.*

(1) *Civil penalties.*

(a) A violation of this chapter will subject offender to a civil penalty that will be enforced

through the issuance of citations by the Zoning Enforcement Officer. The town may recover this penalty in a civil action in the nature of a debt if the offender does not pay the penalty within 15 days. In addition, failure to pay the civil penalty within 15 days may subject the offender to criminal charges.

(b) The following civil penalties are established for violations under this section:

Warning citation	Correct violation within 15 days
First citation	\$100
Second citation for same offense	\$500
Third and sequential citations for same offense	\$1,000

(c) Each day such violation continues, however, shall be a separate and distinct offense, punishable as herein before provided.

(d) These civil penalties are in addition to any other penalties that may be imposed by a court of law from violation of the provisions of this chapter.

(2) *Injunctions and orders of abatement.*

(a) If a building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is occupied or used in violation of the General Statutes of the state, this chapter or other regulation made under authority conferred thereby, the town may apply to the District Court, Civil Division or any other court of competent jurisdiction, for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon, or cease the unlawful use of the property.

(b) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the case. An order of abatement may direct that buildings or other structures on the property be closed, and demolished or removed; that fixtures, furniture or other movable property be

removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this chapter. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he or she may be cited for contempt and the town may execute the order of abatement. The town shall have a lien on the property for the cost of executing an order of abatement.

(Ord. passed 10-2-2012)

Chapter 153 Subdivision Ordinance

Section

153.01 Purpose and Applicability

153.02 Definitions and Rules of Construction

153.03 Decision Making and Administrative Bodies

153.04 Amendments

153.05 Subdivision Review Procedure

153.06 Subdivision Design Standards and Required Improvements

153.07 Guarantee of Required Improvements; Warranty Against Defects

153.08 Legal Provision and Enforcement

153.09 Application and Processing Fees

153.10 Plat Submission and Required Certificates

153.01 PURPOSE AND APPLICABILITY

(A) TITLE. This ordinance shall be known as the Subdivision Ordinance of the Town of Boonville, North Carolina

(B) PURPOSE. The provisions of this ordinance are adopted pursuant to the authority conferred by Section 160A-371 through Section 160A-376 of the General Statutes of North Carolina for the purpose of providing for the orderly development of the Town of Boonville, North Carolina and its environs by regulating the subdivision of land. The regulations contained herein are intended to coordinate proposed development with existing development and with officially adopted plans for future development the town; to coordinate streets within subdivision with existing or planned streets or with public facilities; to secure or protect adequate rights-of-way and easements for street or utility purposes including the dedication of rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11; to secure adequate spaces for recreation areas; to provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare; and to insure the proper legal description, monumentation, and recording of subdivided land.

(C) JURISDICTION. The provisions of this ordinance shall apply to all subdivision activities, as defined in Section 153.02 of this ordinance, within the town limits and the extraterritorial zoning jurisdiction of the Town of Boonville, North Carolina as now or hereafter established. Any subdivision for which a preliminary plat has been approved by Yadkin County prior to becoming subject to the Boonville Subdivision Ordinance, may at the option of the subdivider, be developed in its entirety in accordance with the Yadkin County Subdivision Ordinance. Any subdivision for which a preliminary plat has been submitted to Yadkin County, but not approved prior to becoming subject to the Boonville Subdivision Ordinance, shall comply with the Town of Boonville's Subdivision Ordinance standards.

(D) SEPARABILITY. If any section, paragraph, subdivision, clause or provision of this ordinance is adjudged invalid by a court of competent jurisdiction, such adjudication will apply only to such section, paragraph, subdivision, clause or provision so adjudged and the remainder of this ordinance will be deemed valid and effective.

(E) COMPLIANCE. All plats for the subdivision of land must conform to the requirements of this ordinance, and be submitted in accordance with the procedures and specifications established herein. The description by metes and bounds in an instrument of transfer or other document used in the process of selling or transferring land will not exempt the transaction from compliance with this ordinance. No utility shall be extended nor any permit be issued by an administrative agent of the Town of Boonville for the construction of any building or other improvement upon any land for which a plat is required until the requirements of this ordinance have been met and the final plat approved.

(F) EFFECTIVE DATE. These regulations shall become effective upon the date of their adoption by the Board of Commissioners of the Town of Boonville.

153.02. DEFINITIONS AND RULES OF CONSTRUCTION.

(A) DEFINITIONS. As used in this ordinance, the following terms will have the meanings indicated in this section:

APPEAL. An action requesting reversal or modification of an interpretation or decision made by town staff or administrative agent in the application of these regulations.

BUILD-TO LINE. A line extending through a lot which is generally parallel to the front property line and marks the location from which the principle vertical plane of the front building elevation must be erected; intended to create an even building façade line on a street. The build-to line is established on the record plat (final plat).

BUILDING FACE. The dominant structural plane of the elevation of any side of a building. For example, the building face of a two-story dwelling with a one-story porch is considered to be the two-story elevation of such structure.

BUILDING SETBACK LINE. A line extending through a lot which is parallel to the front property line and between which and such line no building shall be erected.

CLUSTER DEVELOPMENT. A tract of land planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations, and in accordance with an approved site plan. The development on the tract is limited by overall density or intensity, rather than minimum lot dimensions.

CONSULTING ENGINEER. A North Carolina registered engineer appointed from time-to-time by the Boonville Board of Commissioners.

DEDICATION. A gift, by the owner, of a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, Dedication must be made by written instrument, and is completed with an acceptance.

EASEMENT. A grant of one or more of the property rights by the property owner of a portion of land for a specified purpose and use by the public, a corporation or other entities.

LAND CLEARING AND INERT DEBRIS (LCID) LANDFILL. A landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes meeting the standards of the State of North Carolina.

LOT. A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such access ways, parking area, yards, and open spaces required in these regulations

LOT, CORNER. A lot located at the intersection of two (2) or more streets, or abutting a curved street or streets in such a way that the front building line meets either side lot line at an interior angle of less than one hundred thirty-five degrees (135°).

LOT COVERAGE. That portion of the lot area, expressed as a percent that is covered by impervious surface cover.

LOT, DOUBLE FRONTAGE. A lot having frontage and access on two (2) or more public streets. A corner lot shall not be considered as having double frontage unless it has frontage and access on three (3) or more streets.

LOT, INTERIOR. A lot other than a corner lot with frontage on only one (1) street.

LOT, REVERSE FRONTAGE. A lot having frontage on two (2) or more streets, one of which is a minor or less important street in the community, the access to which is restricted to the minor street.

LOT, THROUGH. A lot other than a corner lot with frontage on more than one (1) street. See **LOT, DOUBLE FRONTAGE.**

LOT LINE. A line or series of connected line segments bounding a lot.

LOT LINE, FRONT. The line which separates the lot from a street right of- way. Corner lots shall have only one front lot line.

LOT LINE, INTERIOR. A side lot line, which separates one lot from another lot.

LOT LINE, REAR. That lot line which is opposite and most distant from the front lot line, except in the case of a triangular lot, a line ten (10) feet in length, entirely within the lot, parallel to, and at the maximum distance from the front lot line, or a chord thereof if the front lot line is curved, shall be considered as the rear lot line for purposes of determining the required rear yard. In cases where neither of these conditions is applicable, the Subdivision Administrator shall designate the rear lot line.

LOT LINE, SIDE. A lot line other than a front or rear lot line.

LOT OF RECORD. A lot described by plat or by metes and bounds which has been recorded in the office of the Yadkin County Register of Deeds.

LOT WIDTH. The horizontal distance between the side lot lines at the building setback line as measured along a straight line parallel to the front lot line or parallel to the chord thereof.

LOT, ZONING. A parcel or contiguous parcels of land which is indicated by the owner at the time of application for a building or zoning permit as being that land which is proposed for development under a single development plan.

OPEN SPACE. Land used for recreation, natural resource protection, amenities, and protection of important rural and town vistas and/or buffer yards. Open space may include, but is not limited to lawns, walkways, active recreation areas, playgrounds, wooded areas, and greenways.

PLANNING BOARD. The Planning Board of the Town of Boonville, North Carolina.

PLAT. A surveyed map or plan of a parcel of land which is to be, or has been subdivided.

RESERVATION. An obligation, shown on a plat or site plan, to keep property free from development and available for public acquisition for a stated period of time. It is not a dedication or conveyance.

RESERVE STRIP. A strip of land (usually only a few feet wide) owned privately, and set aside around a subdivision in order to prevent access to adjacent property by way of subdivision streets.

REQUIRED DRAINAGE CHANNEL. The theoretical stream bed section which is required to discharge the runoff from a one-hundred (100) year storm.

REVIEW OFFICER. A person appointed by the Board of County Commissioners to review state mapping standards prior to authorizing a subdivision plat to be recorded by the Register of Deeds.

STORM, TEN (10) YEAR. The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten (10) years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

STORM, TWENTY-FIVE (25) YEAR. The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in twenty-five (25) years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

STORM, ONE HUNDRED (100) YEAR. The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in one-hundred (100) years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

STREET. A right-of-way for vehicular travel.

STREET, ARTERIAL. A federal and/or state highway designed primarily for the movement of large volumes of vehicular traffic from one (1) area or region to another; a thoroughfare. Also referred to as a major thoroughfare.

STREET, COLLECTOR. A public way designed primarily to connect minor streets with arterial streets and/or to provide direct connection between two (2) or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

STREET, MINOR RESIDENTIAL. Those streets whose primary function is to provide direct access to residential property.

STREET, MINOR NON-RESIDENTIAL. Those streets whose primary function is to provide direct access to commercial/industrial property.

STREET, CUL-DE-SAC. A short minor street having one (1) end open to traffic and the other permanently terminated by a vehicular turnaround.

STREET, RURAL. A street designed for and located in non-urban and non-urbanizing areas as classified by the town.

STREET, URBAN. A street designed for and located in urban or urbanizing areas as classified by the town.

STREET, PARALLEL FRONTAGE ROAD. A public or private street adjoining or parallel to an arterial street designed to provide access to abutting property in place of the arterial.

STREET, PRIVATE. An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor is it intended to be maintained by the public.

STREET, PUBLIC. A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of Boonville or the State of North Carolina.

STREET LINE. The outer boundary of a street right-of-way.

STREET ORIENTATION. The direction of the architectural front façade of a building in relation to the street.

STREET RIGHT-OF-WAY. Street right-of-way shall mean any public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the Town of Boonville; or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Town of Boonville; or has otherwise been established as a public street prior to the adoption of this ordinance.

SUBDIVIDER. A person engaging in the act of subdividing property.

SUBDIVISION. A subdivision will include all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose (whether immediate or future) of sale or building development and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition:

- (1) The combination or recombination of portions of parcels platted and recorded prior to the effective date of this ordinance, or portions of lots platted in compliance with this ordinance after its effective date, where the total number of lots is not increased and the resultant lots are equal to the standards of this ordinance and the appropriate zoning classification.
- (2) The division of land into parcels greater than ten (10) acres where street right-of-way dedication or reservation is not involved.
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or the location of public utility rights-of-way.
- (4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where street right-of-way dedication or reservation is not involved and where the resultant lots are equal to or exceed the standards of the appropriate zoning classification. [G.S. 160A-376(a)]

SUBDIVISION ADMINISTRATOR. Person responsible for the administration of the subdivision ordinance.

SUBDIVISION, MAJOR. A subdivision not otherwise exempt from these regulations that involves any of the following:

- (1) The creation of any new public street or street right-of-way, or improvements to an existing street.
- (2) A future public school, park, greenway, or open space site shown in any adopted plan or policy document.
- (3) The extension of any needed right-of-way or easement for the water or sewer system operated by the Town of Boonville.
- (4) The installation of drainage improvements through one (1) or more lots to serve one (1) or more other lots.
- (5) The installation of a private wastewater treatment plant or a private water supply system for more than one (1) lot or building site.
- (6) The division of land into five (5) or more lots where new right-of way may or may not be created.

SUBDIVISION, MINOR. A subdivision that is not otherwise exempt from the provisions of this ordinance and that does not meet the criteria for the definition of a major subdivision.

TECHNICAL REVIEW COMMITTEE (TRC). This committee has the authority to give preliminary approval and make recommendations to the Town Board for final approval to all major subdivisions. The committee shall be comprised of the Town's Planning Board and any other departments or agencies the Town Administrator deems necessary.

TERRITORIAL JURISDICTION. The town limits and the extraterritorial jurisdiction (ETJ) of the Town of Boonville as now or may be hereafter established.

THOROUGHFARE. See **STREET, ARTERIAL.**

COMPREHESIVE TRANSPORTATION PLAN. The Comprehensive Transportation Plan as adopted by the Board of County Commissioners of Yadkin County and the Board of Commissioners of the Town of Boonville and as may from time to time be amended.

TOWN BOARD. The Board of Commissioners of the Town of Boonville.

VARIANCE. An action requesting consideration for relief from the strict enforcement of the standards of the ordinance where special circumstances or unusual considerations may exist on the parcel of land.

(B) RULES OF CONSTRUCTION. For the purposes of these regulations, the following rules of construction apply.

- (1) These regulations will be construed to achieve the purposes for which they are adopted.
- (2) In the event of any conflict in limitations, restrictions, or standards applying to a project, the provision more consistent with the Boonville Zoning Ordinance shall apply.
- (3) The words "shall," "must," and "will" are mandatory in nature, implying an obligation or duty to comply with the particular provision.
- (4) The word "may" is permissive in nature except when used in the negative.
- (5) References to "days" will always be construed to be business days, excluding weekends and holidays, unless the context of the language clearly indicates otherwise.
- (6) The word "lot" includes the words "plot", "tract" and/or "parcel".
- (7) The word "building" includes the word "structure".
- (8) The word "person" includes a "firm, association, organization, partnership, trust, company, corporation and/or individual".

(9) The word "use" includes the terms "arranged", "designed" and/or "intended" for use, activity and/or purpose.

(10) Words used in the present tense shall include the future tense.

(11) Words used in the singular shall include the plural and words used in the plural shall include the singular.

153.03. DECISION MAKING AND ADMINISTRATIVE BODIES.

(A) SUBDIVISION ADMINISTRATOR/TOWN STAFF. In addition to any authority granted to the Subdivision Administrator of the Town of Boonville, the Subdivision Administrator and the employees under his or her direction, and such agent as may, from time to time, be designated by the Board of Commissioners to administer the Subdivision Ordinance (designee), will have the following duties in accordance with these regulations.

- (1) To review all requests for subdivision within the town's jurisdiction and decide whether such requests meet the requirements and intent of this ordinance. If such do meet the requirements and intent, staff shall approve the subdivision for recordation.
- (2) To review and provide comments on variance petitions.
- (3) To maintain files and other public records related to the administration and enforcement of these regulations.
- (4) To recommend and prepare amendments to the text of these regulations.
- (5) To accept and file petitions for variances.
- (6) To accept and file notices of appeal of an administrative interpretation or decision.
- (7) To interpret the provisions of these regulations.
- (8) To coordinate all local, state, and other appropriate agency review and comment on all subdivisions proposed under these regulations.
- (9) To establish such procedures as necessary and proper for the administration of their responsibilities under these regulations.
- (10) To approve for recordation in the Yadkin County Register of Deeds those divisions of land which, according to the definition of subdivision found in Section 153.02 (A), are not subject to the requirements of this Ordinance.
- (11) Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in the subdivision or development ordinances

(i.e., zoning, floodplain, watershed ordinances). Whenever the ordinance includes criteria for decisions that require an application of judgment, those criteria must provide adequate guiding standards for the entity charged with plat approval. [G.S. 160A-371]

(A) TECHNICAL REVIEW COMMITTEE. In addition to all other authority reserved to the Technical Review Committee (TRC) by other ordinances, the TRC shall have the following powers and responsibilities in accordance with these regulations.

- (1) To hear and give preliminary approval to major subdivisions and make recommendations for final approval to major subdivisions.
- (2) Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in the subdivision ordinance or other development ordinances (i.e., Zoning Ordinance). Whenever the ordinance includes criteria for decisions that require an application of judgment, those criteria must provide adequate guiding standards for the entity charged with plat approval. [G.S. 160A-371]

(B) PLANNING BOARD. In addition to any authority granted to the Planning Board by other ordinances of the Town of Boonville, the Planning Board shall have the following powers and duties to be carried out in accordance with these regulations.

- (1) To hear and make advisory recommendations on proposed amendments to the text of these regulations; to propose, as needed, amendments to change the text of these regulations.
- (2) To hear and make advisory recommendations on requests for variances from the standards of this ordinance in accordance with the provisions of Section 153.04.
- (3) To hear and make advisory recommendations on appeals from the interpretation of any provisions of this ordinance by the Subdivision Administrator. The Planning Board may recommend reversal or modification of any action under appeal upon finding an error in the application of these regulations. [G.S. 160A-371] In all of these matters, the Planning Board may recommend approval of the request, denial of the request, or approval of the request with conditions relating to the intent and standards of this ordinance.

(C) TOWN BOARD. In addition to all other authority reserved to the Town Board by other ordinances, the Town Board shall have the following powers and responsibilities in accordance with these regulations.

- (1) To hear and give final approval to major subdivisions.
- (2) To hear and decide proposed amendments to the text of these regulations.

- (3) To hear and decide requests for variances from the standards of this ordinance in accordance with the provisions of Section 153.04.
- (4) To hear and decide requests for appeal from the interpretation of any provisions of this ordinance by the Subdivision Administrator. The Town Board may reverse or modify any action under appeal upon finding an error in the application of these regulations.

153.04. AMENDMENTS.

- (A) The Subdivision Administrator may from time-to-time, and at the request of the Boonville Board of Commissioners or Planning Board shall prepare certain improvements to the text of the Subdivision Ordinance to correct errors, update or modify the requirements, or otherwise improve the operation of the ordinance in regulating the subdivision of land.
- (B) Amendments to this ordinance may only be enacted pursuant to public notice and public hearing on the proposed amendments. Notice of such public hearing shall be published once per week for two successive weeks in a newspaper of general circulation in the Town of Boonville. The notice shall be first published not less than ten (10) days nor more than twenty-five (25) days prior to the date fixed for the hearing. The notice shall indicate the date, time, and place of the hearing and shall include a statement of the substance of the proposed amendment.
- (C) All text amendments must be referred to the Planning Board for a recommendation prior to final action by the elected officials. Failure of the Planning Board to act within forty-five (45) days following the public hearing will be deemed to constitute an affirmative recommendation on the proposed amendment. An action to defer a recommendation for cause will constitute an action for the purposes of this article.

153.05. SUBDIVISION REVIEW PROCEDURE

(A) APPROVAL LEVELS.

- (1) The subdivision review procedure shall consist of two levels of required approval:
 - a. *Preliminary Plat* (including required Construction Plans); and,
 - b. *Final Plat*
- (2) Preliminary Plat approval shall be a prerequisite to Final Plat approval.
- (3) Prior to Preliminary Plat application, the subdivider may submit to the Subdivision Administrator a sketch plan showing the concept of the proposed subdivision. The subdivider may at that time discuss the proposed subdivision with the Subdivision

Administrator and become familiar with the Subdivision Regulations. This procedure does not require formal application or fee.

(B) SUBDIVISION TYPES.

(1) The subdivision review procedure shall consist of two types of subdivisions: major subdivisions and minor subdivisions.

(2) Major subdivisions are those subdivisions which:

- a. involve six lots or more,
- b. subdivisions that have lots that are more than ten acres in size,
- c. those subdivisions which involve the dedication of new street segments (but not simply widening),
- d. those subdivisions where special developments are involved as permitted by the Zoning Ordinance, and
- e. those subdivisions that involve dedication or reservation of land for open space, school sites and other public purposes.

(3) All other subdivisions shall be considered to be minor subdivisions.

(C) APPROVAL AUTHORITY.

The approval authority for the levels and types of subdivision approval shall be as follows:

(1) Preliminary Plats.

- a. Major Subdivisions – TRC and Town Board
- b. Minor Subdivisions - Subdivision Administrator

(2) Final Plats.

- a. Major Subdivisions – TRC and Town Board
- b. Minor Subdivisions - Subdivision Administrator

(D) PLAN AND PLAT REQUIREMENTS.

Plans and plats and supporting documents and material for the levels of subdivision approval shall be submitted in the form as provided for in the standards for such submittals contained in Section 153.11.

(E) PLAN AND PLAT SUBMITTAL AND REVIEW PERIODS.

Plans and plats, in the proper form, shall be submitted to the Subdivision Administrator for review and consideration of approval by the appropriate agency, according to the following schedule: (Note: The Subdivision Administrator may refuse to accept the submission of any plans, plats or supporting documents which in his opinion do not meet the standards for such submittals as contained in the Subdivision Administrator's Mapping Standards and this Ordinance.)

- (1) *Preliminary Plats - Minor Subdivisions.* Plats may be submitted at any time. The Subdivision Administrator shall either approve, approve conditionally or deny the approval of the Preliminary Plats within thirty (30) days of receipt. Approval, conditional approval or denial shall be in written and/or drawn form and dated.
- (2) *Preliminary Plats - Major Subdivisions.* Plats may be submitted at any time provided, however, in order to be eligible to be placed on an agenda of a TRC meeting, such submittal shall have been filed with the Subdivision Administrator at least seven (7) days prior to that meeting. The TRC shall approve, approve with conditions, or deny of the Preliminary Plat within thirty-five (35) days of its first consideration. The decision shall be in written and/or drawn form and dated.
- (3) *Construction Plans - Major Subdivisions.* Construction plans may be submitted following the TRC's approval of a preliminary plat for a major subdivision. In order to be eligible to be placed on an agenda of a TRC meeting, such submittal shall have been filed with the Subdivision Administrator at least seven (7) days prior to that meeting. The TRC shall approve, approve with conditions, or deny the Construction Plans within thirty-five (35) days of its first consideration. The decision shall be in written and/or drawn form and dated. (SEE SECTION 153.10 (B) FOR PLAN REQUIREMENTS)
- (4) *Final Plats* - Plats may be submitted at any time provided, however, in order to be eligible to be placed on an agenda of a TRC meeting, such submittal shall have been filed with the Subdivision Administrator at least seven (7) days prior to that meeting. The TRC shall recommend approval, approval with conditions, or denial of the Final Plat within thirty-five (35) days of its first consideration. The decision shall be in written and/or drawn form and dated.

(F) EFFECT OF APPROVALS - PREREQUISITES.

- (1) Preliminary Plat approval shall constitute tentative approval of the Final Plat if the Final Plat is in substantive agreement with the Preliminary Plat and shall entitle the subdivider to proceed to prepare street, storm drainage and utility construction plans, if applicable, and/or proceed to prepare the Final Plat. Approval of construction plans shall entitle the subdivider to proceed with construction of subdivision improvements for the Preliminary Plat and no construction, including grading, shall proceed without

such approval. In addition, the TRC may require, as a prerequisite to Preliminary Plat approval, the submittal for review and approval of all or part of subdivision construction plans in order to ascertain the feasibility of all or part of a proposed subdivision.

- (2) If a Final Plat of all or part of the area shown on a Preliminary Plat is not recorded in the Office of the Register of Deeds within twenty-four (24) months of approval of the Preliminary Plat, or if there is a lapse of more than twenty-four (24) months between the recording of sections, the Subdivision Administrator may require the resubmittal of the unrecorded portion as a Preliminary Plat.
- (3) Final Plat approval shall entitle the subdivider to record the Final Plat. A Final Plat must be recorded in the Office of the Register of Deeds within thirty (30) days of its approval by the Subdivision Administrator.
- (4) No Final Plat shall be approved for recording until all required subdivision improvements have been installed and approved or until the subdivider supplies an appropriate Guarantee of Installation as provided for in this Ordinance.
- (5) In addition, no Final Plat shall be approved for recording unless such plat is in substantial agreement, as determined by the TRC, with the approved Preliminary Plat. Final Plats not in substantial agreement shall be resubmitted as Preliminary Plats as provided for herein.
- (6) After the Final Plat is recorded, lots as shown on the plat may be sold or otherwise conveyed by reference to the Plat. Building permits may be authorized to be issued provided all improvements have been installed and inspected and approved by the Subdivision Administrator. The subdivider shall provide the Subdivision Administrator with a certified copy of the recorded Final Plat.
- (7) Approval and recording of the Final Plat shall constitute dedication by the subdivider of the right-of-way of each public street and utility and drainage easement shown on such plat. Such dedication, however, does not constitute acceptance by the town of such right-of-way, nor does it constitute acceptance for maintenance or for other purposes of the improvements within such rights-of-way and easements such as pavements, sidewalks, drainage facilities and other utility lines. Such right-of-way and utility improvements may be accepted by the Board of
- (8) Commissioners by resolution upon completion by the subdivider and inspection by the appropriate town staff. In addition, land designated on an approved and recorded Final Plat as public open space and similar public purposes shall be considered to be offered for dedication until the town has by resolution accepted such dedication and such land is deeded to the town. Until such dedication has been accepted, land so offered may be used for open space purposes by its owner or his designees and the town shall be held harmless of any liability involving such land. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use

without the express approval of the Board of Commissioners. (8) Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in this ordinance. Where the ordinance includes criteria for decisions that require an application of judgment, such judgment shall be based upon those criteria. [G.S. 160A-371]

(G) PRE-SALE CONTRACTS. The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision ordinance or recorded with the register of deeds, provided the contract does all of the following:

(1) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.

(2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.

(3) Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.

(4) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price. The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision ordinance or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision ordinance and recorded with the register of deeds. [G.S.160A-375(b)]

153.06. SUBDIVISION DESIGN STANDARDS AND REQUIRED IMPROVEMENTS

(A) GENERAL.

(1) All proposed subdivisions subject to the regulations of this Ordinance shall comply with this section and shall be so planned as to facilitate the most advantageous development of the entire community and shall bear a reasonable relationship to the adopted Transportation Plan.

(2) The general design of the subdivision shall take advantage of and be adjusted to the contour of the land so as to produce usable building sites and streets of reasonable gradients. Subdivision Plats shall be drawn in consideration of the suitability of the land and its capability to support and maintain the proposed development. Due consideration shall be given to such factors as topography, rock outcrops, flood damage prevention, erosion control, wetland preservation, storm water management, solar energy, tree preservation, noise and pollution control, habitat for endangered species, areas of historical, archaeological or architectural significance, and land use relationships in addition to other factors including those prescribed by this Ordinance.

(3) The TRC may require the subdivider to prepare an Environmental Impact Statement (EIS) pursuant to NCGS 113A-8 as part of the Preliminary Plat for any subdivision of two acres or more where in the TRC's opinion one or more of the suitability factors outlined in significant issue regarding the particular subdivision. The TRC may waive the EIS where an EIS or equivalent document is required by a state or federal agency for the same or essentially the same factor(s).

(4) The subdivider shall install the improvements specified herein and such improvements shall be at no cost to the town, except as set forth herein and except as may be otherwise provided for in the town policies. No improvements shall be installed until construction plans have been approved by the TRC and such other agency as may be appropriate or as required by law. As provided for in Section 153.0.7. (F) a Final Plat may be recorded prior to installation of any or all required improvements provided that a financial guarantee in a form acceptable to the town is given by the subdivider as provided for in this Ordinance.

(B) SUBDIVISION AND STREET NAMES.

(1) In no case shall the name of a proposed subdivision duplicate or be phonetically similar to an existing subdivision name within the jurisdiction unless the proposed subdivision lies adjacent to or is in close proximity to the existing subdivision.

(2) Proposed streets which obviously in alignment with others already exist or proposed and named shall bear the names of the existing or proposed ones. In no case shall the names of proposed streets duplicate or be phonetically similar to other existing street names in the jurisdiction irrespective of the addition of a prefix, suffix or word such as street, avenue, place, drive or court.

(3) Naming of proposed streets shall be coordinated with the Yadkin County E-911 Coordinator and/or other departments responsible for addressing.

(C) BLOCKS.

(1) Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single-tier lots are required to separate residential development from through vehicular traffic or another type of use or when abutting a water area.

(2) Blocks shall not be less than 400 feet nor more than 1,320 feet in length.

(D) LOTS.

(1) The size, shape and orientation of lots shall be appropriate for the location of the proposed subdivision, for the type development contemplated, and in consideration of the method of providing water and sewer facilities to the lots.

(2) It is the intent of this Ordinance that lot size, shape and orientation shall be controlled by the provisions of the Boonville Zoning Ordinance and the types of development permitted by that Ordinance. The configuration of lots in subdivisions designed for non-residential purposes may be omitted on the Final Plat. The final lot sizes may be determined on a lot by lot basis provided each meets the minimum requirements of the Zoning Ordinance for the district in which located. Every lot shall have sufficient area, dimensions and shape to permit a principal building to be constructed thereon in conformance with the applicable provisions of the Zoning Ordinance. Lots shall be designed so as to provide positive drainage away from building sites and individual lots shall be coordinated with the general storm drainage plan for the subdivision. Lot boundaries shall be made to coincide with natural and pre-existing man-made drainage ways to the extent practicable to avoid the creation of lots that can be built upon only by altering such rainageways. Lotting arrangements shall be made with due consideration given to not disturbing wetlands, rock outcrops and other such natural features. Side lines of lots should be at or near right angles or radial to street lines. All lots must have public street access and frontage meeting the requirements set forth in the Zoning Ordinance unless other development types are provided for in that ordinance. Parcels created through the subdivision process, which are not intended for building purposes shall be so designated and perpetually bound as "not-buildable" unless subsequently released through the subdivision process.

(E) STREETS AND STREETS IMPROVEMENTS.

The proposed street system shall extend existing and projected streets at not less than the required minimum width and shall be in conformance with the following criteria:

(1) *Conformance with Transportation Plan.* The location and design of streets shall be in conformance with the Transportation Plan. Where conditions warrant, right-of-way width

and pavement width in excess of the minimum street standards may be required. In any case where any part of a subdivision lies within the corridor of a thoroughfare shown on a Roadway Corridor Official Map adopted pursuant to North Carolina General Statutes chapter 136, Article 2E, no subdivision approval shall be granted with respect to the property in the Roadway Corridor. Provided, however, no subdivision plat approval shall be delayed by the provision of the Roadway Corridor Official Map procedure for more than three years from the date of its original submittal.

(2) *Street Classification.* The final determination of the classification of streets in a proposed subdivision shall be made by the TRC.

(3) *Conformance with Adjoining Street System.* The planned street layout of a proposed subdivision shall be compatible with existing or proposed streets and their classifications on adjoining or nearby tracts.

(4) *Access to Adjoining Property.* Where in the opinion of the TRC it is desirable to provide for street access to adjoining property, proposed streets shall be extended to the boundary of such property.

(5) *Reserve Strips, Half Streets and Private Streets.* Reserve strips and non-access easements adjoining street rights-of-way for the purpose of preventing access to or from adjacent property, (except those required to prevent access to Thoroughfares), private streets and half streets shall not be permitted under any condition.

(6) *Intersections.* Streets shall be designed so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle of less than 60 degrees. Streets crossing natural areas or streams shall cross at or near to right angles as possible within limits of topographic conditions. Offset intersections are to be avoided. A minimum intersection offset of 125 feet shall be maintained.

(7) *Cul-de-sacs.*

(a) Cul-de-sacs should not be used to avoid connection with an existing street, to avoid the extension of a thoroughfare or collector street, or to avoid connection to adjoining property.

(b) Permanent dead end streets shall not exceed 800 feet in length unless necessitated by topography or property accessibility and approved by the TRC. Measurement shall be from the point where the centerline of the dead end street intersects with the centerline of a through street to the center of the turnaround of the cul-de-sac. Cul-de-sacs shall be provided with a turn-around meeting town standards.

(c) Where one cul-de-sac extends from another cul-de-sac, the end of each cul-de-sac shall be no more than 800 feet from a through street as measured by the centerline of the streets.

(8) *Marginal Access Streets.* Where a tract of land to be subdivided adjoins a thoroughfare, the subdivider may be required to provide a marginal access street parallel to the thoroughfare or provide for through lots on a local street for the lots to be developed adjacent to the thoroughfare. Where through lots are established, such lots may be prevented from having direct access to the thoroughfare by driveways through the use of reserve strips or non-access easements.

(9) *Utilities, Street Lights and Storm Drainage Within Streets.* Utilities, street lights, sidewalks, storm drainage and other such facilities to be placed within the street right-of-way shall be placed in accordance with town standards. All utilities shall be placed underground.

(10) *Pavement, Curb and Gutter and Pavement and Side Ditch.* Pavement, curb and gutter to be placed in public streets shall be placed in accordance with town standards.

(11) *Street Design Criteria.* All street designs and construction within public street rights-of-way shall be in accordance with town standards. All utilities shall be placed underground.

(12) *Connection to State Streets.* An approved permit is required to connect to any existing state system street.

- (a) North Carolina General Statutes 136-102.6 "Compliance of Subdivision Streets with Minimum Standards of the Board of Transportation Required of Developers" requires that new public streets outside the town limits and changes to existing streets inside the town limits that are the responsibility of NCDOT be in accordance with the Minimum Right-of-Way and Construction Standards established by the Board of Transportation for acceptance on the State highway system. It is the intent of these standards and requirements, as set forth, to complement and not to conflict with the requirements of NCDOT as stated in NCGS 136-102.6. In all cases the most restrictive limitation or requirement or the requirement causing the highest standard of improvement shall govern. All proposed streets shall be constructed in accordance with the minimum Public Street Standards as shown in the Appendix. All street improvements shall be designed and installed in accordance with town standards and the approved construction plans. The subdivider's engineer shall furnish the town with a certified statement that all street improvements installed in the subdivision meet the minimum standards of NCDOT. Also, the District Engineer, or their representative, shall provide a letter to the Subdivision Administrator stating that the street complies with their minimum specifications as mentioned above. In addition, street improvements, in accordance with the street design guidelines shall be installed in the following situations:

(i) Any existing street segment that has not been accepted for maintenance by either the town or the North Carolina Department of Transportation, and that is to serve as the required frontage for one or more lots created pursuant to this Ordinance, shall be improved and dedicated to the public, as provided for above, in such a way that the street segment meets the standards of this Ordinance for the particular classification of street, including right-of-way width. Such street segment shall be directly connected to the existing public street system by way of at least one public street accepted for maintenance by either the Town of Boonville or the North Carolina Department of Transportation. No subdivision shall be permitted on any street that is an "island" not connected directly to the public street system.

(ii) Subdivisions that adjoin existing streets maintained by either the town or NCDOT shall dedicate additional street right-of-way necessary to meet the minimum width requirements for the type of classification of the adjoining street. When any part of the subdivision is on both sides of an existing street, the entire minimum right-of-way shall be provided. When the subdivision is located on only one side of an existing street, one-half of the minimum right-of-way, measured from the centerline of the existing street, shall be provided. The improvement requirements of this Section shall not apply to the subdivision of lots fronting on established streets that have already been accepted for maintenance by the town or NCDOT.

(iii) The TRC may require pavement and widening or pavement and widening and curb and gutter for turning lanes along any existing or proposed street that forms a significant entrance to a proposed subdivision where in the opinion of the TRC such improvements are necessary in order to provide for safe vehicular movement into and out of the proposed subdivision.

(iv) In cases where a street is stubbed into adjoining property future extension and such street serves as the frontage for one or more lots which are not corner lots, the TRC may require the paving of a temporary turn-around in a form similar to a Cul-de-Sac on such street where in their opinion such turnaround is necessary for the public convenience, safety and service. Temporary easements for such purposes may be required.

(F) DRINKING WATER IMPROVEMENTS.

(1) Any subdivision which has public water system lines available shall be required to extend the public water system throughout the subdivision to each lot located therein. All required water line extensions shall include appropriate valves, hydrants, taps and service to the property line of each lot as required by the standards of the town.

(2) For subdivisions within or partially within the town, the term "available" shall mean that there is an existing water line of adequate size and water flow and/or pressure either crossing the subdivision property or immediately available from an adjacent public right-

of-way or the town indicates its commitment to extend such a water line to the property line of the subdivision at no cost to the subdivider.

(3) For subdivisions located entirely outside the boundaries of the town but within the jurisdiction of this Ordinance, the term "available" shall mean that there is an existing water line of adequate size and water flow and/or pressure within the distances shown on the table below of the outside boundary line of the subdivision or the agency indicates its commitment to extend such a water line within the distances shown in Table 1 below of the property line of the subdivision at no cost to the subdivider and there are no legal or topographic problems which prevent the subdivider from connecting onto and extending the existing system to the subdivision. In the event there are phases to the subdivision or else the subdivision is a part of a larger tract of land owned or under the control of the subdivider, then, and in that event, public water service shall be deemed to be available if an existing or proposed public water system line extends or will be extended within the distances shown on the table below to the larger tract of land.

(4) In the event the town elects not to extend a water line of sufficient size, flow and/or pressure, to the subdivision (if in the town) or within the distances shown in Table 1 of the subdivision boundary (if outside the town) because of topographic features, legal obstacles, or financial reasons, then, the subdivider shall not be required to extend water lines to each lot nor provide water service to the subdivision.

(5) In any case where a public drinking water system and/or supply system intended to serve more than two (2) lots is proposed to be installed in a subdivision as part of the plan approval process, such system shall be considered to be a "Required Improvement" within the context of this section regardless of whether such a system is an extension of the town system or not and such system shall be required to be installed by the subdivider. This requirement includes both facilities within the subdivision and offsite facilities which are essential to providing the service to the property.

Table 1: Available Water System Lines

Water is available if the subdivision contains the number of lots listed in column one and public lines are within the distance shown in column two.

LOTS DISTANCE

2-10 200 feet

11-20 300 feet

21-50 600 feet

51-100 1000 feet

101+ 1500 feet

(G) SANITARY SEWERAGE IMPROVEMENTS.

(1) Any subdivision which has public sewer system lines available shall be required to extend the public sewer system throughout the subdivision to each lot located therein. All

required sewer line extensions shall include appropriate manholes, life stations, pumps, clean outs, taps and service to the property line of each lot as required by the standards of the town.

(2) For subdivisions within or partially within the town, the term "available" shall mean that there is an existing sewer line of adequate size and flow either crossing the subdivision property or immediately available from an adjacent public right-of-way or the town indicates its commitment to extend such a sewer line to the property line of the subdivision.

(3) For subdivisions located entirely outside the boundaries of the town, but within the jurisdiction of this Ordinance the term "available" shall mean that there is an existing sewer line of adequate size and flow within the distances shown on the table below of the outside boundary line of the subdivision or the town indicates its commitment to extend such a sewer line to within the distances shown on Table 2 below of the property line of the subdivision and there are no legal or topographic problems which prevent the subdivider from connection onto and extending the existing system to the subdivision. In the event there are phases to the subdivision or else the subdivision is a part of a larger tract of land owned or under the control of the subdivider, then, and in that event, public sewer service shall be deemed to be available if an existing or proposed public sewer system line extends or will be extended to within the distance shown on the table below of the larger tract of land.

(4) In the event the town elects not to extend a sewer line of sufficient size and flow, to the subdivision (if in the town) or within the distance shown on Table 2 below of the subdivision boundary (if outside the town) because of topographic features, legal obstacles, or financial reasons, then, the subdivider shall not be required to extend sewer lines to each lot nor provide sewer service to the subdivision.

(5) In any case where a sanitary sewerage system and/or treatment system intended to serve more than two lots is proposed to be installed in a subdivision as part of the plan approval process, such system shall be considered to be a "Required Improvement" within the context of this section regardless of whether such system is an extension of the town system or not and such system shall be installed by the subdivider. This requirement includes both facilities within the subdivision and off-site facilities which are essential to providing-the service to the property.

(6) In any case where an on-site sanitary sewer system is intended to serve one lot or more, the approval of such system by the Yadkin County Health Department shall be considered to be a "Required Improvement" within the context of this section.

Table 2: Available Sewer System Lines

Sewer is available if the subdivision contains the number of lots listed in column one and public lines are within the distance shown in column two.

LOTS DISTANCE

2-10 200 feet
 11-20 300 feet
 21-50 600 feet
 51-100 1000 feet
 101+ 1500 feet

(H) OVERSIZED WATER AND SEWER FACILITIES.

The town may, in order to serve future development, require the subdivider to install certain oversized water and sewer improvements and/or to increase such improvements to a size and/or extent beyond that necessary for the needs created by the subdivision. In such cases, the town shall enter into an agreement to reimburse the subdivider for the oversizing and/or extension based upon rates as agreed to by the town.

(I) STORM DRAINAGE IMPROVEMENTS.

(1) A comprehensive storm drainage system shall be planned and implemented for each subdivision in accordance with the general standards and requirements of this section. The general storm drainage plan shall be shown on the Preliminary Plat. Detail plans where required shall be submitted as part of the construction plan requirement. Where easements are required, they shall be noted on the Final Plat.

(2) Storm drainage plans shall be considered on an individual basis depending upon the situation within a given subdivision. Generally the following standards shall apply:

(a) *Types of drainage ways requiring treatment.*

(i) Those draining one acre of land or more.

(ii) Those carrying storm water runoff from public streets either existing or proposed.

(iii) Those carrying storm water runoff from large impervious surfaces other than streets.

(b) *Design Storms.*

(i) Open drainage channel - 25 year storm.

(ii) Enclosed systems - 10 year storm for collectors and 25 year storm for street crossing conduits and immediate downstream areas.

(c) Types of Treatment.

- (i) Enclosed subsurface drains.
- (ii) Open, unimproved channel.
- (iii) Open, improved channel.
- (iv) Open channel with flood plain and open space dedicated to the town. This option shall not be available except in cases where the Board of Commissioners agrees to accept such dedication prior to Final Plat approval.

(d) Easements.

- (i) Maintenance easements may be required depending upon the size of the drainage way and the maintenance responsibility as determined by the town. In any case where maintenance is to be the responsibility of the property owner, the town may require a right to enter for maintenance purposes where in the future the Board of Commissioners may determine that the public health, safety, or general welfare constitutes a public necessity for such maintenance.

(J) SIDEWALK IMPROVEMENTS.

Sidewalks are only required within the town limits and must be provided by the subdivider on at least one side of all proposed streets. Sidewalks are not required within the Town's extraterritorial jurisdiction. Sidewalk installation shall be in accordance with NCDOT standards for sidewalk construction in a public right-of-way.

(K) EASEMENTS.

To provide for electric, telephone and gas service, community antenna television distribution systems, water and sewer lines and other such facilities within the subdivision, appropriate utility easements not to exceed 30 feet shall be provided on the Final Plat. The locations of such easements shall be as determined by the Subdivision Administrator and based upon the approved construction plans. All utilities shall be placed underground. In addition, storm drainage easements may be required in order to carry out the storm drainage improvements as required in Section 153.07 (I).

(L) STREET NAME SIGNS.

In subdivisions located outside the town limits, the subdivider shall install street name signs at appropriate locations in accordance with the standards and specifications of Yadkin County. Inside the town limits the subdivider shall install standard street name signs in accordance with the town's standards and specifications.

(M) TRAFFIC CONTROL SIGNS AND MARKINGS.

In subdivisions outside the town limits, the subdivider shall install traffic control signs and pavement markings in accordance with the standards and specifications of the North Carolina Department of Transportation. Inside the town limits, the subdivider shall install traffic control signs and pavement markings in accordance with the town's standards and specifications.

(N) STREET LIGHTS.

Inside the town limits the subdivider shall install street lighting at appropriate locations in the subdivision in accordance with town standards. Outside the town limits the subdivider shall install the wiring for future street light installation at appropriate locations in the subdivision in accordance with town standards. All wiring shall be underground.

(O) MONUMENTS.

The subdivider shall install such monuments and other property markers as are required by North Carolina General Statutes Chapter 39, Article 5A and as are specified by the "Standards of Practice for Land Surveying" in North Carolina.

NOTE: Electric power, telephone, cable television, natural gas lines and other utilities which are proposed to be installed in the subdivision, and which are required to be shown on construction plans shall be "Required Improvements" within the context of this section.

(P) SUBDIVISION ENTRANCE SIGNS AND LANDSCAPED MEDIANS.

The TRC may permit subdivision entrance signs and landscaped medians provided they are entirely contained on private property and provided that the TRC determines that a satisfactory arrangement is in place to provide perpetual maintenance. Subdivision entrance signs shall be developed in accordance with the Boonville Zoning Ordinance.

(Q) PHASING.

Subdivisions may be designated to be constructed and platted in phases. Provided, however, the TRC may not approve a phasing plan when in its opinion such phasing will not provide for adequate public facilities to support any such phase or phases independent of the overall subdivision plan. In approving phases the TRC may require that additional streets, water and sewer facilities or other required public facilities be constructed as part of the phase or phases in order to ensure that sufficient public facilities will be in place to support such phase or phases independent of any future subdivision development.

153.07. GUARANTEE OF REQUIRED IMPROVEMENTS; WARRANTY AGAINST DEFECTS

(A) FINANCIAL GUARANTEE IN LIEU OF IMMEDIATE INSTALLATION FOR APPROVAL.

In lieu of requiring the completion, installation and inspection of all or any part of the required improvements as described in this Ordinance prior to Final Plat approval, the town may enter into a contract with the subdivider whereby the subdivider shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the Final Plat may be approved if all other requirements of this Ordinance are met. To secure this contract, the subdivider shall provide either of, or a combination of; the following guarantees to cover the costs of the proposed improvements:

(1) Cash or Equivalent Security.

(a) The subdivider shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the town or in escrow with a financial institution. The use of any instrument other than cash shall be subject to the approval of the town. The amount of deposit shall be equal to 120% of the estimated cost as approved by the Subdivision Administrator, of installing all required improvements. The initial cost estimate shall be the responsibility of the subdivider and certified by his engineer but the approval of the final cost estimate shall be made by the Subdivision Administrator.

(b) If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the town an agreement between the financial institution and himself guaranteeing the following:

(i) That said escrow account shall be held in trust until released by the Board of Commissioners and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and

(ii) That in the case of a failure on the part of the subdivider to complete said improvements within the time allotted, the financial institution shall, upon notification by the town and submission by the town to the financial institution of an estimate of the amount needed to complete the improvements, immediately either pay to the town the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the town any other instruments fully endorsed or otherwise made payable in full to the town.

(2) Governmental Guarantee.

In any case where a required improvement is to be provided by the State of North Carolina or any local government other than the town, the subdivider may provide, in lieu of the types of financial guarantee as provided for above, a letter from the appropriate

State or local government official guaranteeing the installation of the improvement in the required manner and within the time allotted. Provided, however, in any case where the cost of such improvement exceeds \$10,000 as determined by the town, such governmental Guarantee shall be in form of an approved Project Budget chapter where local government is to be the provider and an equivalent document where the State is to be the provider.

(B) DURATION OF FINANCIAL GUARANTEES.

- (1) The duration of a financial guarantee shall be of a reasonable period to allow for completion and acceptance of improvements. In no case shall the duration of the financial guarantee for improvements exceed 18 months.
- (2) All subdivisions whose public improvements are not completed and accepted at least thirty days prior to the expiration of the financial guarantee shall be considered to be in default, unless said guarantee is extended with the consent of the Board of Commissioners to a future date certain not to exceed six months.

(C) DEFAULT.

- (1) Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as specified in the escrow agreement, the surety or the financial institution holding the escrow account shall, if requested by the town, pay all or any portion of the escrow fund to the town up to an amount needed to complete the improvements based on an estimate by the town. Upon payment, the town, at its discretion, may expend such portion of said funds as deemed necessary to complete all or any portion of the required improvements. The town shall return to the subdivider any funds not spent in completing the improvements.
- (2) Default on a project does not release the subdivider from liability/responsibility, financial or otherwise, for the completion of the improvements.

(D) RELEASE OF GUARANTEE SECURITY.

The Subdivision Administrator may release a portion or all of any security posted as the improvements are completed and approved by the Administrator. Prior to such release the subdivider shall provide the Subdivision Administrator with a set of "as built" drawings certified by his Engineer.

(E) WARRANTY AGAINST DEFECTS.

- (1) Prior to the approval of the Final Plat or acceptance by the town of any improvements in any subdivision, the subdivider shall furnish to the town a written warranty against defects which shall guarantee the material and workmanship for a period of not less than one year from the date of such acceptance. Such warranty shall be accompanied by a

financial guarantee payable to the town equal to at least 50% of the cost of the installation of such improvements as determined by the Subdivision Administrator. Such financial guarantee as provided for in Section 153.08. (A) of this Ordinance.

(2) Upon successful performance of the improvements, as determined by the Board of Commissioners for the one year period, the financial guarantee shall be returned to the subdivider. Upon the failure of an improvement to perform within the generally accepted standards for the type improvement as determined by the Board of Commissioners, the subdivider shall be notified and given a reasonable period of time to correct the defects. Should the subdivider fail to act, fail to act in a timely manner, or otherwise fail to correct the defect(s), the Board of Commissioners shall find the subdivider in default and proceed in the same manner as provided for in Section 153.08. (C) of this Ordinance.

153.08. LEGAL PROVISIONS AND ENFORCEMENT

(A) INTERPRETATION, PURPOSE AND CONFLICT.

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction or imposes higher standards than those required by other ordinances, rules, regulations, or by easements, covenants, or agreements the provisions of this Ordinance shall govern so that, in all cases, the most restrictive limitation or requirement, or the requirement causing the highest standard of improvement, shall govern. Provided, however, in any case where the Zoning Ordinance specifically permits a development type not otherwise provided for in this Ordinance, the Zoning Ordinance shall prevail.

(B) EFFECT UPON OUTSTANDING PRELIMINARY PLATS.

(1) Nothing herein contained shall require any change in any Preliminary Plat which has received approval by the town prior to the time of the adoption of this Ordinance provided that such Preliminary Plat has been processed to completion and a Final Plat recorded in the Office of the Register of Deed within 18 months after the time of the adoption of this Ordinance. If the Final Plat of all or part of the area shown on any previously approved Preliminary Plat is not recorded in the Office of the Register of Deeds within 18 months after the time of the adoption of this Ordinance, such non-recorded area shall be subject to all the provisions of this Ordinance.

(2) After the effective date of this Ordinance, any Final Plat to be recorded based upon any outstanding Preliminary Plat shall follow the Final Plat approval procedures of this ordinance including the Guarantee of Installation provisions.

(3) In addition, nothing herein contained shall require any change in any Final Plat which has received approval by the town prior to the time of the adoption of this Ordinance provided that such Final Plat is prosecuted to completion in accordance with the terms of approval. In the event of default or the failure of the subdivider to perform in accordance with the conditions as approved, the town may, at its option, take lawful action pursuant to the Subdivision Ordinance in existence-at the time of the Final Plat approval or this Ordinance.

(C) EFFECT UPON NEW TERRITORY ADDED TO JURISDICTION.

(1) At any time when new territory is added to the jurisdiction of this Ordinance, such new territory shall immediately become subject to the provisions of this Ordinance. Any proposed subdivision or any subdivision in progress within such new territory shall proceed only in accordance with the following:

(a) Any subdivision for which a Final Plat has been recorded in the Register of Deeds Office pursuant to the approval of another local government, but which is subject to an outstanding guarantee to such local government for the installation of subdivision improvements, shall remain under the subdivision control of such local government until such time as such subdivision shall have been processed to completion. Provided, however, the town may not accept the dedication of any street or street improvements unless such street and street improvements meet the standards of this Ordinance and the town's Policy for Acceptance of streets for use and maintenance by the town.

(b) All other subdivisions shall meet all of the requirements of this Ordinance and it shall be the responsibility of the subdivider of any proposed subdivision or subdivision in progress to receive approval as provided for in this Ordinance before proceeding with any development. The subdivider shall arrange a conference with the Subdivision Administrator who shall determine the level and type of approval required and provide the subdivider with an approval track for the particular case.

(D) MODIFICATIONS.

The Planning Board may recommend and Board of Commissioners may modify the requirements of this Ordinance where, because of the size or shape of the tract to be subdivided, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this Ordinance would cause an unusual and unnecessary hardship on the subdivider. In granting Modifications, the Planning Board may recommend and Board of Commissioners may require such conditions as will secure, insofar as practicable, the objectives or requirements modified. In no case however, shall the Board of Commissioners, acting pursuant to this section, modify the terms or requirements of the Zoning Ordinance. Violation of any condition shall constitute a violation of this Ordinance. A modification granted as part of a plan approval shall have the same duration as the plan approval.

(E) AMENDMENT.

The Board of Commissioners may from time to time amend the terms of this Ordinance after a public hearing has been held and notice given as required by North Carolina General Statutes 160A-364. However, any proposed amendment shall be submitted to the Planning Board for review and recommendation prior to Board of Commissioners action. The Planning Board shall have 45 days from the date such amendment is first submitted for review to the Board to make its recommendation. If the Planning Board fails to make its recommendation within the specified time, it shall be deemed to have recommended in favor of the amendment.

(F) LIABILITY.

Acceptance of dedication of lands or facilities located within the jurisdiction of this Ordinance but outside the town limits shall not place on the town any duty to open, operate, repair or maintain any street, utility line, or other land or facility and the town shall in no event be held to answer in any civil action or proceeding for failure to open, repair or maintain any street located outside its corporate limits.

(G) VALIDITY.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Commissioners hereby declares that it would have passed this Ordinance and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

(H) VIOLATIONS; PENALTY.

(1) After the effective date of this Ordinance, no subdivision plat of land within the jurisdiction of this Ordinance shall be filed or recorded until it shall have been submitted to and approved by the appropriate approval authority.

(2) The Review Officer shall not certify for recording a plat of subdivision of land subject to this Ordinance that has not been approved in accordance with this Ordinance nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with the provisions of this Ordinance.

(3) Any person who, being the owner or agent of the owner of any land located within the jurisdiction of the Town of Boonville, thereafter subdivides his land in violation of the ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such ordinance and recorded in the office of the Yadkin County Register of Deeds, shall

be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town of Boonville may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance. Building permits required pursuant to G.S. 160A-417 [153A-357] may be denied for lots that have been illegally subdivided. In addition to other remedies, the Town of Boonville may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct. [G.S. 160A-376(a)]

(4) In order to properly enforce the provisions of the subdivision regulations as stated in this ordinance prior to the beginning of any construction, reconstruction, use, or alteration of any and, building, or structure, the appropriate permit must be obtained from the Subdivision Administrator. No permit will be issued unless there has been a determination made that the proposed use, building, or structure complies with the requirements of this ordinance.

153.09. APPLICATION AND PROCESSING FEES.

(A) Fees for the submittal of preliminary and/or final subdivision plats shall be established, and from time to time revised, by the Board of Commissioners of the Town of Boonville and shall be collected when a subdivision application is submitted. Fees shall be collected by the Subdivision Administrator or an administrative agent designated by the Town Board to administer the subdivision ordinance.

(B) Fees for variances and appeals of administrative decisions or interpretations shall be in accordance with the fee schedule established by Boonville Board of Commissioners and shall be collected by the Subdivision Administrator, Town Clerk, or an administrative agent designated by the Town Board to administer the subdivision ordinance.

153.10. PLAT SUBMISSION AND REQUIRED CERTIFICATES

(A) MAPPING STANDARDS.

Town of Boonville

Subdivision Ordinance

The following are the Standards of Maps to be submitted as part of the subdivision process. These standards are intended to be general and the subdivider may be required to file more maps than required or provide more information depending upon the circumstances of the particular case.

**TABLE 3: NUMBER AND TYPE OF MAP TO BE SUBMITTED MAP
INITIAL REVIEW BY SUBDIVISION ADMINISTRATOR TRC REVIEW
TOWN FILE (as approved)**

TABLE 3: NUMBER AND TYPE OF MAP TO BE SUBMITTED

MAP	INITIAL REVIEW BY SUBDIVISION ADMINISTRATOR	TRC REVIEW	TOWN FILE (as approved)
Preliminary Plat			
Minor	3 copies (1 reproducible)		4 copies (1 reproducible)
Major	3 copies (1 reproducible)	7 copies (1 reproducible)	4 copies (1 reproducible)
Construction Plans	1 sets (1 reproducible)	4 sets (1 reproducible)	1 Set (as built) mylar*
Final Plat	3 copies	7 copies (1 reproducible)	7 copies (1 mylar)

All maps shall be drawn to scale. The scale shall be not less than 1" = 200'. Construction plans shall be at a scale of not less than 1" = 50'. Preliminary Plats and Final Plats shall not exceed an outside dimension of 18" X 24"*ft. The Final Plat copies and mylar for Town file shall be copies of the Final Plat as presented for recording. If larger than 8 X 11 the reproducible copy may be in the form of a sepia.

*Must be certified by subdivider's engineer.

**Consult Yadkin County Review Officer for Record Map requirements.

(B) CONSTRUCTION PLANS.

(1) Plan and profile showing streets with complete design showing all horizontal curve data, vertical curve data, superelevation, etc. and DOT approvals such as driveway permits, DOT streets, etc.

(2) Storm drainage design and calculations with size, material, grade, length and cover on all pipes, and size, type and location of all catch basins.

(3) Location of all flood boundaries and temporary and permanent erosion control methods and proposed fill.

(4) Utility system plan and profile to show size, material, cover, and grade on all mains; size, depth and type of all manholes, location of all hydrants and cleanouts, location of all services and meter boxes, and location of easements.

(5) Distribution systems of electric, telephone, natural gas, cable antenna television and other services in right-of-way.

(6) A copy of the approved State Erosion Control Plan and approval letter prior to beginning construction.

(C) CERTIFICATIONS, NOTES, AND APPROVAL BLOCKS

(1) All subdivision final plats shall contain the following certificates if applicable:

(a) Certificate of Subdivision Administrator Approval.

Certificate of Subdivision Administrator Approval

Approved for recording by the Town of Boonville, N.C. Subdivision Administrator. This plat shall be recorded within thirty days of this date.

Date

Subdivision Administrator

(b) Certificate of Ownership and Dedication.

Certificate of Ownership and Dedication

I (We) hereby certify that I am (we are) owner(s) of the property shown and described herein, that the property is within the Subdivision Jurisdiction of the Town of Boonville and that I (we) hereby adopt this plan of subdivision with my (our) free consent and hereby establish all lots and dedicate to the public all streets, easements, walks, parks and other open spaces as shown hereon unless otherwise noted as private.

Date

Owner

STATE OF NORTH CAROLINA COUNTY OF _____
I, Notary Public in and for the County of _____,
and the State of North Carolina, do hereby certify that _____,
owner(s) personally appeared before me this day and acknowledged the due
execution of the foregoing certificate and upon his/her oath, swore to the truth of
the statements set forth therein. Witness my hand and notarial seal _____ this
day of _____, 20 _____.

Notary Public

My commission expires _____

SEAL

(c) Notary Certificate of Surveyor Statement.

STATE OF NORTH CAROLINA COUNTY OF _____

I, Notary Public in and for the County of _____, and the State of North Carolina, do hereby certify that, _____ surveyor, personally appeared before me this day and acknowledged the due execution of the foregoing certificate and upon his oath, swore to the truth of the statements set forth therein.

Witness my hand and notarial seal this day of _____, 20_____.

Notary Public

My commission expires _____ SEAL

(d) Certificate of Survey and Accuracy.

Certificate of Survey and Accuracy

I, certify that this map as (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision)(a deed description recorded in Book _____, Page _____, of the Yadkin County Registry) (other); that the error of closure as calculated by latitudes and departures is 1: _____; that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____, and that this map was prepared in accordance with G.S. 47-30.

Witness my hand and seal this day of, A.D., 20 _____.

Surveyor

License or Registration number

(maximum allowable error: 1:10,000)

SEAL

(e) NCDOT Construction Standards Certification.

(For all Plats outside town limits involving new street right-of-way and any plat inside town limits which changes a State system street)

Department of Transportation
Division of Highways
Proposed Subdivision Road
Construction Standards Certificate

Approved: _____
District Engineer

Date: _____

(f) On-site Water and/or Sewer Note. (where appropriate)**On-site Water and/or Sewer Note.**

Note: (ALL the LOTS) or (LOTS #) as shown on this Plat are Proposed to be served with on-site water and/or sewer systems. The lots as shown meet the minimum size prescribed by the Yadkin County Health Department for such system(s). However, the recording of this Plat does not guarantee that any such lots will meet the requirements for the approval by the Health Department for such on-site system(s).

(g) Special Flood Hazard Area Note. (word to represent actual situation)**Special Flood Hazard Area Note**

(Part of) this property (does) (does not) lie in a Special Flood Hazard Area
Reference: Floodway Panel # _____

Date: _____ (of Panel)

(If part of the property is in a Special Flood Hazard Area it shall be shown graphically on the Plat.)

(h) Register of Deeds Certificate.

State of North Carolina, _____ County

The foregoing certificate of, Notary Public, is certified to be correct. This instrument was presented for registration and recorded in Map _____ Book _____, Page _____, this day of _____, 20 _____ at _____ a.m./p.m.

Register of Deeds

(i) Statement Required for All Plats.

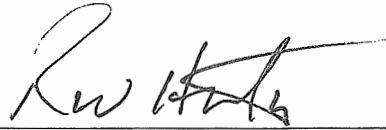
All zoning information on this plat is shown for illustrative purposes only. Dimensional requirements for all lots in this subdivision should be obtained from the Town of Boonville Subdivision Administrator.

(j) Statement for Exempt Plats.

I hereby certify that this subdivision plat for recordation is an exception to the subdivision requirements of the Town of Boonville, North Carolina.

Date

Subdivision Administrator



Russell (Rusty) Hunter, IV, Mayor

Attested to:

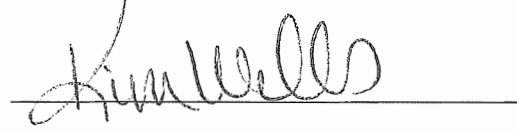


TABLE OF SPECIAL ORDINANCES

Table

- I. ANNEXATIONS**
- II. FRANCHISES**
- III. STREETS; DEDICATIONS AND CLOSINGS**
- IV. ZONING**

TABLE I: ANNEXATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
5	6-5-1973	Annexation of property beginning at a stake on the bank of the Tanyard Branch in Harrison Carver's line and ending with the Ellis Park line north 6 degrees, west 115 feet to an iron stake; then south 87 degrees east, 315 feet.
6	6-5-1973	Annexation of property beginning at a point in the center of the intersection of Frank Ruth Drive and ending from the centerline of Willow Brook Avenue north three degrees, east 1,000 feet to a point; thence south 88 degrees, east 220 feet to the beginning, except a small part of land which is already in the town limits.
49	6-5-1973	Annexation of property described in Plat Book 1, page 104 of the Yadkin County Registry.
7	6-6-1973	Annexation.
10	7-6-1976	Annexation of property described in the deed recorded in Deed Book 104 at page 161 of the Yadkin County Registry, containing 0.88 acre, more or less.
50	7-6-1976	Annexation of property described in Deed Book 42 at page 21 and Deed Book 31, page 30 of the Yadkin County Registry, containing 3.28 acres, more or less.
13	10-4-1977	Annexation of property described in Deed Book 117 at page 215, Plat Book 4, page 125 of the Yadkin County Registry, containing approximately one acre.
15	3-6-1979	Annexation of property described in Deed Book A212 at page 161, Plat Book 3, page 32, Tract 1 of the Yadkin County Registry, containing 11.8 acres, more or less.

Boonville - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
17	6-5-1979	Annexation of three tracts: the first described in Plat Book 4, page 58; the second described in Plat Book 1, page 108; and the third described as part of the property owned by the Boonville Presbyterian Church which has not been previously inside the town limits.
36	9-4-1984	Annexation of property described in Deed Book 102 at page 254 and Book A215, page 710 of the Yadkin County Registry, plus a part of Williams Street.
38	5-7-1985	Annexation of property beginning at a point in the western right-of-way line of River Road and ending with the Boonville Presbyterian Church line north 86 degrees, east 301 feet.
41	3-4-1986	Annexation of property described as Lots 6 through 13 of the East End Development in Plat Book 1, page 108.
46	9-2-1986	Annexation.
51	11-12-1986	Annexation of property bounded by natural boundaries and/or lands owned by Carrie Dobbins and Ed Pinske, on the east by Dewey Combs, on the south by the center of NC Highway 67 and on the west by Thad Reece heirs, containing 0.864 acres, more or less.
52	11-12-1986	Annexation of property containing 6.3 acres, more or less.
70	5-1-1990	Annexation of property containing 11.5 acres, more or less.
74	11-6-1990	Annexation of property beginning at a stake set in the common corner of Lot 8 and Lot 9 of the Henry Oakes Development and ending at the continuance of Rock of Ages Baptist Church's line, south ten degrees and east 93 feet.

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
76	2-5-1991	Annexation of two tracts: the first as described in Deed Book 40, page 592, containing 1.40 acres, more or less; and the second as described in Deed Book 80, page 242, containing 4.50 acres, more or less.
89	6-1-1993	Annexation of five tracts all described in Plat Book 1, page 108, known as the East End Development.
101	4-4-1995	Annexation of Lots 1 through 5 of the East End Development, J.A. Speas property, located on NC Highway 67, and being part of the property set out in a plat of survey recorded in Plat Book 1, page 108.
102	4-4-1995	Annexation of property located on NC Highway 67 which is recorded in Plat Book 1, page 108.
103	4-4-1995	Annexation of two tracts both containing 20,000 square feet.
104	4-4-1995	Annexation of Lots 20 and 21 in Block Three of the J.S. Kerr property.
105	6-19-1995	Annexation of property beginning at a stake in the corner of Winston Avenue and Kerr Street to the alley; thence west with the alley to a stake, corner of Angel lot; thence about north with Angel's line to Winston Avenue; thence east with Winston Avenue to the beginning, including Lots 10 and 11 in Block 3 of the J.S. Kerr property, being bought by M.P. Gough.
110	4-2-1996	Annexation of property containing 1.986 acres, more or less, bounded, now or formerly, by natural boundaries and/or lands owned by and/or in the possession of persons as follows: north by the lands retained by the grantor, east by Fred Sizemore et al. (Deed Book 85, page 43), south by Henry Oakes (Deed Book 88, page 279) and southwest by Johnny G. Sizemore (Deed Book 299, page 514); said tract being a portion of the lands bearing Tax Map No. 4991(00)41-5161.

Boonville - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
111	5-7-1996	Annexation of property bounded, now or formerly, by natural boundaries and/or lands owned by and/or in the possession of persons as follows: north by Chatham Manufacturing Acquisition Corp. (Record Book 326, page 630, parcel A), east by Chatham Manufacturing Acquisition Corp. (Record Book 326, page 630, parcel B) and Evan Vestal et ux. (Deed Book 66, page 41), south by Evan Vestal et ux. and NC Highway 67 and west by Jeffrey W. King (Record Book 280, page 802) and Chatham Manufacturing Acquisition Corp. (parcel A); said lands being a remainder of real property described in Book 77, page 278 and Book 78, page 633.
113	11-5-1996	Annexation of property containing 4.472 acres, more or less and bounded, now or formerly, by natural boundaries and/or lands owned by and/or in the possession of persons as follows: north by Teresa C. Parker, east by Claude Driver and Samuel Richardson, south by the Roy W. Reece Estate and west by Frank Pointdexter; said tract lying approximately 0.2 mile south from the intersection of Lake Drive and NC Highway 67.
114	2-4-1997	Annexation of property at a point center of NC Highway 67 in I.C. Collins line runs north 3.5 degrees east 4 chains to iron stake in said Collins line; thence north 88 degrees west 3.5 chains to an iron stake; thence south six degrees west 4 chains to point center of NC Highway 67; thence with center of said highway south 87 degrees east 3.72 chains to a point of beginning 1.44 acres, more or less.
115	9-2-1997	Annexation of two tracts, one owned by Billy R. Driver and one owned by Ladean S. Collins.
118	4-3-2001	Annexation of Lots 31, 32 and 33 of the East End Development, J.A. Speas property.
-	4-3-2001	Annexation of two tracts, one being Tax Map No 4990(00)98-2780.

Diane Myers
S. Carolina Ave
2022

Worth Shover
Property on
Woodhuff
2017

Derrick Hill
Lake Dr.
Jan. 7, 2025

TABLE II: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
3	- -1964	Granting a franchise to the Piedmont Natural Gas Company, Inc. to sell and distribute gas in the town for a period of 60 years.
45	- -	After granting a franchise to Multichannel Communications of North Carolina, Inc. (MCNC) to construct, own and operate a community antenna television system in the town and MCNC assigning all rights under the franchise to Enstar Communications Corporation, the town grants its consent to the assignment of the franchise from Enstar Communications Corporation to Bent and Associates, Inc..
62	6-7-1988	The town grants its consent to the assignment of the community antenna television system franchise from Bent and Associates, Inc. to Star Cable Associates.
66	5-2-1989	Granting a franchise to Duke Power Company to construct and maintain its lines for the transmission and distribution of electricity along, over and under the highways and streets of the town for the term of 60 years.
108	11-7-1995	Providing for the transfer and assignment of a cable television franchise from Star Cable Associates to Telecable Associates, Inc. and from Telecable Associates, Inc. to Time Warner Entertainment - Advance/Newhouse Partnership.
123	5-11-1998	Granting a franchise to Frontier Utilities of North Carolina, Inc. the right to furnish, sell and distribute gas to the town for 20 years.

Boonville - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	- -2001	Granting a cable television franchise to Time Warner Entertainment - Advance/Newhouse Partnership (TWEAN) to construct, operate and maintain a cable television system in the town for ten years, expiring on August 18, 2011.

TABLE III: STREETS; DEDICATIONS AND CLOSINGS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
87	3-2-1993	Accepting the dedication of Depot Street for public use.
119	9-2-1997	Closing Hillcrest Street.
124	5-11-1998	Closing a portion of East Center Street.

TABLE IV: ZONING

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
4	2-20-1973	Rezoning property located in the town and adjoining the lands of the Boonville Colored Church, the Boonville Colored Cemetery, E.G. Stinson Food Market lands, U.S. Highway 67 from R-15 Low Density Residential District to C-S Community Shopping District.
18	6-5-1979	Rezoning property located on the south side of U.S. Highway 67, containing 2.53 acres, more or less, from C-S Community Shopping District to R-10 Medium Density Residential District.
21	4-1-1980	Rezoning property beginning at an iron stake on the east margin of Lon Avenue from R-15 Low Density Residential District to R-10 Medium Density Residential District.
23	11-3-1981	Rezoning property containing 13.590 acres, more or less, from R-A Residential Agriculture District to M-1 Industrial District.
37	11-12-1984	Rezoning property containing 0.742 acres, more or less, from H-C Highway Commercial District to R-10 Medium Density Residential District.
40	2-4-1986	Rezoning property containing 13,734 square feet, more or less, from R-10 Medium Density Residential District to C-S Community Shopping District.
43	5-6-1986	Rezoning property containing 0.83 acres, more or less, from R-15 Low Density Residential District to R-A Residential Agriculture District.
57	10-6-1987	Rezoning property from R-A Residential Agriculture District to M-1 Industrial District.

Boonville - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
58	12-1-1987	Rezoning property to H-C Highway Commercial District.
94	12-7-1993	Rezoning property known as the J.R. Finney Estate, containing 4.5 acres, more or less, from R-10 Medium Density Residential District to C-S Community Shopping District.
121	3-3-1998	Rezoning property containing 18.6147 acres, more or less, from R-10 Medium Density Residential District to C-S Community Shopping District.
-	10-28-2002	Vaughn-Bassett rezoning of property from R-10 Medium Density Residential District to M-1 Industrial District.
-	12-3-2002	Rezoning Food Lion lots from R-10 Medium Density Residential District to C-S Community Shopping District.

PARALLEL REFERENCES

References to North Carolina General Statutes
References to Resolutions
References to Ordinances

REFERENCES TO NORTH CAROLINA GENERAL STATUTES

<i>G.S. Section</i>	<i>Code Section</i>
1-593	10.05
14-4	50.999, 52.999, 71.99, 72.99, 73.99, 90.99, 91.99, 92.08, 93.99, 94.99, 111.99, 112.99, 130.99, 131.99, 150.999
14-4(a)	10.99, 32.99, 93.99
14-4(b)	50.999
14-202.10	152.246
14-269	131.01
14-304 through 14-309	110.12
14-360	94.38
18B-1000(5)	152.246
19A-24	94.36
20-141	70.01
20-158	71.99
20-158(a)	Ch. 74, Sch. II
20-162.1	Ch. 75, Sch. I
44A-2(d)	72.99
Chapter 53, Article 22	110.12
66-385 through 66-399	110.12
105-277.1 et seq.	152.246
Chapter 105A	51.04
106-381	94.39
Chapter 110	152.135, 152.136
122C-3(11b)	152.246
130A-185	94.02
130A-200	94.39
143-215.6A through 143-216.6C	52.115
153A-123	94.99
153A-212	32.15
153A-344.1	152.033
Chapter 160	Charter § 14-1/2
160A-1(3)	152.245
160A-22	152.010
160A-31	152.033
160A-58.1	152.033
160A-86	33.01
160A-101	30.02

Boonville - Parallel References

<i>G.S. Section</i>	<i>Code Section</i>
160A-102	30.02
160A-174	32.01, 73.01, 93.02
160A-175	10.99, 111.99, 52.116
160A-181	113.01
160A-188	94.03
160A-193	92.07
160A-296 et seq.	71.02
160A-288	32.15
160A-303.1	50.999
160A-360	152.010
160A-364	152.048
160A-384	152.028
160A-385	152.050
160A-385.1	152.033
160A-388	152.071
160A-418	152.033
160A-422	152.033
160A-441	150.001, 150.085
160A-443	150.089
160A-443(5)	150.091
160A-443(6)	150.092
160A-446(f)	150.089
160A-446(g)	150.089
Chapter 160A, Article 19	152.010
Chapter 160A, Part 2 of Article 7	30.02
Chapter 160A, Article 10	150.039, 150.092
Chapter 160A, Article 19, Part 3	152.001, 152.300
Chapter 163	Charter § 4
163-292	Charter § 4
164-7	10.14
168-22	152.246

REFERENCES TO RESOLUTIONS

<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
31	--	31.02
33	--	32.15
-	1-4-2011	33.01—33.03
-	12-12-2011	32.30
-	3-12-2012	30.01

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
-	--	Ch. 75, Sch. I
-	--	111.01—111.07, 111.99
45	--	TSO II
1	3-6-1961	71.02, 71.99
3	- -1964	TSO II
4	2-20-1973	TSO IV
5	6-5-1973	TSO I
6	6-5-1973	TSO I
49	6-5-1973	TSO I
7	6-6-1973	TSO I
10	7-6-1976	TSO I
50	7-6-1976	TSO I
13	10-4-1977	TSO I
15	3-6-1979	TSO I
16	5-10-1979	93.03, 93.99
17	6-5-1979	TSO I
18	6-5-1979	TSO IV
19	10-2-1979	150.082, 150.086—150.094
21	4-1-1980	TSO IV
23	11-3-1981	TSO IV
35	7-3-1984	150.085—150.094
36	9-4-1984	TSO I
37	11-12-1984	TSO IV
38	5-7-1985	TSO I
42	8-6-1985	52.135, 52.999
44	8-6-1985	52.135, 52.999
40	2-4-1986	TSO IV
41	3-4-1986	TSO I
43	5-6-1986	TSO IV
46	9-2-1986	TSO I
51	11-12-1986	TSO I
52	11-12-1986	TSO I
54	2-3-1987	52.001—52.005, 52.020—52.040, 52.055, 52.070—52.080, 52.095—52.101, 52.115—52.120, 52.999
57	10-6-1987	TSO IV

Boonville - Parallel References

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
-	11-2-1987	52.021, 52.022, 52.024
58	12-1-1987	TSO IV
59	5-1-1988	112.01—112.05, 112.99
61	5-3-1988	113.01, 113.99
62	6-7-1988	TSO II
66	5-2-1989	TSO II
70	5-1-1990	TSO I
71	5-1-1990	151.01—151.07
74	11-6-1990	TSO I
76	2-5-1991	TSO I
80	5-7-1991	151.05, 151.06
87	3-2-1993	TSO III
89	6-1-1993	TSO I
93	9-7-1993	150.001—150.003, 150.015—150.020, 150.035—150.039, 150.041, 150.055, 150.070—150.072, 150.999
94	12-7-1993	TSO IV
99	6-28-1994	31.01
101	4-4-1995	TSO I
102	4-4-1995	TSO I
103	4-4-1995	TSO I
104	4-4-1995	TSO I
105	6-19-1995	TSO I
108	11-7-1995	TSO II
110	4-2-1996	TSO I
111	5-7-1996	TSO I
113	11-5-1996	TSO I
114	2-4-1997	TSO I
115	6-3-1997	TSO I
117	8-5-1997	30.02
118	9-2-1997	TSO I
119	9-2-1997	TSO III
121	3-3-1998	TSO IV
123	5-11-1998	TSO II
124	5-11-1998	TSO III
126	8-4-1998	32.01—32.04, 32.99
-	- -1999	70.01, 70.02, 70.99, 71.01, 71.99, 72.01, 72.99, Ch. 74, Sch. I, Ch. 74, Sch. II, Ch. 75, Sch. I, Ch. 75, Sch. II, Ch. 75, Sch. III
-	- -1999	90.01—90.05, 90.20, 90.99, 130.01, 130.02, 130.99, 131.01, 131.02, 131.99

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
-	6-1-1999	93.02, 93.99
-	7-6-1999	92.01—92.09
-	9- -2000	92.03
-	- -2001	TSO II
-	4-3-2001	TSO I
-	6-5-2001	152.010
-	10-28-2002	TSO IV
-	12-3-2002	TSO IV
080205	8-2-2005	73.01—73.04, 73.99
-	2-5-2008	91.01—91.07, 91.99
-	2-5-2008	93.01
-	7-5-2011	112.01—112.05, 112.99
-	12-12-2011	50.001, 50.002, 50.015, 50.016, 50.030, 50.045—50.047, 50.060—50.062, 50.075—50.078, 50.999
-	6-18-2012	50.001, 50.002, 50.015, 50.016, 50.030, 50.045—50.047, 50.060—50.062, 50.075—50.078, 50.999
-	9-4-2012	110.01—110.12
-	10-2-2012	152.001—152.009, 152.025— 152.033, 152.045—152.050, 152.065—152.071, 152.085— 152.093, 152.105—152.109, 152.120—152.161, 152.175— 152.186, 152.200—152.208, 152.220—152.231, 152.245, 152.246, 152.260—152.265, 152.280—152.285, 152.300—152.303, 152.999
-	3-26-2013	94.01—94.04, 94.15—94.17, 94.30—94.40, 94.50, 94.51, 94.65, 94.66, 94.99
-	9-26-2013	30.01
-	9-26-2013	51.01—51.11
-	9-26-2013	94.01—94.04, 94.15—94.17, 94.30—94.40, 94.51, 94.51, 94.65, 94.66, 94.99

INDEX

INDEX

ABANDONED STRUCTURES

- Alternative remedies, 150.093
- Building Inspector defined, 150.094
- Costs of lien on premises, 150.092
- Duties of Building Inspectors, 150.086
- Finding; intent, 150.085
- In rem action by Inspectors; placarding, 150.091
- Methods of service of complaints and orders, 150.090
- Powers of Building Inspectors, 150.087
- Procedure for enforcement, 150.089
- Standards of enforcement, 150.088

ACCESSORY STRUCTURES AND USES, 152.093 (See also ZONING)

ADULT ESTABLISHMENTS, 152.121

AGRICULTURE, BONA FIDE FARMS, 152.122

ALCOHOL

- Consumption on public property, 130.01
- Possession of open container, 130.02

ALCOHOLIC BEVERAGE CONTROL COMMISSION, 30.01

AMUSEMENT PARKS, AGRICULTURAL FAIRS, CARNIVALS, 152.123

AMUSEMENT PLACES

- Places of amusement regulated, 113.01
- Penalty, 113.99

ANIMAL BOARDING AND GROOMING SERVICES, 152.124

ANIMAL CONTROL

- Definitions, 94.02
- Domesticated Animals
 - Animals creating a nuisance, 94.34
 - Confinement and running at large, 94.30
 - Cruelty to animals, 94.38
 - Destruction of animals which cannot be seized by reasonable means, 94.33

ANIMAL CONTROL (Cont'd)

Domesticated Animals (Cont'd)

- Disposition of unwanted animals, 94.37

- Humane treatment required; poisoning, abandonment and the like prohibited, 94.36

- Impoundment and reclaiming captured animal, 94.32

- Possession of animals and strays, 94.31

- Teasing or molesting prohibited, 94.40

- Vicious and dangerous animals, 94.39

- Wearing collar with rabies vaccination tag required, 94.35

- Enforcement and remedies, 94.65

- Establishment of bird sanctuary, 94.03

Exotic/Dangerous Animals

- Inherently dangerous exotic animals, 94.51

- Prohibition of certain animals, 94.50

- Interference with the Police Department, 94.66

Livestock

- Fenced lots or enclosures, 94.17

- Keeping livestock, swine and fowl, 94.15

- Location of fenced lot, enclosures, stable or bar, 94.16

- Penalty, 94.99

- Procedure upon striking animal with a vehicle, 94.04

- Purpose and intent of chapter, 94.01

ANIMAL HOSPITAL AND ANIMAL BOARDING AND GROOMING SERVICES, 152.124

ANIMAL KENNELS, ANIMAL HOSPITAL AND ANIMAL BOARDING AND GROOMING SERVICES,
152.124

ANIMAL SHELTERS, 152.124

ANNEXATIONS, TSO I

AUTO SALVAGE, 152.143

AUTOMATIC TELLER MACHINES (ATMS), 152.125

AUTOMOBILE SERVICE STATION, CONVENIENCE STORE, 152.126

BANQUET AND EVENT FACILITIES, 152.127

BED AND BREAKFAST INN, 152.128

BOARD OF ADJUSTMENT

- Conflict of interest, 152.071

- Establishment, 152.065

- Meetings, 152.067

- Organization, 152.066

BOARD OF ADJUSTMENT (Cont'd)

Powers and duties, 152.069

Quorum, 152.068

Rehearings and appeals from Board of Adjustment decision, 152.070

BRUSH

Brush collection, 50.077

Brush collection; guidelines, 50.078

Late fall leaf collection, 50.075

Late fall leaf collection; guidelines, 50.076

BUILDING CODE (See MINIMUM HOUSING CODE)**BURNING; OPEN (See OPEN BURNING)****BUSINESS/PRIVILEGE LICENSING**

Application, 110.10

Contents of license; copy to be kept by Town Clerk, 110.11

Definitions, 110.02

Downtown Design Overlay District, Ch. 110, App. A

License must be displayed at place of business licensed, 110.05

License required for every place of business, 110.04

New license if business moved or sold, 110.08

No abatement of license fee, 110.06

Personal nature of licenses, 110.09

Purpose, 110.01

Schedule of license fees, 110.12

Term, 110.07

Unlawful to conduct business without a license, 110.03

BY-LAWS; TAXATION, Charter § 5**CAR WASH**

Automatic, self service, 152.130

Full service, 152.131

CARNIVALS, 152.123**CHARTER**

Application of general municipal law to Town of Boonville, Charter § 14-1/2

By-laws; taxation, Charter § 5

Collection of taxes, Charter § 8

Corporate limits, Charter § 2

Election officers, Charter § 7

Elections; qualifications of electors, Charter § 4

Incorporated; corporate name; corporate restrictions, Charter § 1

Intoxicating liquors not to be sold except by act of commissioners, Charter § 6

CHARTER (Cont'd)

- Oath of officers, Charter § 11
- Officers; temporary officers, Charter § 3
- Power and duty of mayor, Charter § 12
- Ratified, Charter § 16
- Regulating the presentation of claims, Charter § 15
- Streets; consideration of land, Charter § 10
- Taxation, Charter § 9
- Unpaid fines to be worked out on streets, Charter § 14
- Vacancies in office; how filled; mayor pro tem, Charter § 13

CLOSINGS, TSO III

CODE OF ETHICS

- Code of Ethics, 33.03
- General principles, 33.02
- Preamble, 33.01

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 code; effect of new ordinances, 10.17
- Reasonable time; computing time, 10.12
- 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

COLLEGE OR UNIVERSITY, 152.132

CONVENIENCE STORE, 152.126

CORPORATE LIMITS, Charter § 2

COUNCIL-MANAGER FORM OF GOVERNMENT, 30.02

DANGEROUS ANIMALS

Inherently dangerous exotic animals, 94.51

Prohibition of certain animals, 94.50

DAY CARE CENTER, 152.135

DAY CARE HOME, 152.136

DEDICATIONS AND CLOSINGS, TSO III

DOGS (See ANIMAL CONTROL)

DOMESTICATED ANIMALS (See ANIMALS)

DOWNTOWN DESIGN OVERLAY DISTRICT, Ch. 110, App. A

Applicability, 152.261

Development standards, 152.263

Exemptions, 152.262

Permit applications, 152.265

Procedures, 152.264

Purpose, 152.260

DRY CLEANING SERVICES, LAUNDRY PLANTS, 152.137

ELECTIONS; QUALIFICATIONS OF ELECTORS, Charter § 4

EMPLOYEES

Claims and judgments sought or entered against town officers or employees, 31.02

Safety policy, 31.01

ETHICS CODE

Code of Ethics, 33.03

General principles, 33.02

Preamble, 33.01

EXOTIC/DANGEROUS ANIMALS

Inherently dangerous exotic animals, 94.51

Prohibition of certain animals, 94.50

FAIRS, CARNIVALS, 152.123

FRANCHISES, TSO II

GARBAGE AND RECYCLING

Bulk Item Pick-Up

Acceptable items, 50.046

Nonacceptable items, 50.047

Policy, 50.045

GARBAGE AND RECYCLING (Cont'd)

- Definitions, 50.001
- Electronics Collection and Recycling
 - Policy, 50.030
- Garbage/Recycling
 - Commercial guidelines, 50.016
 - Residential guidelines, 50.015
- Penalty, 50.999
- Recycling Collection
 - Acceptable and nonacceptable materials, 50.062
 - Guidelines, 50.061
 - Policy, 50.060
- Regulations, 50.002
- Yard Waste Collection (Leaves and Brush)
 - Brush collection, 50.077
 - Brush collection; guidelines, 50.078
 - Late fall leaf collection, 50.075
 - Late fall leaf collection; guidelines, 50.076

GASOLINE POWERED VEHICLES ON SIDEWALKS

- Authority of chapter, 73.01
- Definition, 73.02
- Penalty, 73.99
- Prohibitions, 73.04
- Purpose, 73.03

GROUP CARE FACILITY, GROUP CARE HOME, 152.139**HAZARD MITIGATION PLAN**

- Adoption, 32.30

HOTEL OR MOTEL, 152.140**HOUSING CODE; MINIMUM (See MINIMUM HOUSING CODE)****INDUSTRIAL EQUIPMENT, SALES, SUPPLIES AND REPAIR, 152.141****INTOXICATING LIQUORS NOT TO BE SOLD EXCEPT BY ACT OF COMMISSIONERS, Charter § 6****JUNKYARD, AUTO SALVAGE, 152.143****LANDSCAPING, SCREENING AND BUFFER AREAS**

- Alternate methods of compliance, 152.203
- Applicability, 152.201
- General provisions, 152.202
- Planting list, 152.208
- Preservation of existing trees, 152.205

LANDSCAPING, SCREENING AND BUFFER AREAS (Cont'd)

- Purpose, 152.200
- Required landscaping areas, 152.204
- Screening requirements, 152.206
- Unoccupied lot areas, 152.207

LAUNDRY PLANTS, 152.137

LEAVES AND BRUSH

- Brush collection, 50.077
- Brush collection; guidelines, 50.078
- Late fall leaf collection, 50.075
- Late fall leaf collection; guidelines, 50.076

LIVESTOCK

- Fenced lots or enclosures, 94.17
- Keeping livestock, swine and fowl, 94.15
- Location of fenced lot, enclosures, stable or bar, 94.16

LOADING REQUIREMENTS (See also ZONING)

- Enforcement, 152.221
- Lighting, 152.228
- Loading and unloading, 152.231
- Parking areas adjacent to public areas, 152.230
- Parking lot aisles, 152.225
- Parking lot paving, 152.224
- Parking lot spaces, 152.226
- Parking space to be required and permanent, 152.222
- Purpose and intent, 152.220
- Safety barriers, 152.229
- Schedule of parking spaces, 152.227
- Use of parking lots permitted (street parking), 152.223

MANUFACTURED HOMES, 152.144

MAYOR; POWER AND DUTY OF, Charter § 12

MINIMUM HOUSING CODE

- Abandoned Structures
 - Alternative remedies, 150.093
 - Building Inspector defined, 150.094
 - Costs of lien on premises, 150.092
 - Duties of Building Inspectors, 150.086
 - Finding; intent, 150.085
 - In rem action by Inspectors; placarding, 150.091
 - Methods of service of complaints and orders, 150.090
 - Powers of Building Inspectors, 150.087
 - Procedure for enforcement, 150.089
 - Standards of enforcement, 150.088

MINIMUM HOUSING CODE (Cont'd)

- Definitions, 150.003

- Housing Appeals Board

 - Appeal procedure, 150.071

 - Establishment of Housing Appeals Board, 150.070

 - Proceedings, 150.072

- Housing Inspector Generally

 - Abatement; hearing on charges, filing, petition and charges, investigations, time and conduct of hearings, 150.037

 - Creation of office, 150.035

 - Enforcement, 150.039

 - Inspections, 150.036

 - Methods of service, 150.041

 - Service of order; contents, 150.038

- Penalty, 150.999

- Preamble, 150.001

- Requirements

 - Application of North Carolina Uniform Residential Building Code, 150.020

 - General requirements for the exterior and interior of structures, 150.016

 - Minimum requirements for electrical systems, 150.015

 - Minimum space and use requirements, 150.017

 - Rooming houses, 150.019

 - Sanitation requirements, 150.018

- Scope, 150.002

- Unit Residential Buildings

 - Residential buildings unfit for human habitation, 150.055

MOTEL, 152.140

MOTOR VEHICLE RENTAL AND LEASING, 152.145

MOTOR VEHICLE REPAIR, 152.146

MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN

- Adoption, 32.30

MUTUAL AID AND ASSISTANCE BY THE POLICE DEPARTMENT

- Policy, 32.15

NOISE

- Amplified sound, 90.04

- Motor Vehicles

 - Noise regulations, 90.20

- Noise measurement, 90.02

- Penalty, 90.99

- Permits for amplification, 90.05

- Prohibition, 90.01

- Sounds impacting residential life, 90.03

NORTH CAROLINA UNIFORM RESIDENTIAL BUILDING CODE, 150.020

NUMBERING SYSTEM; PROPERTY

- Numbering maps, 151.01
- Numbering systems, 151.02
- Numbers for future buildings, 151.06
- Owners to receive numbers, 151.05
- Quadrant systems, 151.03
- Street address suffixes, 151.04
- Unlawful to deface numbers, 151.07

OFF-STREET PARKING AND LOADING REQUIREMENTS (See also ZONING)

- Enforcement, 152.221
- Lighting, 152.228
- Loading and unloading, 152.231
- Parking areas adjacent to public areas, 152.230
- Parking lot aisles, 152.225
- Parking lot paving, 152.224
- Parking lot spaces, 152.226
- Parking space to be required and permanent, 152.222
- Purpose and intent, 152.220
- Safety barriers, 152.229
- Schedule of parking spaces, 152.227
- Use of parking lots permitted (street parking), 152.223

OFFENSES GENERALLY

- Alcohol
 - Consumption on public property, 130.01
 - Possession of open container, 130.02
- Penalty, 130.99

OFFICIAL ZONING MAP, 152.004

OFFICIALS

- Adopting Council-Manager form of government, 30.02
- Police Department and Alcoholic Beverage Control Commission, 30.01

OPEN BURNING

- Burning ban, 91.02
- Cancellation of burning ban, 91.03
- Enforcement, 91.07
- Extinguishment of fires, 91.05
- Nuisance burning, 91.04
- Obstruction of operations, 91.06
- Penalty, 91.99
- Purpose and authority, 91.01

ORDINANCES (See CODE OF ORDINANCES; GENERAL PROVISIONS)

PARKING, OFF-STREET PARKING AND LOADING REQUIREMENTS (See also ZONING)

- Enforcement, 152.221
- Lighting, 152.228
- Loading and unloading, 152.231
- Parking areas adjacent to public areas, 152.230
- Parking lot aisles, 152.225
- Parking lot paving, 152.224
- Parking lot spaces, 152.226
- Parking space to be required and permanent, 152.222
- Purpose and intent, 152.220
- Safety barriers, 152.229
- Schedule of parking spaces, 152.227
- Use of parking lots permitted (street parking), 152.223

PARKING REGULATIONS (See TRAFFIC CODE)**PARKING SCHEDULES**

- Prohibited parking, Ch. 75, Sch. I.
- School zone parking, Ch. 75, Sch. II
- Two-hour time limit parking, Ch. 75, Sch. III

PEDDLING AND SOLICITING

- Application, 111.07
- Certificate, 111.03
- Exceptions, 111.04
- Fee, 111.02
- Non-profit organizations, 111.06
- Penalty, 111.99
- Registration required, 111.01
- Revocation, 111.05

PET STORES, 152.147**POLICE DEPARTMENT AND ALCOHOLIC BEVERAGE CONTROL COMMISSION, 30.01****POLICIES (See TOWN POLICIES)****PRIVATE CLUB, 152.148****PRIVILEGE LICENSING**

- Application, 110.10
- Contents of license; copy to be kept by Town Clerk, 110.11
- Definitions, 110.02
- Downtown Design Overlay District, Ch. 110, App. A
- License must be displayed at place of business licensed, 110.05
- License required for every place of business, 110.04
- New license if business moved or sold, 110.08

PRIVILEGE LICENSING (Cont'd)

- No abatement of license fee, 110.06
- Personal nature of licenses, 110.09
- Purpose, 110.01
- Schedule of license fees, 110.12
- Term, 110.07
- Unlawful to conduct business without a license, 110.03

PRODUCE STAND, 152.149

PROHIBITED PARKING, Ch. 75, Sch. I.

PROPERTY NUMBERING SYSTEM

- Numbering maps, 151.01
- Numbering systems, 151.02
- Numbers for future buildings, 151.06
- Owners to receive numbers, 151.05
- Quadrant systems, 151.03
- Street address suffixes, 151.04
- Unlawful to deface numbers, 151.07

RECYCLING (See GARBAGE AND RECYCLING)

RESIDENTIAL BUILDING CODE, 150.020

ROOFING REPAIR AND INSTALLATION, SHEET METAL, 152.151

SCHOOL SPEED ZONE, Ch. 74, Sch. I

SCHOOL ZONE PARKING, Ch. 75, Sch. II

SCHOOLS (PUBLIC AND PRIVATE), 152.153

SEWERS; WASTEWATER DISCHARGE POLLUTION ABATEMENT

- Abbreviations, 52.003
- Administration and Enforcement
 - Duties of user upon unlawful discharges, 52.115
 - Injunction and abatement, 52.116
 - Notification of violation, 52.118
 - Show cause hearing, 52.119
 - Termination of service; revocation of permits; issuance of cease and desist orders, 52.117
 - Town order, 52.120
- Conflict, 52.004
- Definitions, 52.002

SEWERS; WASTEWATER DISCHARGE POLLUTION ABATEMENT (Cont'd)

Discharge Report, Wastewater Discharge, Permits and Administration

- Confidential information, 52.080
- Control manhole, 52.078
- Discharge reports, 52.071
- Flow control measuring equipment, 52.079
- Inspection and sampling, 52.075
- Monitoring facilities, 52.074
- Permit modifications, 52.073
- Pretreatment, 52.076
- Protection from accidental discharge, 52.077
- Wastewater discharge permits, 52.072
- Wastewater dischargers, 52.070

Effective date, 52.005

General, 52.001

Penalty, 52.999

Regulations Governing Sewer Use

- Accidental discharges, 52.038
- Disposal of unacceptable waste, 52.031
- Excessive discharge, 52.037
- Federal categorical pretreatment standards, 52.033
- General discharge prohibitions, 52.020
- Holding tank wastes, 52.029
- Limitations on point of discharge, 52.028
- Limitations on wastewater strength, 52.030
- Limitations on the use of garbage grinders, 52.027
- Limitations on radioactive wastes, 52.026
- Modification of federal categorical pretreatment standards, 52.034
- Notice to employees, 52.040
- Private sewage disposal, 52.022
- Prohibition of storm drainage and ground water, 52.024
- Prohibition of unpolluted water, 52.025
- Prohibitions on discharge, 52.023
- Special provisions, 52.032
- State requirements, 52.035
- Town's right of revision, 52.036
- Use of public sewers required, 52.021
- Written notice, 52.039

Tapping into Town Sewage Lines

- Prohibition, 52.135

Wastewater Charges and Fees

- Basis for determination of surcharges, 52.097
- Method of determining charge rates, 52.099
- Method of determining surcharges, 52.098
- Sampling procedures and analysis, 52.100
- Sampling small industries, 52.101
- Schedule of charges and fees, 52.095
- Types of charges and fees, 52.096

SEWERS; WASTEWATER DISCHARGE POLLUTION ABATEMENT (Cont'd)

Wastewater Volume Determination

Metered water supply, 52.055

SIDEWALKS (See STREETS AND SIDEWALKS)

SIGNAGE (See also ZONING)

Applicability, 152.176

Enforcement of regulations, 152.186

General provisions, 152.177

Number of signs permitted, 152.181

Permanent signs by zoning district, 152.179

Permanent signs limited, 152.183

Prohibited signs, 152.185

Purpose, 152.175

Sign area by zoning district, 152.182

Sign height, 152.180

Sign placement, 152.178

Temporary signs limited, 152.184

SMOKING IN TOWN BUILDINGS

Authority, 32.01

No smoking signs, 32.04

Smoking areas, 32.03

Smoking prohibited, 32.02

SOLICITING (See PEDDLING AND SOLICITING)

SPEED LIMITS (See TRAFFIC CODE)

STORAGE FACILITY, SELF-STORAGE WAREHOUSE, 152.154

STREET ACCESS, 152.087

STREETS AND SIDEWALKS

Conduct requiring special street cleaning or repairing, 93.03

New street construction, 93.01

Penalty, 93.99

Signs on public sidewalks and streets, 93.02

STREETS; CONSIDERATION OF LAND, Charter § 10

STREETS; DEDICATIONS AND CLOSINGS, TSO III

STRUCTURES; ABANDONED

- Alternative remedies, 150.093
- Building Inspector defined, 150.094
- Costs of lien on premises, 150.092
- Duties of Building Inspectors, 150.086
- Finding; intent, 150.085
- In rem action by Inspectors; placarding, 150.091
- Methods of service of complaints and orders, 150.090
- Powers of Building Inspectors, 150.087
- Procedure for enforcement, 150.089
- Standards of enforcement, 150.088

SWIMMING POOLS, 152.092, 152.155

TAXATION, Charter §§ 5, 9

TELECOMMUNICATIONS TOWERS AND FACILITIES, 152.156

TOWN EMPLOYEES

- Claims and judgments sought or entered against town officers or employees, 31.02
- Safety policy, 31.01

TOWN OFFICIALS

- Adopting Council-Manager form of government, 30.02
- Police Department and Alcoholic Beverage Control Commission, 30.01

TOWN POLICIES

- Multi-Jurisdictional Hazard Mitigation Plan
 - Adoption, 32.30
- Mutual Aid and Assistance by the Police Department
 - Policy, 32.15
- Penalty, 32.99
- Smoking in Town Buildings
 - Authority, 32.01
 - No smoking signs, 32.04
 - Smoking areas, 32.03
 - Smoking prohibited, 32.02

TRAFFIC CODE

- Electric traffic control signals, 71.02
- Gasoline Powered Vehicles on Sidewalks
 - Authority of chapter, 73.01
 - Definition, 73.02
 - Penalty, 73.99
 - Prohibitions, 73.04
 - Purpose, 73.03

TRAFFIC CODE (Cont'd)

Parking schedules

Prohibited parking, Ch. 75, Sch. I.

School zone parking, Ch. 75, Sch. II

Two-hour time limit parking, Ch. 75, Sch. III

Penalty, 70.99 71.99, 72.99

Prohibited parking, Ch. 75, Sch. I.

School speed zone, Ch. 74, Sch. I

School zone parking, Ch. 75, Sch. II

Speed limits set, 70.02

Speed regulations generally, 70.01

Stopping on streets prohibited; warning signals; removal of vehicles from public highways, 72.01

Traffic control signs generally, 71.01

Traffic control signs, Ch. 74, Sch. II

Traffic Schedules

School speed zone, Ch. 74, Sch. I

Traffic control signs, Ch. 74, Sch. II

Two-hour time limit parking, Ch. 75, Sch. III

TRAFFIC CONTROL SIGNS, Ch. 74, Sch. II

TRAFFIC SCHEDULES

School speed zone, I.

Traffic control signs, II.

TWO-FAMILY (DUPLEX), 152.138

TWO-HOUR TIME LIMIT PARKING, Ch. 75, Sch. III

UNIFORM RESIDENTIAL BUILDING CODE, 150.020

UNIVERSITY, 152.132

UTILITIES (See WATER)

VEHICLE RENTAL AND LEASING, 152.145

VEHICLE REPAIR, 152.146

WASTEWATER (See SEWERS; WASTEWATER DISCHARGE POLLUTION ABATEMENT)

WATER

Billing and collections, 51.02

Collection of delinquent accounts, 51.04

Disputing a water bill, 51.10

Generally, 51.01

Meter tampering, 51.05

WATER (Cont'd)

- Refunding and applying deposits, 51.07
- Return check policy, 51.06
- Service disconnections, 51.03
- Sewer adjustment, 51.09
- Town's right to suspend service, 51.11
- Utility service connection, 51.08

WEAPONS

- Discharging firearm inside the town, 131.02
- Penalty, 131.99
- Regulation of weapons on town property, 131.01

WEEDS

- Abatement, 92.05
- Appeals, 92.04
- Conditions, 92.01
- Exception, 92.09
- Fees, 92.06
- Investigation, 92.02
- Lien, 92.07
- Notification, 92.03
- Remedy, 92.08

WINERIES AND MICROBREWERIES, 152.160

WOODWORKING SHOP, 152.161

YARD SALES

- Definition, 112.01
- Exemptions, 112.02
- Penalty, 112.99
- Permits, 112.03
- Regulations, 112.04
- Signs, 112.05

YARD WASTE COLLECTION (LEAVES AND BRUSH)

- Brush collection, 50.077
- Brush collection; guidelines, 50.078
- Late fall leaf collection, 50.075
- Late fall leaf collection; guidelines, 50.076

ZONING

- Accessory structures and uses, 152.093
- Additional Requirements
 - Accessory dwelling unit, attached or detached, 152.120
 - Adult establishments, 152.121

ZONING (Cont'd)

Additional Requirements (Cont'd)

- Agriculture, bona fide farms, 152.122
- Amusement parks, agricultural fairs, carnivals, 152.123
- Animal shelters, animal kennels, animal hospital and animal boarding and grooming services, 152.124
- Automatic teller machines (ATMs), 152.125
- Automobile service station, convenience store, 152.126
- Banquet and event facilities, 152.127
- Bed and breakfast inn, 152.128
- Building material and lumber storage and sales, 152.129
- Car wash, automatic, self service, 152.130
- Car wash, full service, 152.131
- College or university, 152.132
- Continuing care facility (rest home, nursing home), 152.133
- Customary home occupation, 152.134
- Day care center, 152.135
- Day care home, 152.136
- Dry cleaning services, laundry plants, 152.137
- Dwelling, two-family (duplex), 152.138
- Group care facility, group care home, 152.139
- Hotel or motel, 152.140
- Industrial equipment, sales, supplies and repair, 152.141
- Internet sweepstakes cafés, 152.142
- Junkyard, auto salvage, 152.143
- Manufactured homes, 152.144
- Motor vehicle rental and leasing, 152.145
- Motor vehicle repair, 152.146
- Pet stores, 152.147
- Private club, 152.148
- Produce stand, 152.149
- Recreation facilities, public or private, 152.150
- Roofing repair and installation, sheet metal, 152.151
- Rooming quarters, 152.152
- Schools (public and private), 152.153
- Storage facility, self-storage warehouse, 152.154
- Swimming pool sales, service and supplies, 152.155
- Telecommunications towers and facilities, 152.156
- Temporary personal storage unit, 152.157
- Temporary seasonal use and structures, 152.158
- Utility services, 152.159
- Wineries and microbreweries, 152.160
- Woodworking shop, 152.161

Administration

- Administrative procedures, 152.032
- Boards, 152.026
- Certificates of occupancy, 152.030
- Other permits, 152.031

ZONING (Cont'd)

Administration (Cont'd)

Special use permits, 152.028

Staff, 152.025

Variances, 152.029

Vested rights, 152.033

Zoning permits, 152.027

Applicability to incorporated and extraterritorial areas, 152.086

Board of Adjustment

Conflict of interest, 152.071

Establishment, 152.065

Meetings, 152.067

Organization, 152.066

Powers and duties, 152.069

Quorum, 152.068

Rehearings and appeals from Board of Adjustment decision, 152.070

Business uses of modular homes, 152.091

Changes and Amendments

Action by the applicant, 152.046

Action by the Planning Board, 152.047

Action by Town Council, 152.048

Initiation of amendments, 152.045

Protest petitions, 152.050

Withdrawal of the application, 152.049

Definitions

Definitions, 152.246

Interpretation of certain terms and words, 152.245

Downtown Design Overlay District

Applicability, 152.261

Development standards, 152.263

Exemptions, 152.262

Permit applications, 152.265

Procedures, 152.264

Purpose, 152.260

Enforcement and Penalties

Combination of remedies, 152.303

Enforcement authority, 152.300

Equitable relief, 152.302

Violations; violators, 152.301

Establishment and Intent of Districts and Boundaries

District boundaries shown on zoning map, 152.106

Intent of zoning districts, 152.108

Rules governing interpretation of district boundaries, 152.107

Table of permitted uses; table of area, yard and height requirements, 152.109

Zoning districts established, 152.105

ZONING (Cont'd)

Landscaping, Screening and Buffer Areas

- Alternate methods of compliance, 152.203
- Applicability, 152.201
- General provisions, 152.202
- Planting list, 152.208
- Preservation of existing trees, 152.205
- Purpose, 152.200
- Required landscaping areas, 152.204
- Screening requirements, 152.206
- Unoccupied lot areas, 152.207

Legal Provisions

- Effective date, 152.009
- Enactment and authority, 152.001
- Extraterritorial jurisdiction, 152.010
- Interpretation and conflict, 152.006
- Jurisdiction, 152.005
- Official zoning map, 152.004
- Purpose, 152.002
- Relation to other ordinances, 152.008
- Separability, 152.007
- Title, 152.003

Nonconformities

- Additional requirements for nonconforming accessory uses and structures, 152.284
- Changes of tenancy and/or ownership, 152.285
- Nonconforming structures, 152.282
- Nonconforming uses, 152.281
- Nonconforming vacant lots, 152.283
- Purpose and applicability, 152.280

Parking, Off-Street Parking and Loading Requirements

- Enforcement, 152.221
- Lighting, 152.228
- Loading and unloading, 152.231
- Parking areas adjacent to public areas, 152.230
- Parking lot aisles, 152.225
- Parking lot paving, 152.224
- Parking lot spaces, 152.226
- Parking space to be required and permanent, 152.222
- Purpose and intent, 152.220
- Safety barriers, 152.229
- Schedule of parking spaces, 152.227
- Use of parking lots permitted (street parking), 152.223

Penalty, 152.999

Reduction of lot and yard areas prohibited, 152.090

Relationship of building to lot, 152.089

Required yards not to be used by building, 152.088

ZONING (Cont'd)

Signage

- Applicability, 152.176
- Enforcement of regulations, 152.186
- General provisions, 152.177
- Number of signs permitted, 152.181
- Permanent signs by zoning district, 152.179
- Permanent signs limited, 152.183
- Prohibited signs, 152.185
- Purpose, 152.175
- Sign area by zoning district, 152.182
- Sign height, 152.180
- Sign placement, 152.178
- Temporary signs limited, 152.184
- Street access, 152.087
- Swimming pools, 152.092
- Zoning affects all land and every building and use, 152.085

ZONING, TSO IV