

**CODE OF ORDINANCES**

**TOWN OF  
GRANITE QUARRY, NORTH CAROLINA**



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Adopted by the Granite Quarry Board of Aldermen

May 7, 2003

Revised: September 2004, June, 2006, March 2009,  
October 2009, June 2010, February 2013, June  
2014, October 2014

# OFFICIALS

## TOWN OF GRANITE QUARRY, NORTH CAROLINA

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**William Feather**  
*Mayor*

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**Michael Brinkley**  
*Mayor Pro Tem*

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**Jim Costantino**  
*Alderman*

**James LaFevers**  
*Alderman*

**Arin Wilhelm**  
*Alderman*

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**Phil Conrad**  
*Town Manager*

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**Carl M. Short, Jr.**  
*Town Attorney*

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**Barbara R. Blackwell**  
*Town Clerk/HR*

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Rev. 2-9-17

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**Adoption of Ordinances**  
**February 9, 2017** (Revised)

*An Ordinance adopting and enacting a new code for the Town of Granite Quarry; providing for the repeal of certain Ordinances not included therein; providing a penalty for the violation thereof; providing for the manner of amending such code; and providing when such code and this Ordinance shall become effective.*

***Be it ordained by the Board of Aldermen of the Town of Granite Quarry, North Carolina as follows:***

**Section 1.** The Code entitled “ Code of Ordinances, Town of Granite Quarry, North Carolina” published by the Town of Granite Quarry consisting of Chapters 1 through 17, and all tables and indexes, each inclusive, is adopted.

**Section 2.** All ordinances of a general and permanent nature enacted on or before May 7, 2003, and not included in the Code or recognized and continued in force by reference therein, are repealed.

**Section 3.** The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

**Section 4.** Unless another penalty is expressly provided, every individual convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine of not more than \$250.00 or imprisonment for not more than 30 days or both. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided shall apply to the amendment of any Code section whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the Board of Aldermen may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of licenses or permits.

**Section 5.** Additions or amendments to the Code when passed in the form as to indicate the intention of the Board of Aldermen to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

**Section 6.** Ordinances adopted after February 9, 2017, that amend or refer to ordinances that have been codified in the Code, shall be construed as if they amend or refer to live provisions of the Code.

**Section 7.** This ordinance shall become effective February 9, 2017.

Passed and adopted by the Board of Aldermen this the \_\_\_\_day of \_\_\_\_\_.

\_\_\_\_\_  
William D. Feather, Mayor

**Attest:**

\_\_\_\_\_  
Barbara R. Blackwell, Town Clerk

## **CODE OF ORDINANCES**

### **Chapter 1**

#### **GENERAL PROVISIONS**

Sec. 1-1.	How Code designated and cited.
Sec. 1-2.	Definitions and rules of construction.
Sec. 1-3.	Provisions considered continuations of existing ordinances.
Sec. 1-4.	Catch lines and references.
Sec. 1-5.	Severability of parts of Code.
Sec. 1-6.	General Penalty; enforcement of ordinances; continuing violations.
Sec. 1-7.	Amendments to Code; effect of new ordinances; amendatory language.
Sec. 1-8.	Supplementation of Code.
Sec. 1-9.	Ordinances not affected by Code.

## **GENERAL PROVISIONS**

### **Sec. 1-1. How Code designated and cited.**

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, Town of Granite Quarry, North Carolina," and may be so cited. Such code may also be cited as "Granite Quarry Town Code".

**State law reference** – Ordinance book. G.S. 160A-78,160A-79.

## **Sec. 1-2. Definitions and rules of construction.**

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

**Board of Aldermen** – The term “Board of Aldermen” means the Mayor and Aldermen, or governing body of the Town of Granite Quarry, North Carolina.

**Code** – The word “Code” shall mean and refer to the Code of Ordinances, Town of Granite Quarry, North Carolina, as designated in Sec. 1-1.

**Computation of time** – The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day is Saturday, Sunday or a legal holiday, that day shall be excluded.

**State law reference** – Computation of time, G.S. 1-593; 1A-1, Rule 6(a)

**County** – The word “county” means the County of Rowan, in the State of North Carolina, except as otherwise provided.

**Gender** – Words importing the masculine gender shall include the feminine and neuter.

**Governor** – The word “governor” means the governor of North Carolina.

**Month** – The word “month” means a calendar month.

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

**Oath** – The word “oath” shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed”.

**Official time standard** – Whenever certain hours are named in this Code, they shall mean standard time or daylight savings time as may be in current use in this town.

**Owner** – The word “owner” applied to any property, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such property.

## **GENERAL PROVISIONS**

**Person** – The word “person” includes a corporation, firm, partnership, association, organization, and any other group acting as a unit, as well as an individual.

**Personal property** – The term “personal property” means every species of property except real property, as herein defined.

**Preceding, following** – The words “preceding” and “following” mean next before and next after, respectively.



**Property** – The word “property” means real and personal property.

**Real property** – The term “real property” means lands, tenements and hereditaments.

**Sidewalk** – The word “sidewalk” means any public right-of-way, paved or unpaved, intended primarily for the use of pedestrians.

**Signature or subscription** – A signature or subscription includes a mark when the person cannot write.

**State** – The word “state” means the State of North Carolina.

**Street** – The word “street” means any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge, and the approaches thereto within the town, and the entire width of the right-of-way.

**Tenant or occupant** – The word “tenant” or “occupant”, applied to a building or land, includes any person who occupies the whole or a part of such 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 word “town” means the Town of Granite Quarry in the County of Rowan in the State of North Carolina.

**Writing and written** – The words “writing” and “written” includes printing and any other mode of representing words and letters.

**Year** – The word “year” means a calendar year, unless otherwise specified.

**State law reference** – Similar rules for construction of statutes, G.S. 160A-1

### **Sec. 1-3. Provisions considered continuations of existing ordinances.**

The provisions appearing in this Code, so far as they are in substance the same as those of ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

## **GENERAL PROVISIONS**

### **Sec. 1-4. Catch lines and references.**

The catch lines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catch lines, are amended or reenacted. When an ordinance has a state reference (G.S.), it is referring to the North Carolina General Statutes.

### **Sec. 1-5. Severability of parts of Code.**

It is hereby declared to be the intention of the Board of Aldermen that the sections, paragraphs, sentences, clauses, and phrases of the Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of the Code since they would have been enacted by the Board of Aldermen without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

**Sec. 1-6. General Penalty; enforcement of ordinances; continuing violations.**

**AMENDING CHAPTER 1**

**AN ORDINANCE PROVIDING FOR CIVIL OR CRIMINAL PENALTIES OR BOTH, OF THE CODE OF ORDINANCES OF THE TOWN OF GRANITE QUARRY**

**BE IT ORDAINED** by the Board of Aldermen of the Town of Granite Quarry, North Carolina:

**Part 1.** That Chapter 1, Section 1-6, General Penalty; Enforcement of Ordinances; Continuing Violations, of the Code of Ordinances, Town of Granite Quarry, North Carolina, is hereby amended and rewritten in its entirety to read as follows:

Unless otherwise provided herein, each violation of this Code or any other Town ordinance shall constitute a misdemeanor as provided by section 14-4 of the North Carolina General Statutes, except as otherwise provided by statute, and violations of such provisions of this Code or any Town ordinance shall be punished by fine or imprisonment as provided by law. Each day any violation of this Code or any Town ordinance shall continue shall constitute a separate offense, except as may be specifically provided.

Violations of this Code or any Town ordinance shall constitute either a misdemeanor or, at the election of the Town, shall subject the offender to a civil penalty upon the issuance of a citation for said violation as hereinafter provided. The civil penalty, if not paid to the Town of Granite Quarry within fifteen days of the issuance of a citation, may be recovered by the Town in a civil action in the nature of debt. Unless otherwise provided by a specific provision of this Code or any Town ordinance, said civil penalties shall be in the amount of \$50.00 for each violation and each day any single violation continues shall be a separate violation.

**GENERAL PROVISIONS**

In addition to the civil penalties set out above, any provision of this Code or any Town ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the Town for equitable relief that there is an adequate remedy at law.

In addition to the civil penalties set out above, any provision of this Code or any Town ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by the General Court of Justice. When a violation of such a provision occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and/or order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the

property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that grass and weeds be cut; that abandoned or junked vehicles be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the applicable Town ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and material-man's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judicial order. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

The provisions of this Code or any Town ordinance may be enforced by one, all, or a combination of the remedies authorized and prescribed by this Section.

Any ordinances hereafter adopted by the Board of Aldermen of the Town of Granite Quarry, the violation of which shall incur a penalty, shall specify whether the enforcement shall be pursuant to the civil penalty and/or criminal penalty provisions of this Section.

Upon determination of a violation of any section of this Code or any Town ordinance, the penalty for which is a civil penalty, the enforcement official of the Town of Granite Quarry shall cause a Notice of Violation (warning citation) to be issued to the violator. Such Notice of Violation shall set out the nature of the violation, the section violated, the date of the violation, and shall contain an order to immediately cease the violation. If the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated in which the violation must be abated. The Notice shall specify that a second notice (civil citation) shall incur a civil penalty, together with costs, and attorney fees.

An appeal from a warning citation shall be taken within ten (10) days from the date of said warning citation to the Board of Adjustment. The request for an appeal must be in writing to the Code Administrator and must state the specific nature of the appeal. Except in any case where the ordinance violated, which is the subject

## **GENERAL PROVISIONS**

of the warning citation, specifically grants to the Board of Adjustment other powers in considering appeals and such appeal is applied for, the Board of Adjustment in considering appeals of warning citations shall have power only in the manner of administrative review and interpretation where it is alleged that the enforcement official has made an error in the application of an ordinance, in the factual situation as it relates to the application of an ordinance or both.

Where the enforcement official of the Town determines that the period of time stated in the original warning citation is not sufficient for abatement based upon the work required or a consent agreement, the enforcement official may amend or extend the warning citation to provide for additional time.

Upon failure of the violator to obey the warning citation, a civil citation shall be issued by the enforcement official of the Town of Granite Quarry and either served directly on the violator, his duly designated agent, or registered agent if a corporation, either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of Rowan County or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of said citation. The citation shall direct the violator to appear before the Town Clerk of the Town of Granite Quarry, or designee, within fifteen days of the date of the citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid; otherwise further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.

If the violator fails to respond to a citation within fifteen days of its issuance, and pay the penalty prescribed therein, the Town of Granite Quarry may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty, costs, attorney fees, and such other relief as permitted by law.

The existing ordinances of the Town of Granite Quarry, a violation of which shall subject the offender to civil penalties and/or criminal penalty provisions of law, are as follows:

The Code of Ordinances of the Town of Granite Quarry

**The Unified Development Ordinance (UDO) of the Town of Granite Quarry (adopted 2016)**

**Part 2.** All ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

This Ordinance shall become effective upon its adoption by the Board of Aldermen of the Town of Granite Quarry, North Carolina.

**ADOPTED** this the \_\_\_\_ day of \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Barbara R. Blackwell, Town Clerk

\_\_\_\_\_  
William D. Feather, Mayor

## **GENERAL PROVISIONS**

### **Sec. 1-7. Amendments to Code; effect of new ordinances; amendatory language.**

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

- (b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section \_\_\_\_\_ of the Code of Ordinances, Town of Granite Quarry, North Carolina, is hereby amended to read as follows: ...". The new provisions shall then be set out in full as desired.
- (c) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code or Ordinances, Town of Granite Quarry, North Carolina, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which such section reads as follows: ...". The new section shall then be set out in full as desired.
- (d) All sections, articles, chapters, or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

#### **Sec. 1-8. Supplementation of Code.**

- (a) By contract or by town personnel, supplements to this Code shall be prepared on an annual basis. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the Board of Aldermen during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person authorized to prepare the supplement) may make formal, nonsubstantial changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code.

For example the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions.
- (2) Provide appropriate catch lines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catch lines, headings and titles.
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.

#### **GENERAL PROVISIONS**

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

#### **Sec. 1-9. Ordinances not affected by Code.**

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

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the town or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness;
- (3) Any contract or obligation assumed by the town;
- (4) Any ordinance fixing the salary of any town officer or employee;
- (5) Any right or franchise granted by the town;
- (6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the town;
- (7) Any appropriation ordinance;
- (8) Any ordinance which, by its own terms, is effective for a stated or limited term;
- (9) Any ordinance providing for local improvements and assessing taxes therefore;
- (10) Any zoning ordinance;
- (11) Any ordinance dedicating or accepting any subdivision plat;
- (12) Any annexation ordinance or ordinance describing or altering the boundaries of the town;
- (13) The administrative ordinances or resolutions of the town not in conflict or inconsistent with the provisions of this code;
- (14) Any ordinance levying or imposing taxes not included herein;
- (15) Any ordinance establishing or prescribing street grades in the town;
- (16) Any personnel ordinance;

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

## **CODE OF ORDINANCES**

### **Chapter 2**

#### **ADMINISTRATION**

##### **ARTICLE I. IN GENERAL**

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| Sec. 2-1.         | Filing of ordinances.             |
| Sec. 2-2.         | Manner of giving required notice. |
| Secs. 2-3 – 2-20. | Reserved.                         |

##### **ARTICLE II. MAYOR**

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| Sec. 2-21. | Participation on committees. |
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Sec. 2-23.	Duties generally.
Sec. 2-24.	Vote on Board.
Sec. 2-25.	Compensation.
Sec. 2-26.	Incidental expenses.
Secs. 2-27 – 2-40.	Reserved.

### **ARTICLE III. BOARD OF ALDERMEN**

Sec. 2-41.	Election of Mayor, Manager, Clerk and other officers.
Sec. 2-42.	Compensation.
Sec. 2-43.	Resignation of members.
Secs. 2-44 - 2-60.	Reserved.

### **ARTICLE IV. MEETINGS**

Sec. 2-61.	Regular Meetings.
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### **ARTICLE VI. TOWN AND DEPUTY CLERK**

Sec. 2-101.	Town Clerk; duties generally.
Sec. 2-102.	Tax Collection.
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### **ARTICLE VII. BOARDS, COMMISSIONS & COMMITTEES – GENERAL**

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Sec. 2-144.	Conflict of interest.
Sec. 2-145 – 2-165.	Reserved.

### **ARTICLE IX. PARKS & RECREATION COMMISSION**

Sec. 2-166.	Created.
Sec. 2-167.	Composition; appointment of members.
Sec. 2-168.	Appointment of Chairperson.
Sec. 2-169 – 2-185.	Reserved.

## **ARTICLE X. COMMUNITY PROJECTS & EVENTS VOLUNTEER COMMITTEE**

Sec. 2-186.	Created
Sec. 2-187.	Composition
Sec. 2-188.	Appointment of Officers; term of office
Sec. 2-189.	Membership;Qualifications
Sec. 2-190.	Meetings
Sec. 2-191.	Powers and Duties

## **ADMINISTRATION**

### **ARTICLE I. IN GENERAL**

#### **Sec. 2-1. Filing of ordinances.**

A true copy of each ordinance passed by the Board of Aldermen shall be filed and indexed in an ordinance book separate and apart from the board's minute book until such ordinance has been codified.

**State law reference** - Similar provisions, G.S. 160A-78.

#### **Sec. 2-2. Manner of giving required notice.**

The giving of any notice required by any provision of this code or other ordinance of the town shall be done in conformity with any applicable state law.



**Sec. 2-3 through 2-20. Reserved.**

## **ARTICLE II. MAYOR**

### **Sec. 2-21. Participation on committees.**

The Mayor shall be an ex officio member of all committees of the town.

### **Sec. 2-22. Chief executive of town.**

The Mayor shall be chief executive of the town.

**State law reference** – Mayor as official head of town, G.S. 160A-67.

### **Sec. 2-23. Duties generally.**

It shall be the duty of the Mayor to:

- (1) Keep informed as to the town's business.
- (2) Preside over the meetings of the Board of Aldermen when present; if absent, the Mayor Pro Tem shall preside.
- (3) Appoint standing committees and such other committees and outline their powers and duties as deemed necessary to properly care for the affairs of the town.
- (4) Provide information to the board. He/She makes the board aware of problems, propose agenda items, suggest priorities, and guide the board deliberations.
- (5) Sign all checks, drafts, warrants and legal documents.
- (6) Serve as a liaison with the town manager.
- (7) **State law references** – Duties of mayor generally, G.S. 160A-67; presiding over board, G.S. 160A-69.

## **ADMINISTRATION**

### **Sec. 2-24. Vote on board.**

When there is an equal division of the Board of Aldermen upon any question or in the election of officers, the mayor may break the tie but shall have no vote under any other circumstances.

**State law reference** – Similar provisions, G.S. 160A-69.

### **Sec. 2-25. Compensation.**

The Board of Aldermen may fix the compensation of the Mayor in such sum as may be just and reasonable. Adjustments in the compensation of the Mayor may be made effective at such time as the Board of Aldermen may elect, but the salary of an elected officer shall not be reduced during the then-current term of office unless he/she shall agree thereto.

**State law reference** – Similar provisions, G.S. 160A-64.

## **Sec. 2-26. Incidental expenses.**

Incidental expenses incurred by the Mayor and Board members shall be handled in the following manner:

Mayor's expenses are to be approved by the Board of Aldermen.

Board members expenses are to be approved by the Mayor.

All mileage reimbursements are to be paid according to IRS rules.

Expenses shall be turned in to purchasing officer for payment after approval. (\*revised 2/9/17)

## **Sec. 2-27 through Sec. 2-40. Reserved.**

# **ARTICLE III. BOARD OF ALDERMEN\***

## **Sec. 2-41. Election of Mayor, Town Attorney, Town Manager, Town Clerk.**

The Board of Aldermen at its first meeting following election, or as soon thereafter as possible, shall hold its Organizational Meeting to elect for the ensuing two years a Mayor Pro Tempore, Town Attorney, Town Manager and Town Clerk. Such board may elect such other officials, as the board may deem necessary and expedient to have.

**State law reference** – Organizational meeting of the council, G.S. 160A-68.

## **Sec. 2-42. Compensation.**

The Board of Aldermen may fix its own compensation in such sums as may be just and reasonable. Any increase in the compensation of the Board of Aldermen shall not take effect until after the next succeeding regular municipal election.

**State law reference** – Similar provisions, G.S. 160A-64.

# **ADMINISTRATION**

## **Sec. 2-43. Resignation of members.**

No member of the Board of Aldermen shall be allowed to tender a resignation of his office except in writing, and such resignation shall lie upon the table until the next regular meeting unless considered by unanimous consent.

## **Sec. 2-44 through Sec. 2-60. Reserved.**

**\*State law references** – Board of Aldermen generally, G.S. 160A-66 – 160A-82; construction of council to include Board of Aldermen, G.S. 160A-1; ordinances, G.S. 160A-76 – 160A-79.

# **ARTICLE IV. MEETINGS\***

## **Sec. 2-61. Regular meetings.**

A regular meeting of the Mayor and Board of Aldermen shall be held at the municipal building, as such times as are established, from time to time, by the Board of Aldermen.

**Sec. 2-62. Special meetings.**

The Mayor, the Mayor Pro-Tempore, or any members of the Board of Aldermen may at any time call a special board meeting providing notice is given as required in G.S. 143-318.12. Only those items specified in the notice may be discussed.

**Sec. 2-63. Emergency meetings.**

The Mayor, Mayor Pro Tempore, or any member of the Board of Aldermen may call an emergency board meeting when an unexpected circumstance occurs that requires immediate consideration and cannot wait for the required notice for a special meeting. All such meetings will be conducted in accordance with G.S. Article 33C, Subsection 143.

**\*State law references** – Open meetings required, G.S. 143-318.9 et seq. authority of Board of Aldermen to establish time and place of meetings, G.S. 160A-71

**Sec. 2-64 through Sec. 2-80. Reserved.**

**ARTICLE V. OFFICERS AND EMPLOYEES\* - GENERAL**

**Secs. 2-81 through 2-100 Reserved.**

**\*Cross reference** – Building inspector, § 6-31 et seq.

**ADMINISTRATION**

**ARTICLE VI. TOWN CLERK AND DEPUTY CLERK\***

**Sec. 2-101. \*Town Clerk; duties generally.**

The Town Clerk shall give notice of meetings of the Board of Aldermen, attend all meetings and keep a neat and accurate record of the proceedings of the board, be the custodian of all town records, maintain a book of ordinances and resolutions, and, shall perform any other duties that may be required by the board or by law for the clerk's position.

**Sec. 2-102. Tax Collection.**

All County and Town property taxes, dog taxes, and late-listing penalties shall be collected by the County Tax Collector. The operation of the office of the County Tax Collector shall be under the supervision of the Board of Commissioners of Rowan County except as herein otherwise provided. The town shall pay the County for collecting the taxes due to the Town of Granite Quarry a percentage of operating budget to be computed annually based on the total actual operating expenditures of the prior year of the County Tax Collector's office plus data processing costs minus the cost of collecting other non-tax revenue such as ambulance fees and landfill tipping fees.

In regards to tax collection, the following applies:

- (1) The County shall bill the Town annually and the Town shall submit payment to the County within fifteen (15) days of receipt of invoice. This percentage of operating budget is to be determined in the following manner: To the number of bills issued for County taxes assessed for the preceding tax year, there shall be added the number of tax bills issued for other towns and tax districts in the County which the County bills for. The ratio that the town tax bills bear to the total shall be its share of the expense of the Tax Collector's office, and the balance of the expense of that office shall be borne by the County and other taxing units. The budget of the County Tax Collector's office is to be prepared by the County.
- (2) Records showing separately the amount of County taxes assessed and collected and the amount of Town taxes assessed and collected shall be maintained and transmitted to the town through a monthly report.
- (3) The Rowan County Finance Director will turn the tax collections over to the Town each month.
- (4) Bonds shall be given by the County Tax Collector and such of his assistants and clerks as may be designated by the County so that the Tax Collector and his clerks and assistants may be held to properly account to each of the taxing units as provided by law. Bonds so given shall be subject to approval by each of the taxing units. In so far as practicable, and permitted by law, all steps in the collection of County and Town taxes shall be combined to the end that the consolidation of the two tax collecting departments shall be given the full scope authorized by law.
- (5) Upon the discovery of unlisted property, the County Tax Assessor shall determine whether or not such property shall be placed upon its respective tax scroll; but unlisted property placed upon the tax scrolls of Rowan County shall, if taxable by the Town of Granite Quarry, likewise be placed upon the tax scroll of taxes due the Town of Granite Quarry.
- (6) Only one tax bill shall be mailed to a taxpayer owing taxes to both of the taxing units. In the event of partial payments on such consolidated tax bill, the amount of such payment shall be proportionately credited against taxes due each unit.
- (7) The tax records shall be audited annually by an independent Certified Public Accountant selected by the County or the Town, at its own expense, provides for the auditing of the records relating to taxes due it. In the event of separate audits, the unit desiring the audit to be made shall bear the expense thereof. The tax records relating to taxes due the Town of Granite Quarry shall be available to the Town of Granite Quarry, its agents and employees, at all reasonable times.
- (8) The County Tax Collector shall perform all duties imposed by law upon them for Town taxes, and County Tax Collector, with respect to County taxes.
- (9) With respect to delinquent tax items due the Town only, or due both the Town and County, the Tax Collector shall report the same to the County Attorney. With respect to delinquent tax items due the County only, the Tax Collector shall report the same to the County Attorney. With respect to delinquent tax items due the Town only, the Tax Collector shall report the same to the County Attorney. If taxes are delinquent to both taxing units, actions for foreclosure of tax liens shall be brought in the name of the County and Town. If taxes are delinquent to one of the taxing units and not to the other, tax suits shall be brought in the name of the unit to which the taxes are due. All taxes delinquent for a period of three years shall be reported to the County Attorney.
- (10) Penalties collected and discounts allowed shall be properly apportioned between the County and Town where the same taxpayer makes payments on property taxable by both units.
- (11) The Town shall be furnished an analysis of each year's levy, when it is compiled, showing ad valorem and Town Tax Collector, with respect to other taxes separately.
- (12) The Town shall be furnished an analysis of each year's assessed valuations, when it is compiled, showing the breakdown of values by classification and the net taxable valuations.
- (13) The Town shall be furnished, monthly, the details of any taxes added to or deleted from the charges on the records of taxes due the Town and the related assessed valuation for additions.

(14) Tax settlements shall be made annually by the County Tax Collector to each of the taxing units before tax records shall be delivered to him/her for the subsequent tax year.

**Sec. 2-103. Deputy Clerk; duties generally.**

The deputy clerk is responsible for carrying out the duties and responsibilities of the town clerk in his/her absence, as deemed necessary by the town board. In addition, the deputy clerk.

**\*State law references** – Deputy Clerk. G.S. §160A-172

**Sec. 2-104 through Sec. 2-115. Reserved.**

**ARTICLE VII. BOARDS, COMMISSIONS AND COMMITTEES\* - GENERAL**

**Secs. 2-116 through 2-135. Reserved.**

**\*Cross reference** – Zoning Board of Adjustment, Appendix A, Article X.

**ARTICLE VIII. PLANNING BOARD**

**Sec. 2-136. Created; jurisdiction.**

There is hereby established a board to be known as the Granite Quarry Planning Board whose jurisdiction shall include the town and its extraterritorial jurisdictional area as indicated on the official zoning map of the town.

**Sec. 2-137. Membership.**

The Planning Board of the town shall be composed of eleven (11) members: (9) regular members and two (2) alternates. Five (5) regular members and one (1) alternate shall be residents of the town and shall be appointed by the Board of Aldermen of the town. Four (4) regular members and one (1) alternate shall be residents of the extraterritorial jurisdictional area (outside the corporate limits of the town) and shall be appointed by the County Board of Commissioners. The terms of all members appointed by each governing body shall be for three (3) years, except that in the case of a vacancy occurring during a term, the remainder of the term shall be filled by the governing body having the authority to make such an appointment for the unexpired portion of the term.

**ADMINISTRATION**

**State law reference** – Powers and duties of planning board, G.S. 160A-361, 160A-363.

**Sec. 2-138. Powers and duties.**

It shall be the duty of the Planning Board to prepare plans and to coordinate the plans of the town and those of others so as to bring about a coordinated and harmonious development of the area. The board shall be empowered to:

- (1) Acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions.
- (2) Prepare, and from time to time to amend and revise, a comprehensive and coordinated plan for the physical development of the area.
- (3) Establish principles and policies for guiding action in the development of the area.
- (4) Prepare and recommend ordinances promoting orderly development of the area along the lines indicated in the comprehensive plan.
- (5) Determine whether specific proposed developments referred to it by governmental or private agencies in the area conform to the principles and requirements of the comprehensive plan for the area and to make recommendations concerning them.
- (6) Keep the municipal governing body and the public informed and advised as to these matters.
- (7) Make any other recommendations, which it sees fit for improving the development of the area.
- (8) Perform any other duties, which may lawfully be assigned to it.

## **ADMINISTRATION**

**State law reference** – Powers and duties of planning board, G.S. 160A-361, 160A-363.

### **Sec. 2-139. Actions authorized by state law.**

In carrying out its powers and duties, the Planning Board may perform any of the actions authorized for municipal planning boards by G.S. 160A-360 through 160A-370.

### **Sec. 2-140. Officers - Generally; duties.**

- (a) The officers of the Planning Board shall be a Chairperson and Vice-Chairperson. The Chairperson shall preside at all meetings, shall appoint all standing and temporary committees, and shall exercise full voting rights at his/her discretion on any matters under consideration.
- (b) The Vice-Chairperson shall preside at meetings in the absence of the Chairman.
- (c) In the absence of the Chairperson and Vice-Chairperson, a temporary Chairperson shall be elected by a majority vote of those present and voting.
- (d) A Secretary shall be appointed by the Board of Aldermen. The Secretary shall keep a record of all business transacted at any meeting of the Planning Board. The minutes of the Planning Board shall be public record and shall be available for public use.

### **Sec. 2-141. Same - Election.**

- (a) Election of the Chairperson and Vice-Chairperson shall occur at a regular Planning Board meeting as the last item of business before adjournment of the regular meeting. Officers as shall be elected at the meeting shall take office immediately following their election.
- (b) Nominations shall be made from the floor and elections of officers shall follow immediately. The nomination and election of a Chairperson shall precede the nomination and election of a Vice-Chairperson. A candidate receiving a majority vote of the entire membership of the Planning Board shall be declared elected.
- (c) Vacancies in office shall be filled immediately by regular election procedure.

#### **Sec. 2-142. Meetings.**

- (a) A regular monthly Planning Board meeting shall be held at a time and place agreed to by a majority of the board members. In the event of a conflict with a holiday or other event a meeting may be canceled, suspended or rescheduled.
- (b) A quorum shall consist of five(5) members of the board. The number of votes necessary to transact business shall be a majority of those members voting. All voting shall be recorded.
- (c) Special meetings may be called by the Chairman. It shall be the duty of the Chairman to call a special meeting when requested to do so by the majority of the members of the board or when in his judgment, such meetings are necessary.
- (d) All meetings or portions of meetings shall be open to the general public, except in cases which are specifically exempted by state law.
- (e) The meeting of the board shall be limited to two-hour duration, unless extended for a specified period of time by the majority of the board.

### **ADMINISTRATION**

#### **Sec. 2-143. Courtesy hearings.**

- (a) Courtesy hearings shall be called by the Planning Board on any rezoning requests. Before any Courtesy Hearing is conducted, however, the applicant for the change in zoning must properly complete and file the application for rezoning. Instructions for completing and filing the applications are outlined on the zoning application form.
- (b) The Planning Board may call additional Courtesy Hearings on matters of interest to the Planning Board and/or on matters of interest to citizens of the town or its extraterritorial jurisdictional area.
- (c) A quorum shall be required for conducting a Courtesy Hearing.

#### **Sec. 2-144. Conflict of interest.**

- (a) On any case or matter in which a Planning Board Member has a direct personal and/or financial interest, the member shall declare such interest and subsequently abstain from any further proceeding concerning that particular case or matter.
- (b) Members of the board will not express individual opinions on the proper judgment of any case with the party/parties involved prior to a Planning Board determination on that case.

#### **Secs. 2-145 through 2-165. Reserved.**

### **ARTICLE IX. PARKS & RECREATION COMMISSION\***

#### **Sec. 2-166. Created.**

A Parks & Recreation Commission is hereby created.

#### **Sec. 2-167. Composition; appointment of members.**

The Parks & Recreation Commission shall be composed of at least seven members appointed by the Board of Aldermen.

#### **Sec. 2-168. Appointment of chairperson.**

The Chairperson of the Parks & Recreation Commission shall be elected by a majority vote of the Parks & Recreation Commission members.

**Sec. 2-169 through 2-185. Reserved.**

**\*State law references** – Authority of town to create recreation commission, G.S. 160A-354; parks and recreation generally, G.S. 160A-350; 160A-357.

**ARTICLE X. PARKS, EVENTS AND RECREATION COMMITTEE (Revised 2-10-17)**

**Sec. 2-186 Created (5-2-05)**

A Parks, Events and Recreation Committee is hereby created.

**Sec. 2-187 Composition**

The Parks, Events and Recreation Committee shall be composed of at least seven members approved by the Board of Aldermen.

A majority vote of members present shall be necessary to take any official action on behalf of this committee.

**Sec. 2-188 Appointment of Officers; term of office**

A Chairperson and Co-Chairperson of the Parks, Events and Recreation Committee shall be elected by a majority vote of the Committee members.

Elections shall be held for these positions before Aug. 31<sup>st</sup> of each year. Each position will serve a one year term.

The Events Coordinator of the Town of Granite Quarry shall act as clerk to the committee. The Secretary shall maintain a record of the Committee member's attendance, its actions, findings and recommendations.

**Sec. 2-189 Membership; qualifications**

All members shall be residents of the town's planning and zoning jurisdiction.

Membership is voluntary, to be renewed each subsequent year.

**Sec. 2-190 Meetings**

Meetings will be held on an as needed basis according to the project/event needs of the Town of Granite Quarry.

**Sec. 2-191 Powers and duties.**

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



- (1) To initiate, promote and assist in the implementation of programs/events beneficial to the citizens of Granite Quarry and promote a sense of community in the town.
- (2) To seek and coordinate the activities of individuals, agencies and organizations, public and private, whose plans, activities and programs ultimately affect the citizens of Granite Quarry.

## **ARTICLE XI. REVITALIZATION TEAM (BOARD OF ALDERMEN MEETING Revised 7-19-16)**

### **SEC. 2-192 Created**

A Revitalization Team is hereby created.

### **Sec. 2-193 Composition**

The Revitalization Team shall be composed of a minimum of seven members approved by the Board of Aldermen.

A majority vote of members present shall be necessary to make any official recommendation on behalf of this Team.

### **Sec. 2-194 Appointment of Officers; term of office**

A Chairperson and Co-Chairperson of the Revitalization Team shall be appointed by the Board of Aldermen.

Elections shall be held for these positions before August 31<sup>st</sup> every 2 years. Each Office will serve a 2 year term.

The Clerk and Town Manager of the Town of Granite Quarry shall act as staff support for the committee. The Clerk shall maintain a record of the attendance, any actions, and recommendations Requested by the Team.

### **Sec. 2-195 Membership; qualifications**

All members may be residents and/or business representatives of the town's planning and zoning jurisdiction.

Membership is voluntary with elections every 2 years.

### **Sec. 2-196 Meetings**

The Revitalization Team meetings will be held on the third Tuesday of each month or as needed according to the revitalization needs of the Town.

### **Sec. 2-197 Powers & duties**

The Revitalization Team may have the following powers and duties:

To implement the NCDDA Technical Assistant Team Study Plan

To implement the Granite Quarry Downtown Master Plan

# **CODE OF ORDINANCES**

## **Chapter 3**

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### **CABLE TELEVISION SERVICES**

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## **APPENDIX A. CUSTOMER SERVICE STANDARDS**

### **CABLE TELEVISION SERVICES**

#### **ARTICLE I. IN GENERAL**

##### **Sec. 3--1. Statement of intent and purpose.**

- A. The Town of Granite Quarry, North Carolina, pursuant to applicable Federal and State law, is authorized to grant one or more nonexclusive Franchises to construct, operate, maintain, and reconstruct Cable Systems within the incorporated areas of the Town.
- B. The Board of Alderman of Granite Quarry finds that Cable Service has become an integral part of its citizens' lives, and that evolving Cable Systems have the potential to play an even more dramatic role in the future, providing great benefits and advanced capabilities to the Town. At the same time, the Board further finds that the public convenience, safety, and general welfare can best be served by establishing regulatory powers that are vested in the Town or such Persons as the Town designates.
- C. In order to ensure that the Town and its Residents receive state-of-the-art Cable Services and capabilities as this technology further evolves, all Franchises granted pursuant to this Ordinance will be subject to periodic review and modifications to keep current with changing law, technology, and Services. It is the intent of this Ordinance to help ensure that local cable operators provide the best possible Cable Service to Residents of the Town, and any Franchises issued pursuant to this Ordinance shall be deemed to include this finding as an integral part thereof.
- D. Further, it is recognized that Cable Systems have the capacity to provide entertainment and information services to the Town's residents, and may have the capacity to provide a variety of broadband, interactive communications services to institutions and individuals. For these purposes, the following goals underlie the regulations contained herein:
  1. Cable television services should be made available to all of the Town's residents at the lowest reasonable cost.
  2. The System should be capable of accommodating both the present and reasonably foreseeable future State-of-the-Art cable television needs of the Town.

3. The Systems authorized by this Ordinance shall be responsive to the needs and interests of the local community, and shall provide the widest possible diversity of information sources and services to the public.
  4. Each of the above-enumerated goals shall be sought to the maximum extent, taking into account the costs and benefits to the residents of the Town of Granite Quarry.
- E. The Board further finds that on-going industry consolidation could result in less local accountability, and that, therefore, stringent customer service standards, including liquidated damages provisions, may be the only practical means of ensuring compliance and approximating the costs of Franchise Agreement non-compliance to the Town and its Residents.

### **Sec. 3-2. Short title.**

This Ordinance shall be known and may be cited as the "Town of Granite Quarry Master Cable Services Regulatory Ordinance," and it shall become a part of the ordinances of the Town. This Ordinance shall take effect and be in force from and after its adoption for the grant of any new Franchise Agreement or Renewal of any Franchise existing at the time of adoption. All ordinances or parts of the Town of Granite Quarry Code in conflict with the provisions of this Ordinance are hereby repealed.

## **CABLE TELEVISION SERVICES**

### **Sec. 3-3. Definitions.**

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

1. **Additional Service:** any Cable Service other than Basic Service provided over the System.
- A. **Basic Cable Service:** any Cable Service tier that includes the lawful retransmission of local television broadcast signals and any Public, Educational, and Governmental Access programming required by this Ordinance or a Franchise Agreement to be carried on the basic tier. Basic Cable Service as defined herein shall be consistent with 47 U.S.C. § 543(b)(7) (1997), and shall include any signal of any television broadcast station that is provided by a Grantee to any Subscriber, except a signal which is secondarily transmitted by a satellite carrier beyond the local service area of such station. Additional signals may be added to the basic tier by the Grantee.
3. **Board:** means the Board of Aldermen of the Town of Granite Quarry, North Carolina or its delegates.
4. **Cable Act:** means the Cable Communications Policy Act of 1984, Pub. L. No. 98-549, (codified at 47 U.S.C. §§ 521-611 (1982 & Supp. V. 1987) as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, and the Telecommunications Act of 1996, Pub. L. No. 104-104 (1996) as may, from time to time, be amended.
5. **Cable Internet Service:** means any Service offered by a Grantee whereby Persons receive access to the Internet or high-speed data information services through the Cable System.
6. **Cable Service or Service:** means:
  - a. The one-way transmission to subscribers of (i) video programming, or (ii) other programming service,
  - b. Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service; and
  - c. For purposes of this Ordinance, Cable Internet Service shall be considered Cable Service unless determined otherwise by applicable state or federal law.

7. **Cable Television System or Cable System:** means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service to multiple Subscribers within the Franchise Area, but such term does not include:
- a. Facility that serves only to retransmit the television signals of one or more television broadcast stations;
  - b. A facility that serves Subscribers without using any public Right-of-Way; or
  - c. A facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§ 201-226, except that such facility shall be considered a Cable System to the extent such facility, whether on a common carrier basis or otherwise, is used in the transmission of video programming directly to Subscribers.

## **CABLE TELEVISION SERVICES**

8. **Capital Contribution:** means a contribution provided by a Grantee as determined in a Franchise Agreement that may at the Town's discretion be utilized for the Capital Costs of the municipal access channel facilities, or to help defray the costs of an I-Net.
9. **Capital Costs:** means costs associated with the purchase of assets, products or other resources that are designed to provide Service for more than one year, whether incurred during initial construction or throughout the life of the System.
10. **Channel:** means a portion of the electromagnetic frequency spectrum that is capable of carrying one standard video signal, in either analog or digital form. Consistent with future changes in technology and/or applicable law, the parties may mutually agree to a different definition in an individual Franchise Agreement.
11. **Control:** means the holding of legal or financial control of or over the holder of the Franchise, regardless of whether such control is direct or indirect, or is exercised or is permitted to be exercised directly or indirectly through other persons, holdings or entities. Control shall always be deemed to rest in the hands of any Person that has the right or authority to establish or change any policy or practice of the holder of the Franchise, whether such control may be exercised directly, or indirectly through other Persons.
12. **Complaint:** means any written or electronic inquiry, allegation, or assertion, made by a Person regarding Service.
13. **Converter:** means an electronic device that converts signals to a frequency not susceptible to interference within the television receiver of a Subscriber and, through the use of an appropriate Channel selector, permits a Subscriber to view all authorized Subscriber signals delivered at designated converter dial locations.
14. **Direct Incremental Costs:** means the costs actually incurred by Grantee in meeting an obligation under its Franchise which Grantee would not otherwise have incurred in order to either operate or conduct the business of its Cable System or meet another obligation of the Franchise.
15. **Downstream Signal:** means a signal originating from or provided by a System to a Subscriber terminal or other terminal including video, audio, or digital signals or any other type of data or information for either programs or other uses such as security alert services, etc.
16. **Drop:** means the cable or cables that connect users of the System to the distribution system in order to receive Service.
17. **Educational Access Channels:** means Channels specially designated for locally produced Non-Commercial educational access programming use.
18. **Effective Date:** means the date a Franchise becomes effective in accordance with the Franchise and the rules and procedures of the Town.

19. **Fair Market Value:** means the price that a willing buyer would pay to a willing seller for a going concern based on the System valuation prevailing in the industry at the time.
20. **FCC:** means the Federal Communications Commission or its designated representative.
- 21.

**Franchise:** means the rights and obligations extended by the Town of Granite Quarry pursuant to an initial authorization or a renewal thereof, to a Person to own, lease, construct, maintain, or operate a Cable System in the Right-of-Way within the Franchise Area for the purpose of providing Cable Services. Any such authorization, in whatever form granted, shall not mean or include: (i) any other permit or authorization required for the privilege of transacting and carrying on a business within the

## CABLE TELEVISION SERVICES

- Town required by the ordinances and laws of the Town, including the provision of telecommunications services; (ii) any generally applicable non-discriminatory permit, agreement, or authorization required in connection with operations in the Right-of-Way including, without limitation, permits and agreements for placing devices on or in poles, conduits, or other structures, whether owned by the Town or a private entity, or for excavating or performing other work in or along the Right-of-Way.
22. **Franchise Agreement:** means that document which grants a Franchise pursuant to this Ordinance.
23. **Franchise Area:** means the geographic area for which a Franchise is granted under the authority of this Ordinance. If not otherwise specifically stated in the Franchise Agreement, the Franchise area shall be the entire geographic area within the Town as it is now, or may in the future be, constituted.
24. **Franchise Fee:** includes any tax, fee, or assessment of any kind imposed by the Town or other governmental entity on a Grantee or cable subscriber or both solely because of their status as such. The term "Franchise Fee" does not include: (i) any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their Services but not including a tax, fee, or assessment that is unduly discriminatory against cable operators or cable Subscribers); (ii) Capital Costs that are required by a Franchise Agreement to be incurred by a Grantee for Public Access Channels equipment and facilities; (iii) requirements or charges incidental to the award or enforcement of a Franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or (v) any fee imposed under Title 17 of the United States Code.
25. **Government Access Channels:** means Channels specially designated for locally produced Non-Commercial governmental access programming use.
26. **Grantee:** means a Person who is granted a Franchise or that Person's lawful successors, transferees, or assignees.
27. **Grantor:** means the Town.
28. **Gross Revenues:** means any and all revenue, whether received in the form of cash, credits, barter, trade, property or consideration of any kind or nature, arising from, attributable to, or in any way derived by the Grantee from the operation of a Grantee's System to provide Cable Service, whether such revenue is received by the Grantee, its affiliates, or any Person in which the Grantee has a financial interest, or by any other Person who operates the System, directly or indirectly. This definition is intended to reach as broadly as possible to encompass all revenue. Gross revenue includes, by way of illustration and not limitation, amounts charged for Basic Service; optional premium, per-channel, per-program services; cable programming services; audio services; launch fees; channel guide subscriptions; installation, disconnection, reconnection, and changes-in-service; equipment sales or rentals; leased

channel fees; late fees and administrative charges of any type; consideration received from programmers; advertising revenue; and revenue from the sale of subscriber names and addresses. To the extent that Grantee receives revenue from Cable Services provided to a Subscriber for a fixed price that also includes non-Cable Services (i.e., those services are "bundled"), Grantee shall allocate an appropriate portion of those revenues for inclusion in Gross Revenues. If the fixed price of the bundled services is lower than the aggregate of the prices of those services if purchased individually, then the appropriate amount of the revenue to be allocated to each service shall be proportional to the individual price of that service when compared to the aggregate of the individual prices of those services when unbundled. Gross revenues shall not include:

## CABLE TELEVISION SERVICES

- A. Bad debt except to the extent that bad debt is recovered.
- B. The revenue of any Person including, without limitation, a supplier of programming to the Grantee to the extent that said revenue is also included in Gross Revenue of the Grantee.
- C. Pass-through payments received by the Grantee from third-party programmers to purchase services from Persons other than the Grantee, which services benefit only the third-party programmers and for which the Grantee neither received nor provides any consideration.
- D. Any taxes on Services furnished by the Grantee which are imposed directly on any Subscriber by the state, the Town or other governmental unit and which are collected by the Grantee on behalf of said governmental unit. A franchise fee is not such a tax.

To the extent the scope of Gross Revenues is limited by federal law or judicial action, the definitions herein shall be so amended.

- 29. **Headend:** means the electronic control center of the System including components that amplify, filter, and convert incoming broadcast and other television and electronic signals for distribution over the Cable System.
- 30. **Institutional Network or I-Net:** means capacity fibers or both, from both within the primary cable network and/or separately constructed networks that are dedicated to municipal users or other governmental and educational users as determined by the Town for two-way, broadband, Non-Commercial, non-competitive, not for profit communications. The I-Net includes all equipment and maintenance of equipment required to make the capacity available including but not limited to fiber, cable modems, coaxial cable, and all switching, routing, transmitting and receiving equipment necessary for the use of the I-Net as determined in the individual Franchise Agreement.
- 31. **Institutional Network Services:** means the provision of an I-Net by a Grantee to municipal users and other governmental and educational users as determined by the Town, pursuant to the terms of a Franchise Agreement for Non-Commercial, non-competitive, not for profit applications including but not limited to, two-way dedicated voice, data, video, Internet and telephony channels connecting and interconnecting user facilities; computerized traffic control systems; GIS systems; and the interconnection of facilities serving police, fire and other public safety systems.
- 32. **Lockout Device:** means a mechanical or electrical accessory to a Subscriber's terminal that inhibits the video or audio portions of a certain program or certain Channel(s) provided by way of a Cable System.
- 33. **Non-Commercial:** means Channels or programming that is operated on a not-for-profit basis.
- 34. **Normal Business Hours:** means those hours during which most similar businesses in the community are open to serve customers. In all cases, "Normal Business Hours" must include some evening hours at least one night per week and/or some weekend hours.



35. **Normal Operating Conditions:** means those service conditions which are within the control of the Franchisee. Those conditions which are not within the control of the Franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.
36. **Other Programming Service:** means information that a Grantee makes available to all Subscribers generally.

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37. **Person:** means any corporation, partnership, proprietorship, individual, organization, company, governmental entity or any natural person.
38. **Public Building:** "Public Building" means a building, or any portion thereof, owned, leased, or otherwise occupied, by the Town.
39. **Reasonable Notice:** means written notice addressed to the Town or Grantee at such location as the parties have designated in the Franchise Agreement as the address to which notice shall be transmitted to it, which notice shall be sent by certified mail and postmarked not less than seven (7) business days prior to that day in which the party giving such notice shall commence any action which requires the giving of notice. In computing said seven (7) days, holidays recognized by the Town shall be excluded.
40. **Resident:** means any Person residing in the Town. Sec. 34-127 Right-of-Way.
41. **Right-of-Way:** means each of the following which have been, or are hereafter, dedicated to the public and maintained by any public authority or by others and located within the Town, including without limitation, the surface and space within, above and below any real property in which the Town has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public, including, but not limited to, any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, swale, river, tunnel, viaduct, bridge, park, or any other place, area, easements, rights-of-way and similar public property and areas, or real property owned by or under the control of the Town.
42. **School:** means any state-accredited public or nonprofit educational institution including primary and secondary schools, both public and private.
43. **Service Interruption:** means the loss of picture or sound on one or more cable Channels.
44. **Standard Installation:** means any Service drop not exceeding one hundred fifty (150) feet from a single point or pedestal attachment to the Subscriber's residence.
45. **State-of-the-Art:** means the addition of new services and associated equipment as they are developed, available and when economically feasible and marketable to Subscribers as specifically required under the terms of a Franchise Agreement.
46. **Subscriber:** means any Person who or which elects to subscribe for any purpose to Cable Service provided by a Grantee by means of, or in connection with, the Cable System, and whose premises or facilities are physically wired and lawfully activated to receive Cable Service from Grantee's Cable System.
47. **System:** means a Grantee's Cable System operated pursuant to a Franchise Agreement within the Franchise Area.
48. **Town:** means the Town of Granite Quarry, North Carolina, as it is now, or may in the future be, constituted.
49. **Town Administrator:** means a person designated by the Board to represent the Town in all business with the Grantee.

50. **Trained Representative:** means employees of the Grantee who have the authority and capability while speaking with a Subscriber to, among other things, answer billing questions, adjust bills, and schedule service and installation calls.
51. **Upstream Signal:** means a signal originating from a Subscriber's terminal to the Headend of the System including video, audio, or digital signals or any other type of data or information for either programs or other uses such as security alert services, etc.

## CABLE TELEVISION SERVICES

**Sec. 3-4 through 3-10. Reserved.**

## ARTICLE. II. FRANCHISE REQUIREMENTS

**Sec. 3-11. Unlawful to operate without a franchise.**

It shall be unlawful for any Person to construct, operate or maintain a Cable System or to provide Cable Service in the Town without a Franchise. Any such person shall be subject to a fine of \$500 per day. The payment of such fine notwithstanding, all such violators shall be subject to all other applicable provisions of this Ordinance, including but not limited to the payment of a Franchise Fee.

**Sec. 3-12. Franchises non-exclusive.**

Any Franchise granted pursuant to this Ordinance shall be nonexclusive. The Grantor specifically reserves the right to grant, at any time, such additional Franchises for a Cable System or any component thereof, to any other Person including itself, as it deems appropriate, subject to applicable federal and state law.

**Sec. 3-13. Term of the franchise.**

A Franchise Agreement shall establish the term of each individual Franchise. Sec. 3-16 Federal, State, and Town Jurisdiction

- A. The Town shall exercise appropriate regulatory authority under the provisions of this Ordinance, the Cable Act, and all applicable laws. This authority shall be vested in the Town of Granite Quarry Board of Aldermen and administered through the Town Manager or his/her designee in order to provide day-to-day administration and enforcement of the provisions of this Ordinance and any Franchise granted hereunder, and to carry out the Town's responsibilities with regard to Cable Service.
- B. This Ordinance shall be construed in a manner consistent with all applicable federal and state laws.
- C. In the event that the federal or state government discontinues preemption in any area of cable communications over which it currently exercises jurisdiction in such manner as to expand rather than limit municipal regulatory authority. Grantor may, if it so elects, adopt rules and regulations in these areas to the extent permitted by law, provided the same do not materially alter the rights and obligations of a Grantee under any existing Franchise.

- D. Grantee's rights are subject to the police powers of the Town to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Grantee shall comply with all applicable general laws and ordinances enacted by the Town pursuant to that power.
- E. The provisions of this Ordinance shall apply to all Franchises granted or renewed after the effective date of this Ordinance. This Ordinance shall also apply to all existing Franchises, to the extent not inconsistent with the terms of any such Franchise or applicable law. In the event

#### CABLE TELEVISION SERVICES

of any conflict between the terms and conditions of a Franchise Agreement and the provisions of this Ordinance, and other generally applicable regulatory ordinances of the Town, the specific terms of the Franchise Agreement shall control. A Franchise Agreement (including all of Grantee's particular rights, powers, protections, privileges, immunities and obligations associated therewith as the same exist on the date hereof) shall constitute a legally binding contract between the Town and Grantee, and as such, cannot be amended, modified or changed by the Town without the consent of Grantee in any manner whatsoever, whether by ordinance, rule, regulation or otherwise, to impose on Grantee more stringent or burdensome requirements or conditions; provided, however, that nothing herein contained shall preclude the Town from the proper exercise of its police powers, or its powers of eminent domain. Violators shall be subject to all other applicable provisions of this Ordinance, including but not limited to the payment of a Franchise Fee.

- F. In the event of a change in state or federal law which by its terms would require the Town to amend this Ordinance, the parties shall modify the existing Franchise in a mutually agreed upon manner.
- G. Grantee shall not be relieved of its obligation to comply with any of the provisions of this Ordinance or a Franchise Agreement by reason of any failure of the Town to enforce prompt compliance.

#### **Sec. 3-14. Rights reserved to Grantor.**

In addition to any rights specifically reserved to Grantor by this Ordinance or a Franchise Agreement, Grantor reserves to itself every right and power that is required to be reserved by a provision of any other ordinance or under any other Franchise.

#### **Sec. 3-15. Franchise agreement.**

- A. Every Grantee shall agree to the terms and provisions of a Franchise Agreement as negotiated between the Grantee and the Grantor.
- B. In addition to those matters required elsewhere in this Ordinance to be included in the Franchise Agreement, each Franchise Agreement must contain the following express representations by each Grantee:
  - (1) Grantee has examined all of the provisions of this Ordinance and accepts and agrees to all of the provisions of this Ordinance, as it exists as of the effective date of the Grantee's Franchise Agreement, except as set forth in Section 34.139(D) hereof and any supplementary specifications as to construction, operation, or maintenance of the System which the Town may include in the Franchise Agreement, unless otherwise agreed in the applicable Franchise Agreement.

- (2) Grantee recognizes, unless otherwise agreed in the applicable Franchise Agreement, the right of the Town to adopt such additional regulations of general applicability as it shall find necessary in the exercise of its police power.

## CABLE TELEVISION SERVICES

- C. Every Franchise Agreement shall contain such further conditions or provisions as may be negotiated between the Town and a Grantee, except that no such conditions or provisions shall be such as to conflict with any provisions of state or federal law. In case of any conflict or of any ambiguity between any terms or provisions of a Franchise Agreement and this Ordinance, the provisions of the Franchise Agreement shall control.

### **Sec. 3-16. Initial franchise applications.**

Any Person desiring an initial Franchise for a Cable System shall file an application with the Town. An application for an initial Franchise for a Cable Television System shall contain, where applicable:

- A. A statement as to the proposed Franchise Area;
- B. Resume of prior history of applicant, including the legal, technical, and financial expertise of applicant in the cable television field;
- C. List of the partners, general and limited, of the applicant, if a partnership, or a list of the principals of the applicant, if a limited liability company, or the percentage of stock owned or controlled by shareholders holding 10 percent or greater, if a corporation;
- D. List of officers, directors, and managing employees of applicant, together with a description of the background of each such Person;
- E. The names and addresses of any parent or subsidiary of applicant or any other business entity owning or in Control of applicant, in whole or in part, or owned or controlled in whole or in part by applicant;
- F. A current financial statement of applicant verified by a CPA audit or otherwise certified to be true, complete, and correct to the reasonable satisfaction of the Town;
- G. Proposed preliminary construction and Cable Service schedule; and
- H. Any additional information that the Town may require for the administration of the Franchise.

### **Sec. 3-17. Consideration of initial applications.**

Upon receipt of any application and application fee for an initial Franchise, the Town Administrator shall prepare a report and make his or her recommendations respecting such application to the Board.

### **Sec. 3-18. Franchise renewal.**

Franchise renewals shall be in accordance with applicable law including, but not limited to, the Cable Communications Policy Act of 1984, as amended. Grantor and a Grantee, by mutual consent, may enter into renewal negotiations at any time during the term of the Franchise.

### **Sec. 3-19. Grant of additional franchise and competing services.**

Competing or overlapping Franchises may have an adverse impact on the public Rights-of-Way and on the quality and availability of Services to the public. In considering whether to grant one or more additional

## CABLE TELEVISION SERVICES

Franchises, the Town shall specifically consider, and address in a written report or in provisions of the Franchise Agreement, the following issues:

- A. The positive and/or negative impact of an additional Franchise on the community.
- B. The ability and willingness of the specific applicant in question to provide Cable Services to the Franchise Area.
- C. The amount of time it will take the applicant to complete construction of the proposed System and activate Service in the Franchise Area; and, whether the applicant can complete construction and activation of its System in a timely manner.
- D. The financial capabilities of the applicant and its guaranteed commitment to make the necessary investment to erect, maintain, and operate the proposed Cable System for the duration of the Franchise term. In order to ensure that any prospective Grantee does have the requisite current financial capabilities, the Town may request equity and debt financing commitment letters, current audited financial statements, bonds, letters of credit, or other documentation to demonstrate to the Town's satisfaction that the requisite funds to construct and operate the proposed System are available.
- E. The quality and technical reliability of the proposed System, based upon the applicant's plan of construction and the method of distribution of signals, and the applicant's technical qualifications to construct and operate such System.
- F. The experience of the applicant in the erection, maintenance, and operation of a Cable System.
- G. The capacity of the public Rights-Of-Way to accommodate one or more additional Cable Systems and the potential disruption of those public Rights-Of-Way and private property that may occur if one or more additional Franchises are granted.
- H. The likelihood and ability of the applicant to continue to provide competing Cable Service to Subscribers within the Franchise Area for the duration of the Franchise.
- I. Such other information as the Town may deem appropriate to be considered prior to granting any competing or overlapping Franchise.
- J. The purpose of this section is to ensure that any competition which may occur among Grantees will be on terms which when taken as a whole are non-discriminatory according to federal law.

### **Sec. 3-20. Permits for non-franchised entities.**

- A. The Town may issue a license, easement, or other permit to a Person other than the Grantee to permit that Person to traverse any portion of the Grantee's Franchise Area within the Town in order to provide Service outside, but not within the Town. Such license or easement, absent a grant of a Franchise in accordance with this Ordinance, shall not authorize nor permit said Person to provide Cable Service to any Subscriber within the Town nor render any other Service within the Town.
- B. The granting of such license, easement or permit shall be conditioned upon the payment of fee for occupancy of the public Right Of Way to the extent permitted by applicable law.

## CABLE TELEVISION SERVICES

### **Sec. 3-21. Review for competition.**

The Town recognizes that the cable television and telecommunications industries are in a period of convergence, that the technologies and services provided by these industries are rapidly changing, and that the Telecommunications Act of 1996 promoted and encouraged competition between and among these formally discrete industries. At this time it is premature to know fully the extent to which there will be changes in law, technology or services that may impact entities that have been or may be granted Franchises or licenses to use the Town's Rights-Of-Way. It is the desire of the Town to be a communications friendly Town that encourages the development of competitive advanced communications capabilities for the benefit of all its citizens. For this reason the regulatory ordinances and Franchises of the Town should not impede or restrict the fair opportunity to compete, but rather are intended to provide uniform and consistent requirements for all similarly situated providers.

### **Sec. 3-22. Application and renewal fees.**

- A. An application fee shall not be deemed to be "Franchise Fees" within the meaning of Section 622 of the Cable Act (47 U.S.C. § 542), and such payments shall not be deemed to be (i) "payments in kind" or any involuntary payments chargeable against the compensation to be paid to the Town by Grantee, or (ii) part of the compensation to be paid to the Town by Grantee pursuant to this Ordinance or a Franchise Agreement.
- B. All applicants for an initial Franchise grant shall submit an application fee of six thousand five hundred dollars (\$6,500) to compensate the Town for its costs in reviewing, preparing and awarding a Franchise, including the costs of outside consultants. Upon grant of a Franchise the Town may request the payment of an additional fee to the extent that the reasonable costs of the franchise review and negotiation process exceed the initial application fee amount. Consistent with the Cable Act, all such fees shall not constitute or be credited towards a Grantee's Franchise Fee obligations. Reasonable costs include staff time, professional fees, and administrative costs as determined by the Town to be necessary.
- C. The Town reserves the right, unless prohibited by applicable law, to require a Grantee to pay the reasonable costs of the Franchise renewal and negotiation process. Reasonable costs include staff time, professional fees, and administrative costs determined by the Town to be necessary and shall generally not exceed \$2,500.

### **Sec. 3-23 through 3-30. Reserved.**

## CABLE TELEVISION SERVICES

### **ARTICLE III. DESIGN PROVISIONS**

### **Sec. 3-31. System design.**

- A. Every Grantee shall offer Service that meets the current and future needs of the Town, taking into account the costs of meeting those needs. The Franchise Agreement shall incorporate a description of the Grantee's

proposal including the general design and capabilities of the System to identify for the Town how the System will meet the current and future Cable Service needs of the Town.

- B. State-of-the-Art Review. Grantee agrees to maintain the Cable Service and Cable System compatible with changes in law, technology, and programming and services to maintain a State-of-the-Art system throughout the Franchise term.

### **Sec. 3-32. The system.**

Every System shall pass by every single-family dwelling unit and multiple-family dwelling unit within the Franchise Area in accordance with line extension policies set forth in this Ordinance. Service shall be provided to Subscribers in accordance with the schedules and line extension policies. Unless specified otherwise, Service shall also be extended to commercial buildings on a consistent basis with the residential line extension policies.

### **Sec. 3-33. Drops to public buildings.**

- A. Every Grantee shall provide installation of at least one (1) cable Drop, and provide monthly Basic Cable Service, without charge, to Public Buildings in accordance with the line extension policies of this Ordinance, or as otherwise specified in the applicable Franchise Agreement. Schools shall also receive one (1) cable Drop and Basic Cable Service at no charge. Following the Town's designation of additional Public Buildings(s) to receive Cable Service, and upon the Town's request, a Grantee shall complete construction of the Drop and outlet within thirty (30) days.
- B. All such Cable Service outlets shall not be utilized for commercial purposes.
- C. In instances where the Drop to the Public Building exceeds 150 feet, the Grantee may charge for the actual and reasonable cost of its labor and materials.

### **Sec. 3-34. Use of Grantee facilities.**

The Town shall have the right to install and maintain Town equipment upon the poles and conduit owned by the Grantee, at the actual cost of the space and on terms mutually agreeable to the Town and the Grantee. Installed Town equipment shall not unreasonably interfere with the operation of the Cable System. The Town shall relinquish its use of such poles and conduit upon ninety (90) days' notice from Grantee that Town's use interferes with the Grantee's actual or anticipated use of same.

## **CABLE TELEVISION SERVICES**

### **Sec. 3-35. Upgrade of system.**

Every Grantee shall upgrade its System (herein referred to as the "System Upgrade"), if required, as set forth in its respective Franchise Agreement.

### **Sec. 3-36. Non-discriminatory access to cable system.**

Grantee may be required to allow non-discriminatory access to its Cable System if such shall be required by federal law. Prior to the enactment of any such requirement, a Grantee shall be provided with reasonable notice and an opportunity to be heard, including the right to present evidence with respect to the need for such a requirement. Grantee reserves, and has not waived, any right it may have, or may later be determined to have, to challenge the Town's implementation of an open access requirement.

**Sec. 3-37 through 3-45. Reserved.**

#### **ARTICLE IV. INSTITUTIONAL NETWORK AND ACCESS**

**Sec. 3-46. Institutional network; access channels.**

- A. Every Grantee shall, to the extent required by the Franchise Agreement, provide Institutional Networks as a condition of an initial grant or renewal, or transfer of a Franchise. To the extent that a Grantee is obligated to provide such support pursuant to its Franchise Agreement, such obligation will be implemented in a competitively neutral manner, on a per Subscriber basis with respect to any other Franchises granted after the adoption of this Ordinance. Costs associated with construction and operation of an I-Net shall not be a Franchise Fee unless otherwise specified in the Franchise Agreement.
- B. Every Grantee shall provide a Channel or Channels, bandwidth capacity, Service, and funding for separate Access Channels, as specified in its Franchise Agreement. All such Access Channels shall be available to all Subscribers as part of Basic Cable Service.

**Sec. 3-47 through 3-55. Reserved.**

#### **CABLE TELEVISION SERVICES**

#### **ARTICLE V. TECHNICAL STANDARDS AND CUSTOMER SERVICE PRACTICES**

**Sec. 3-56. General technical standards and customer service practices.**

- A. This Ordinance incorporates technical standards and establishes customer service practices with which a Grantee must comply. In addition, a Grantee shall comply with any additional or stricter requirements established by FCC regulations, or other federal regulation that may be adopted or amended from time to time.
- B. A Grantee shall maintain such equipment and keep such records as are required to enable the Grantor to determine whether the Grantee is in compliance with all standards required by these regulations and other applicable laws.

**Sec. 3-57. Books and records available to the Grantor.**

- A. The Grantee shall maintain an office within the Town. The Town shall have the right, upon reasonable request, to inspect and copy or transcribe at any time during normal business hours, all books, records, maps, plans, financial records, service complaint logs, performance test results and other like materials of



the Grantee kept or maintained by Grantee or under its control concerning the operations, finances, affairs, transactions or property of Grantee when necessary to ascertain the Grantee's compliance with this Ordinance or the Franchise Agreement. Access to the aforementioned records shall not be denied by the Grantee on the basis that said records contain "proprietary" information.

- B. If any of such maps or records are not kept in the Town, or upon reasonable request made available in the Town, and if the Town shall determine that an examination of such records is necessary or appropriate, all reasonable expenses necessarily incurred in making such examination shall be paid by Grantee.

### **Sec. 3-58. Reports required.**

The Grantee shall file with the Town, upon reasonable request, unless otherwise noted:

- A. Regulatory Communications. All reports required by the Federal Communications Commission (FCC) including, but not limited to annual proof of performance tests and results. Equal Employment Opportunity (EEO) reports, and all petitions, applications and communications of all types submitted by Grantee to the FCC, the Security and Exchange Commission (SEC), or any other federal or state regulatory commission or agency, having jurisdiction over any matter affecting operation of Grantee's System.
- B. Facilities Report. An annual report setting forth the physical miles of plant construction and plant in operation at the end of the fiscal year will be made available at the local office of the Grantee for review by the Town.
- C. Rebuild/Upgrade/Construction Reports. Such reports shall be sent to the Town thirty (30) days after the initial Franchise Agreement is awarded and monthly thereafter until construction is completed as specified in this Ordinance or the Franchise Agreement.

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- D. Proof of Performance Tests. Proof of performance test results performed as required by the PCC shall be supplied to the Town.
- E. Test Required by Town. Tests required by Town as specified in this Ordinance shall be submitted within thirty (30) days of notification.
- F. Grantee Rules. The Grantee's schedule of charges, regular Subscriber service policy regarding the processing of Subscriber complaints, delinquent Subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the Grantee's policy in connection with its Subscribers. All such charges and policies shall be in accordance with applicable state and federal laws, rules or regulations.
- G. Proof of Bonds and Insurance. Grantee shall submit to the Town the required performance bond, or a certified copy thereof, and insurance certificates as required under the terms and conditions described in this Ordinance.
- H. Financial and Ownership Reports. The following financial reports for the Franchise area shall be submitted to the Town, upon reasonable notice and as required by the Town:
  - (1) A statement verifying the amount of Gross Annual Revenues derived from the Franchise, certified by the Vice President for Finance or a duly authorized officer or manager of the Grantee.
  - (2) An annual list of officers and members of the Board of Directors of Grantee and of Grantee's parent corporation, if applicable.
- I. Additional Reports. The Grantee shall prepare and furnish to the Town at the times and in the form prepared in the normal course of business, such additional reports with respect to its operation, affairs, transactions or

property, as may be reasonably necessary and appropriate to ascertain Grantee's compliance with this Ordinance or the Franchise Agreement.

### **Sec. 3-59. Technical standards.**

The technical standards used in the operation of a System shall comply, at a minimum, with the technical standards promulgated by the FCC relating to Cable Systems pursuant to the FCC's rules and regulations found in Title 47, Sections 76.601 to 76.617, as may be amended or modified from time to time, which regulations are expressly incorporated herein by reference. The results of any tests required by the FCC, or a Franchise Agreement shall be made available to the Town within thirty (30) days of written request.

### **Sec. 3-60. Test and compliance procedure.**

- A. Tests for a System shall be performed periodically in a manner so as to conform with FCC specifications. The Town shall notify the Grantee of its desire to witness such tests for a period of 90 days beyond the date of request. Grantee shall notify the Town at least 3 business days prior to conducting such tests. Representatives of the Town may witness the tests and written test reports shall be made available to the Town upon request. If any test locations fail to meet such specifications, the Grantee shall be required to indicate what corrective measures have been or will be taken. Grantee shall have the site re-tested on a timely basis as needed.

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- B. Complaints. Whenever there have been similar Complaints made or when there exists other evidence, which, in the reasonable judgment of the Town, casts doubt on the reliability or quality of the Grantee's System, the Town shall have the right and authority to compel the Grantee to test, analyze, and report on the performance of its System. The Town may require additional tests, full or partial repeat tests, different test procedures, or tests involving a specific Subscriber's terminal. Reports on such tests shall be delivered to the Town no later than thirty (30) days after the Town formally requests the tests and shall include the following information: the nature of the complaints which precipitated the special tests; what System component was tested; the equipment used, and procedures employed in said testing; the results of such tests; and methods by which said complaints were resolved. Said tests and analyses shall be supervised by an engineer or other trained technical specialist who shall sign all records of the special tests and forward same to the Town with a report interpreting the results of the tests and recommending what actions should be taken by the Town. All such tests conducted by Grantee shall be at the expense of the Grantee.
- C. Consultants. The Town shall have the right to employ or contract with qualified consultants and attorneys if necessary or desirable, to assist in the administration of this, or any other section of this Ordinance or the Franchise Agreement. If an independent qualified consultant makes a finding that Grantee's test results differ by more than ten (10) percent from the FCC technical standard, the Grantee shall reimburse the Town for its reasonable costs associated with the testing.

### **Sec. 3-61. Emergency requirements.**

Each Grantee must provide emergency alert override capabilities in a manner consistent with the FCC's emergency alert system ("EAS") rules and consistent with any state and/or regional emergency alert system plans adopted in response to the FCC's EAS rules that are applicable to the Franchise Area.

### **Sec. 3-62. Programming decisions.**

Each Grantee shall provide programming from each of the broad programming categories identified in its Franchise Agreement. All programming decisions remain within the sole discretion of each Grantee provided that each Grantee complies with federal law regarding notice to Grantor and Subscribers prior to any Channel additions, deletions, or realignments, and further subject to the Grantee's signal carriage obligations pursuant to 47 **U.S.C.** §§ 531-536, as may be amended and subject to the Town's rights pursuant to 47 **U.S.C.** § 545, as may be amended. The Grantee shall use its good faith efforts to ensure diversity of programming.

### **Sec. 3-63. Cable system office hours and telephone availability.**

Attached as Appendix A are the Federal Communication Commission (FCC) Customer Service Standards with which Grantee must comply.

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### **Sec. 3-64. Parental control.**

Every Grantee shall make available to any Subscriber upon request a "lockout" device for blocking both video and audio portions of any Channel(s) of programming entering the Subscriber's premises. Such device shall be provided at a reasonable charge, except to the extent that federal law specifically provides otherwise. The Grantee may, however, require a reasonable security deposit for the use of such a device. This section shall not apply to Channels that are on the basic or expanded basic tier of programming unless the Subscriber receives Service via a programmable terminal device, such as a converter.

### **Sec. 3-65. Installations exceeding standard installation.**

Service drops in excess of 150 feet and concealed wiring in the home shall be charged to the Subscriber based upon time and material. The desire of the Subscriber as to the point of entry into the residence shall be observed whenever possible. Runs in building interiors shall be as unobtrusive as possible. The Grantee shall use due care in the process of installation and shall repair any damage to the Subscriber's property caused by said installation. Such restoration shall be undertaken within no more than ten (10) days after the damage is incurred and shall be completed as soon as possible thereafter.

### **Sec. 3-66. Service area and line extension policy.**

- A. No Grantee may discriminate in the build-out of its System to a particular area of the Town in providing Service to an individual or groups of Residents on the basis of race, creed, religion or economic condition. Unless the Franchise Agreement provides otherwise, every Grantee shall serve all areas of the Town equally with populations of at least twenty (20) residential dwelling units per cable mile as measured from a

Grantee's existing distribution system, including areas annexed subsequent to the grant of the Franchise. The Franchise Agreement shall provide a schedule of the areas to be served, and the specific build-out requirements of the Grantee, and shall also describe the process for extending Service to areas that will meet minimum density requirements at some future date. Unless the Franchise Agreement provides otherwise, every Grantee shall extend Service to commercial areas at no additional cost where the cost to do so does not exceed the same cost of providing service in a residential area with a density of twenty (20) homes per mile.

- B. During the initial construction phase of a new System, a Grantee may implement its System in stages pursuant to a schedule and line extension policy established in its Franchise Agreement that serves all areas of the Town equally, provided that any deviation from the service and line extension requirements of this Ordinance do not discriminate between different areas of the Town on the basis of race, creed, religion or economic condition. A Grantee of any such new Franchise shall comply with all customer service obligations with respect to customers whose premises are passed by portions of the Grantee's network which are fully activated, tested and available for Service.
- C. Cost-sharing. In areas with less than fifty (50) homes per proposed cable mile, Grantee shall offer a cost-sharing arrangement to Residents. Grantee shall bear its pro rata share of the current construction costs based upon the actual number of homes per mile. The cost-sharing arrangement shall consist of the

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following: On the request of a Resident desiring Service, Grantee shall prepare, at its cost, an engineering survey and cost analysis to determine the cost of the plant extension required to provide Service to the Resident from the closest usable point on the Cable System. The cost of construction shall be allocated based on the following formula: If a request for extension into a residential area requires the construction of cable plant which does not pass at least twenty (20) homes per Cable mile, a proportionate share of construction costs shall be borne by Grantee and by the Subscribers. For example, if there are ten (10) dwelling units per mile, Grantee's share will equal 10/20ths of the construction cost. The remaining cost will be shared equally by each Subscriber in the area to be constructed. The line extension formula shall also be applied to a portion of a Cable mile meeting proportionate density requirements. For example, if there are ten (10) dwelling units per one-half mile, the Grantee shall construct the plant. The cost sharing described above would be utilized if there were less than the proportionate share of dwelling units per the portion of a mile needed to reach the dwelling units. Should additional Subscribers request Cable Service, Subscribers utilizing the cost-sharing plan for extension shall be reimbursed pro-rata for their contribution or a proportional share thereof. In such case, the pro-rata shares shall be recalculated and each new Subscriber shall pay the new pro-rata share, and all prior Subscribers shall receive refunds. In any event, at the end of twenty-four (24) months from completion of the project, the Subscribers are no longer eligible for refunds, and the amounts paid by Subscribers will be credited to the plant account of the Grantee. The average cost of the line extension shall be recalculated annually based upon the current costs of labor and material. Each Subscriber contributing toward the direct cost of the line extension shall waive all ownership interest in the line extension. All equipment and components of the line extension, including, but not limited to, cable wire, electronics and pedestals shall at all times remain the exclusive property of the Grantee.

### **Sec. 3-67. Town monitoring.**

In addition to free Cable Service required by the Ordinance, Grantee shall provide one Service feed to Town Hall (unless otherwise specified by Town) that shall receive without charge all Basic and expanded Basic Cable

programming provided by Grantee. Such Service shall be provided in such a manner that the Town may monitor the programming and use of the Cable System for compliance with the Franchise Agreement and this Ordinance. The Service provided pursuant to this requirement shall be in a secure office location, and not in a location open to public viewing.

**Sec. 3-68. Access to inside wiring.**

Access to, and ownership of, inside wiring shall be in accordance with Section 76.800, et. seq. of the FCC rules and regulations as the same may be amended from time to time.

**Sec. 3-69 through 3-80. Reserved.**

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**ARTICLE VI. CONSTRUCTION STANDARDS**

**Sec. 3-81. Right-of-way construction.**

Prior to commencing any construction in the Town, a Grantee must obtain all necessary permits and licenses required by federal, state and generally applicable Town laws, ordinances and rules, and pay all associated non-discriminatory fees. Further, a Grantee shall comply with all applicable laws, ordinances, rules, and standards relating to the construction, operation and maintenance of a Cable System.

**Sec. 3-82. Compliance with laws.**

The construction, installation, and maintenance of the Cable System shall be effectuated by Grantee in a manner that is consistent with the laws, ordinances and construction standards of the State of North Carolina, the Occupational Safety and Health Administration, the National Electrical Safety Code, National Electrical Code and the FCC, to the extent applicable, as well as all other laws, rules, regulations and ordinances that are generally applicable and promulgated pursuant to the Town's lawful police power. All open connections on splitters, couplers and other devices shall be properly terminated.

**Sec. 3-83. Minimum interference.**

All of Grantee's construction, installation, operation, repair and maintenance, and the arrangement of its lines, cables and other appurtenances, on public or private property, shall be conducted in such a manner as to not unreasonably interfere with the rights and reasonable convenience of property owners that may be affected. In the event such work is not in accordance with applicable rules and regulations, the Town may require the removal, within such period of time after notice as is reasonable under the circumstances, of Grantee's lines, cables and appurtenances from the Rights-of-Way in question, at the sole expense of the Grantee.

### **Sec. 3-84. Repair of property.**

Grantee shall promptly repair and restore any Town or private property which may be damaged as a result of the construction, installation, operation, repair, maintenance or removal of the Cable System. Any such property damaged or destroyed shall be promptly repaired and restored by Grantee, at Grantee's sole cost and expense to the reasonable satisfaction of the Town, to its condition prior to being damaged, or shall be replaced by Grantee with equivalent property. The Town may inspect and approve the condition of the Right-of-Ways and cables, wires, attachments, and poles after restoration. The liability, indemnity, insurance and performance bond as provided herein shall continue in full force and effect during the period of any removal and until the Grantee has fully complied with the terms and conditions of this Ordinance and the Franchise Agreement. In the event of a failure by the Grantee to complete any restoration work required by the Town within the time as may be established by the Town and to the reasonable satisfaction of the Town, the Town may, following reasonable notice to the Grantee, cause such work to be done and the Grantee shall

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reimburse the Town the cost thereof within thirty (30) days after receipt of an itemized list of such costs, or the Town may at its option recover such costs through the performance bond provided by Grantee. The Town shall be permitted to seek legal and equitable relief to enforce the provisions of this section.

### **Sec. 3-85. Erection of poles.**

Grantee shall not erect any pole on or along any Rights-of-Way in an existing aerial utility system without the advance written approval of the Town. If additional poles in an existing aerial route are required, Grantee shall negotiate, as needed, with the owners thereof for the installation of the needed poles. Grantee shall negotiate the lease of pole space and facilities from the existing pole owners for all aerial construction, under mutually acceptable terms and conditions.

### **Sec. 3-86. Reservations of street rights.**

Nothing in this Ordinance shall be construed to prevent the Town from constructing storm or sanitary sewers, grading, paving, repairing or altering any Rights-of-Way, or laying down, repairing or removing water mains, traffic signal control systems. Town fiber plant, or constructing or establishing any public utility, Service or other public work that the Town may operate or undertake now or in the future. All such work shall be done, insofar as practicable, in such manner as not to obstruct, injure or prevent the free use and operation of poles, wires, conduits, conductors, pipes or appurtenances of Grantee. If Town in its reasonable judgment shall determine that Grantee's facilities interfere with the construction location or repair of any Rights-of-Way or public improvement, then all such facilities of Grantee shall be removed or replaced, or temporarily disconnected, in such manner as shall be directed by the Town so that the same shall not interfere with the public works of the Town. Such removal or replacement shall be at the expense of Grantee; provided, however, that nothing in this Ordinance shall preclude Grantee from seeking reimbursement for removal or replacement costs from any public funds generally available to Rights-of-Way users for the reimbursement of such costs.

### **Sec. 3-87. Underground Installation.**

In those areas within the Town where Cable Television, telephone, or electrical facilities are currently placed underground, all Cable System facilities shall remain or be placed underground. In areas where either telephone or electric utility facilities are above ground at the time of installation, Grantee may install its Cable System facilities above ground, provided that at such time as both electric and telephone utility facilities are placed underground, Grantee shall likewise place its Cable System facilities underground without cost to the Town. Nothing contained in this Section shall require a Grantee to construct, operate and maintain underground any ground-mounted appurtenances, except that Grantee shall take steps to minimize the number and visual impact of such facilities. If the Grantor reimburses any utility for such relocation, the Grantee shall be similarly reimbursed. This section shall not prevent the Town or any of its agencies or joint agencies from requiring the installation or relocation of Cable Services facilities underground pursuant to a

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separate ordinance or regulation or requirement imposed in accordance with the exercise of the general police power or regulatory function of such agency or joint agency.

### **Sec. 3-88. Conduit.**

- A. The Town shall not be responsible for any cuts or damage to buried or underground facilities of a Grantee that are not clearly marked or cannot be located through the North Carolina "one-call" service.
- B. Grantee shall provide strand and trench maps without detailed measurement calculations in a format mutually agreeable to both the Town and Grantee. Such information shall be subject to and not restrict any other Town Ordinances. Town agrees to treat the maps as proprietary information to the extent provided under law, or as may be indicated in Town Ordinances.
- C. Grantee shall provide a contact number for the Town to call in emergency situations requiring an immediate response on the part of the Town. If the Grantee does not properly and effectively identify the precise location of its facilities within a reasonable period of time taking into account the circumstance of an emergency call from the Town, the Town shall not be responsible for damage to the Grantee's facilities.

### **Sec. 3-89. Clearing poles and cables.**

Grantee shall have the right to remove, trim, Cut and to keep clear of its poles, cables, underground conduits and related equipment the trees in and along the Rights-of-Way, but, in the exercise of such right, Grantee shall not cut such trees to any greater extent that is reasonably necessary for the construction, erection, installation, maintenance and use of Cable System equipment. Except in emergency situations, Grantee shall not remove, trim or cut such trees from any Rights-of-Way without first providing reasonable notice to the Town of its intention to do so, such notice to be delivered not less than ten (10) days in advance. The Grantee shall compensate the Town or any private owners of such trees for any damage proximately caused by Grantee's negligent conduct.

### **Sec. 3-90. Moving facilities.**

Grantee, on the request of the Town, or any Person holding a building permit issued by the Town, or any permit issued by an appropriate state agency, shall temporarily move its wires, cables, poles or other Cable System facilities to permit the moving of large objects, vehicles, buildings or other structures. The expense of such temporary moves shall be paid to Grantee by the Person requesting the same and Grantee shall have the authority to require such payment in advance. Grantee shall be given not less than thirty (30) days advance notice to arrange for such temporary moves.

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### **Sec. 3-91. Work performed by others.**

To the extent applicable, all provisions of this Ordinance shall apply to any subcontractors or others performing any work or services pursuant to the provisions of a Franchise Agreement on behalf of a Grantee.

### **Sec. 3-92. Duty to Grantee.**

Nothing contained in this Ordinance shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities while performing any work connected with grading, regarding or changing the line of any Rights-of-Way or with the construction or reconstruction of any sewer or water system or utility system.

### **Sec. 3-93 through 3-100. Reserved.**

## **ARTICLE VII. GENERAL FINANCIAL AND INSURANCE PROVISIONS**

### **Sec. 3-101. Franchise fee.**

- A. The administration of this Ordinance or the Franchise Agreement imposes upon the Town additional regulatory responsibility and expense, and in consideration of permission to use the Rights-of-Way of the Town for the construction, operation and maintenance, of a Cable System within the Town, a Grantee of any Franchise hereunder shall pay to the Town a Franchise Fee in an amount as designated in the Franchise Agreement, up to the maximum amount allowed by applicable law. To the extent that applicable law changes the maximum authorized Franchise Fee, the Town reserves the right to change the Franchise Fee as stated in the Franchise Agreement, by adopting an ordinance establishing the new Franchise Fee rate and allowing reasonable notice to the Grantee for administration of the change. The Town shall hold a public hearing prior to adopting any change in the Franchise Fee.
- B. Payments due Grantor under this section shall be computed quarterly, for the preceding quarter. Each quarterly payment shall be due and payable no later than thirty (30) days after the end of the preceding quarter. Each payment shall be accompanied by a brief report by a Grantee showing the basis for the



computation and a "Franchise Fee Worksheet" listing all of the sources of revenues attributable to the operation of Grantee's System in the Town. All such payments shall be certified as correct by an officer of the Grantee.

- C. No acceptance of any payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim Grantor may have for further sums payable under the provisions of this Ordinance or a Franchise Agreement. All amounts paid shall be subject to audit and recomputation by Grantor or its designee at any time during any calendar year (but not more than once per calendar year) upon twenty (20) calendar days notice, which

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shall include a request for any documents sought to be reviewed. Audits shall be at the expense of the Grantee if the additional amount due is greater than two percent (2%) of the amount paid. Any additional amount due to the Town as a result of the audit shall be paid within sixty (60) days following written notice to the Grantee by the Town which notice shall include a copy of the audit report. Grantor's right to audit and Grantee's obligation to retain records related to the Franchise Fee audit shall expire three (3) years from the date on which the most recent franchise fee payment by the Grantee was due from the time of written notice of request of audit.

- D. In the event that any Franchise payment or recomputed amount is not made on or before the dates specified herein. Grantee shall pay as additional compensation an interest charge, computed from such due date, at the annual rate equal to the commercial prime interest rate of the Town's primary depository bank during the period that such unpaid amount is owed.

### **Sec. 3-102. Security Fund.**

Each Grantee shall maintain a security fund with the Town to ensure compliance with this Ordinance and the applicable Franchise Agreement, in an amount and in a manner as set forth in the Grantee's Franchise Agreement.

### **Sec. 3-103. Penalties procedure.**

- A. Whenever Grantor has reason to believe that a Grantee has violated any material provision of a Franchise Agreement or this Ordinance, Grantor shall first notify the Grantee of the material violation and demand correction within a reasonable time, which shall not be less than twenty (20) days in the case of the failure of a Grantee to pay any sum or other amount due the Grantor under a Franchise Agreement, and thirty (30) days in all other cases. If a Grantee fails to correct the violation within the time prescribed, or if a Grantee is unable to correct the violation and fails to commence corrective action within the time prescribed and to diligently remedy such violation thereafter, the Grantee shall then be given written notice of not less than twenty (20) days for public comment. Said notice shall indicate with reasonable specificity the violation alleged to have occurred.
- B. At the public hearing, the Board shall hear and consider all relevant evidence and thereafter render findings and a decision based upon the evidence. Any such hearing must, at a minimum, provide the Grantee a full and fair opportunity to be heard by the Board.

- C. In the event the Board finds that a Grantee has corrected the violation or promptly commenced correction of such violation after notice thereof from Grantor and is diligently proceeding to fully remedy the violation, or that no violation has occurred, the proceedings shall terminate and no penalty or other sanction shall be imposed.
- D. In the event the Board finds that a violation exists and that a Grantee has not corrected the same in a satisfactory manner or did not promptly commence and diligently proceed to correct the violation, the Board may impose liquidated damages to be collected from the security fund, as set out in the Franchise Agreement.

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- E. If the Board elects to assess liquidated damages, then such election shall constitute Grantor's exclusive remedy for a period of sixty (60) days. Thereafter, if a Grantee remains in non-compliance, the Grantor may pursue any other available remedy.
- F. In the event that a Franchise is cancelled or terminated by reason of the default of a Grantee, the security fund deposited pursuant to a Franchise Agreement shall remain in effect and available to the Grantor until all pending claims or penalties are resolved or settled, after which point any remaining amounts in the security fund shall revert to the Grantee.
- G. The rights reserved to Grantor with respect to the security fund are in addition to all other rights of Grantor, whether reserved by a Franchise Agreement, this Ordinance, or authorized by law, and no action, proceeding, or exercise of a right with respect to such security fund shall affect any other right Grantor may have.
- H. In instances of repeated violations, whether remedied or not, the Grantor shall serve special notice outlining additional remediation requirements. Failure to cure, as measured by repeated instances of the same violation, is evidence of an evasive practice and may lead to revocation under Division 10.
- I. Grantee acknowledges that non-compliance with the provisions of the Franchise Agreement and this Ordinance will harm Subscribers and the Town and the amounts of actual damages will be difficult or impossible to ascertain. The Town may therefore assess the following liquidated damages against Grantee for unexcused non-compliance with the requirements of the Franchise Agreement and this Ordinance. Grantee acknowledges that the liquidated damages set forth below are a reasonable approximation of actual damages and that this provision is intended to provide compensation and is not a penalty. All damages provided shall be cumulative, unless expressly stated.
  - 1. For failure to materially complete construction or extend service in accordance with the Ordinance and the Franchise Agreement: \$250/ calendar day for each day the violation continues;
  - 2. For failure to materially comply with requirements for Public Access Channels: \$250 calendar day for each day the violation continues;
  - 3. For failure to comply with the material requirements of the I-Net provisions of the Ordinance/Franchise Agreement: \$250/ calendar day for each day the violation continues;
  - 4. For repeated, willful or continuing failure to submit reports, maintain records, provide documents or information: \$250/ calendar day for each day the violation continues;
  - 5. For failure to comply with the material requirements of the Customer Service Standards: \$250/ calendar day for each day the violation continues;
  - 6. For failure to comply with the transfer provisions: \$250/ calendar day for each day the violation continues;
  - 7. For violation of other material provisions of the Ordinance and the Franchise Agreement: up to \$250/ calendar day for each day the violation continues.

#### **Sec. 3-104. Bonds, indemnification, and insurance.**

Each Grantee shall maintain bonds and insurance with the Town in amounts and in a manner as set forth in the Grantee's Franchise Agreement. Each Grantee also shall be required to indemnify the Town in a manner as set forth in the Grantee's Franchise Agreement.

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#### **Sec. 3-105 through 3-115. Reserved.**

### **ARTICLE VIII. REVOCATION**

#### **Sec. 3-116. Grounds for revocation.**

Grantor reserves the right to revoke the Franchise, and all rights and privileges pertaining thereto, in the event that:

- A. A Grantee substantially violates any material provision of this Ordinance or a Franchise Agreement;
- B. A Grantee attempts to evade any of the material provisions of this Ordinance or a Franchise Agreement;
- C. A Grantee practices an act of fraud or deceit upon the Grantor;
- D. A Grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt;
- E. A Grantee fails to provide or maintain in full force and effect the liability and indemnification coverage or the performance bond as required pursuant to its Franchise; or
- F. A Grantee violates any orders or rulings of any regulatory body having jurisdiction over the Grantee relative to this Ordinance or the Franchise and after notice thereof, shall continue the violation and not remedy the same within sixty (60) days.

#### **Sec. 3-117. Procedure.**

- A. Whenever Grantor has reason to believe that there may be grounds for revocation of a Franchise, Grantor shall first notify the Grantee in writing of its basis for believing grounds for revocation exist. Such notice shall indicate with reasonable specificity the grounds for revocation that are believed to exist so that the Grantee may have a reasonable opportunity to cure or otherwise address the same. If a Grantee fails to adequately cure or address the purported grounds for revocation within thirty (30) days of such notice, then the Grantor may, upon thirty (30) days written notice to the Grantee, commence a public administrative hearing to determine whether there exists any ground for revocation.
- B. The administrative hearing shall be conducted so as to protect the full due process rights of the parties and provide for, at a minimum, the right to have counsel, the right to call and cross examine witnesses, and the right to a full transcript of the proceedings.
- C. After the close of the hearing, Grantor or the designated hearing officer shall issue a written decision based on the record of the proceedings, stating with specificity the findings and reasons supporting the decision.
- D. Upon revocation, a Grantee shall have a period of one hundred and twenty (120) days subsequent to the date of the formal adoption of a revocation of the Franchise by the Town within which to file an appeal with a court of competent jurisdiction.

E. During the appeal period, the Franchise shall remain in full force and effect.

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**Sec. 3-118 through 3-125. Reserved.**

## ARTICLE IX. FORECLOSURE, RECEIVERSHIP AND ABANDONMENT

### **Sec. 3-126. Foreclosure.**

Upon the foreclosure or other judicial sale of all or a part of a System, a Grantee shall notify Grantor of such fact and such notification shall be treated as a notification that a change in Control of the Grantee has taken place, and the provisions of this Ordinance governing the consent to transfer or change in ownership shall apply without regard to how such transfer or change in ownership occurred.

### **Sec. 3-127. Receivership.**

Apart from and supplemental to the right to revoke a Franchise, Grantor shall have the right to cancel a Franchise Agreement one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of a Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:

- A. Within one hundred twenty (120) days after its election or appointment, the receiver or trustee has fully complied with all the provisions of Grantee's Franchise Agreement and this Ordinance and remedied all defaults thereunder; and,
- B. Such receiver or trustee, within said one hundred twenty (120) days, has executed an agreement, duly approved by a court having jurisdiction, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Ordinance and the applicable Franchise Agreement.

**Sec. 3-128 through 3-135. Reserved.**

## ARTICLE X. PURCHASE OF SYSTEM

### **Sec. 3-136. Purchase by Grantor upon termination of franchise term or revocation of franchise.**

The Grantor may, in accordance with and to the extent permitted by 47 U.S.C. § 547, upon the payment of a fair valuation, purchase, condemn, acquire, take over, and hold the property and plant of a Grantee, in whole or in part, on the following conditions:

- A. Upon revocation of a Franchise, a fair valuation shall be an equitable value that shall not include any sum attributable to the value of the Franchise itself, and plant and property shall be valued

according to its book value at the time of revocation, or the System's initial cost less depreciation and salvage.

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- B. At the expiration of a Franchise Agreement and following a denial of renewal of the Franchise Agreement, a fair valuation shall be the fair market value of the plant and property, exclusive of the value attributed to the Franchise itself.
- C. In the event Grantor shall acquire a Franchise pursuant to the provisions of this Ordinance or a Franchise Agreement, and commenced operation of the System, Grantor shall reimburse the Grantee for the Fair Market Value of the System.

**Sec. 1-137 through 1-145. Reserved.**

## ARTICLE XI. SALE OR TRANSFER

**Sec. 3-146. Sale or transfer of franchise.**

- A. No Grantee shall sell, transfer, lease, assign, sublet, or dispose of, in whole or in part, an interest in or Control of a Franchise or Cable System or any of the rights or privileges granted by a Franchise Agreement, without the prior consent of the Grantor, which consent shall not be unreasonably denied or delayed and may be denied only upon a good faith finding by the Grantor that the proposed transferee lacks the legal, technical, or financial qualifications to consummate the transaction and operate the System so as to perform its obligations under this Ordinance and the applicable Franchise Agreement. This section shall not apply to sales of property or equipment in the normal course of business. Consent from the Grantor shall not be required for a transfer in trust, mortgage, or other instrument of hypothecation, in whole or in part, to secure indebtedness, or for a transfer to a Person controlling, controlled by, or under common Control with a Grantee.
- B. The following additional events shall be deemed to be a sale, assignment, or other transfer of an interest in or Control of a Grantee or its Franchise or Cable System requiring compliance with this section: (i) the sale, assignment, or other transfer of all or a majority of a Grantee's assets; (ii) the sale, assignment, or other transfer of capital stock or partnership, membership, or other equity interests in a Grantee by one or more of its existing shareholders, partners, members, or other equity owners so as to create a new controlling interest in a Grantee; (iii) the issuance of additional capital stock or partnership, membership or other equity interest by a Grantee so as to create a new controlling interest in a Grantee; and (iv) a Grantee's agreement to transfer management or operation of the Grantee or the System. The term "controlling interest" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised.
- C. In the case of any sale or transfer of ownership of an interest in or Control of a Grantee or its Franchise or Cable System, the Town shall have one hundred twenty (120) days to act upon any request for approval of such sale or transfer that contains or is accompanied by such information as is required in accordance with FCC Regulations and the requirements of this Ordinance and the applicable Franchise Agreement, including information related to the legal, technical and financial qualifications, and the proposed transferee's ability to operate the System in accord with this Ordinance and the Franchise Agreement. Failure to provide all information reasonably requested by the Town as part of its review may

## CABLE TELEVISION SERVICES

be grounds for a denial of the proposed transfer. If the Town fails to render a final decision on the request within one hundred twenty (120) days after receipt by the Town of all required information, such request shall be deemed granted unless the Grantee and the Town agree to an extension of the one hundred twenty (120) day period.

- D. The consent or approval of the Town to any transfer of the Grantee shall not constitute a waiver or release of the rights of the Town in and to the Rights-of-Way, and any transfer shall, by its terms, be expressly subject to the terms and conditions of this Ordinance and the Franchise Agreement.
- E. In the absence of extraordinary circumstances, the Town will not approve any transfer or assignment of the Franchise prior to completion of construction of the proposed initial System.
- F. Any approval by the Town of a transfer shall be contingent upon the prospective new Grantee becoming a signatory to the Franchise Agreement.

**Sec. 3-147 through 3-155. Reserved.**

## ARTICLE XII. RIGHTS OF INDIVIDUALS PROTECTED

**Sec. 3-156. Discriminatory practices prohibited.**

No Grantee shall deny service, deny access, or otherwise discriminate against Subscribers, programmers, or general citizens on the basis of race, color, religion, national origin, sex, disability, or age. Every Grantee shall strictly adhere to the equal employment opportunity requirements of state and federal law. Each Grantee shall comply at all times with all other applicable federal, state, and local laws, and all executive and administrative orders relating to non-discrimination.

**Sec. 3-157. Subscriber privacy.**

Grantees shall at all times comply with the federal subscriber privacy requirements codified at 47 U.S.C. § 551.

**Sec. 3-158 through 3-165. Reserved.**

## CABLE TELEVISION SERVICES

## ARTICLE XIII. MISCELLANEOUS PROVISIONS

**Sec. 3-166. Rate regulation.**

The Town reserves the right to regulate rates for Basic Cable Service and any other Services offered over the Cable System, to the extent permitted by federal or state law. Grantee shall be subject to the rate regulation provisions provided for herein, and those of the Federal Communications Commission (FCC) at 47 C.F.R., Part 76.900, Subpart N. The Town shall follow the rules relating to cable rate regulation promulgated by the FCC at

47 C.F.R., Part 76.900, Subpart N. To the extent required by applicable federal or state law, Grantee shall establish rates that are nondiscriminatory within the same general class of Subscribers and which must be applied fairly and uniformly to all Subscribers in the Franchise Area for all Services. Nothing contained herein shall prohibit the Grantee from offering (i) discounts to commercial and multiple family dwelling Subscribers billed on a bulk basis; (ii) promotional discounts; (iii) reduced installation rates for Subscribers who have multiple services; or (iv) discounts for senior citizens and/or low income residents; or (v) reduced rates to Subscribers who receive non-Cable Services in addition to Cable Services.

#### **Sec. 3-167. Rights reserved to Grantor.**

- A. Upon either the expiration or revocation of a Franchise, Grantor may permit and/or require a Grantee to continue to operate the Cable System for an extended period of time not to exceed three (3) months from the date of such expiration or revocation. A Grantee shall continue to operate the System under the terms and conditions of this Ordinance and the applicable Franchise Agreement and to provide Cable Service and any and all other Services which Grantee had been providing.
- B. The Grantor shall have the right to compel continued operation of the Cable System whether by the Grantee or a trustee or receiver or by the Grantor, and to ensure that such operation is consistent with public interest as determined by a court of competent jurisdiction. The Grantee may not remove equipment or documents necessary for continued operation of the System.
- C. At all reasonable times, Grantee shall permit examination by the Town of the System, together with any appurtenant property of Grantee situated within or without the Town when necessary to ascertain the Grantee's compliance with this Ordinance, the Franchise Agreement, and all applicable laws.
- D. The Town shall have the right of intervention in any suit or proceeding to which the Grantee is a party relative to Grantee's operations in the Town, and the Grantee shall not oppose such intervention by the Town.
- E. Except as otherwise provided by applicable law, the Grantee shall have no recourse whatsoever against the Town or its officials. Boards, commissions, agents, or employees for any loss, cost, expense, or damage arising out of any provision or requirements of this Ordinance or the Franchise Agreement, or of their enforcement.

### **CABLE TELEVISION SERVICES**

#### **Sec. 3-168. Non-enforcement by the Town.**

Grantee shall not be relieved of its obligation to comply with any of the provisions of this Ordinance or the Franchise Agreement by reason of any failure of the Town to enforce prompt compliance.

#### **Sec. 3-169. Governing law and choice of forum.**

Any dispute arising with respect to this Ordinance or a Franchise Agreement granted pursuant to it shall be subject to review by the state and federal courts having primary jurisdiction in Granite Quarry, North Carolina.

#### **Sec. 3-170. Severability.**

If any material portion of this Ordinance, or a Franchise Agreement adopted pursuant to it, is held by an authority of competent jurisdiction, to be invalid or unlawful as conflicting with applicable laws now or hereafter in effect, or is held by a court or competent governmental authority to be modified in any way in order to conform to the requirements of any such applicable laws, such provision shall be considered a separate, distinct, and independent part of this Ordinance or Franchise Agreement, and, to the extent possible, such holding shall not affect the validity and enforceability of all other provisions thereof.

### **Sec. 3-171 Publication of notices.**

All public notices required to be published by Grantor under this Ordinance or any Franchise Agreement shall be published in a manner consistent with the public notice laws of the State of North Carolina.

### **Sec. 3-172. System construction capabilities and schedule.**

- A. The Cable System shall generally conform to the System design and Channel capacity specifications set forth by the Grantee in its application for a Franchise submitted to the Town. At a minimum, the Grantee shall construct a System with equivalent technical capabilities to a hybrid fiber coax [HFC] 750 MHz cable system. The Grantee is permitted to modify its design and implementation plan, pursuant to the conditions provided herein, to accommodate technological innovations and refinements, which enhance System reliability and capacity.
- B. The initial construction required under initial Franchise Agreement shall be completed in compliance with a schedule specified therein. If the Grantee shows that, notwithstanding its due diligence, that it has been unable to extend service to a specified area because the acts or omissions of a third party (excluding the Grantee's subcontractors or agents) or other factors have caused a delay in construction beyond that reasonably expected during the course of construction, and the Grantee proposes a reasonable alternative deadline for extension of Service to that area, the Town shall grant reasonable extensions of time to complete construction.

## **CABLE TELEVISION SERVICES**

### **APPENDIX A. CUSTOMER SERVICE STANDARDS**

- A. Grantee will at all times comply with the Town's Customer Service Standards in addition to compliance with the FCC standards (Title 47 CFR, Part 76.309 (Cable Television Service), Subpart H (General Operating Requirements) as amended.
- B. The Town's Customer Service Standards are:
  - (a) The Customer Service Standards as set forth below are the standards set for all affected cable operators. This provision is the Town's notice of its intent to enforce the standards.
  - (b) Effective with adoption of this Ordinance, a cable operator shall be subject to the following customer service standards:
    - (1) Cable System office hours and telephone availability.
      - (A) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its Subscribers 24 hours a day, seven days a week.



- (i) Trained Representatives will be available to respond to customer telephone inquiries during normal business hours.
  - (ii) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a Trained Representative on the next business day.
- (B) Under normal operating conditions, telephone answer time by a trained representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.
- (C) The cable operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above, unless an historical record of complaints indicates a clear failure to comply.
- (D) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.
- (E) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.
- (2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety-five (95) percent of the time measured on a quarterly basis:
  - (A) Standard installations will be performed within seven (7) business days after an order has been placed.
  - (B) Excluding conditions beyond the control of the cable operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions
 

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to correct other service problems the next business day after notification of the service problem.
  - (C) The "appointment window" alternatives for installations, service calls and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The cable operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)
  - (D) A cable operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
  - (E) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time that is convenient for the customer.
- (3) Communications between cable operators and cable Subscribers.
  - (A) Notifications to Subscribers.
    - (1) The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all Subscribers, and at any time upon request:

- (i) Products and services offered;
    - (ii) Prices and options for programming services and conditions of subscription to programming and other services;
    - (iii) Installation and service maintenance policies;
    - (iv) Instruction on how to use the Cable Service;
    - (v) Channel positions of programming carried on the system; and
    - (vi) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.
  - (2) Customers will be notified of any changes in rates, programming service or Channel positions as soon as possible in writing. Notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify Subscribers thirty (30) days in advance of any significant changes in the other information required by paragraph (c)(3)(i)(A). Notwithstanding any other provision of Part 76, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State or franchising authority on the transaction between the operator and the Subscriber.
- (B) Billing.
- (1) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations, including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
  - (2) In case of a billing dispute, the cable operator must respond to a written complaint from a Subscriber within thirty (30) days.
- (C) Refunds. Refund checks will be issued promptly, but no later than either:
- (1) the customer's next billing cycle following resolution or the request Of thirty (30) days, whichever is earlier; or
  - (2) the return of the equipment supplied by the cable operator if service is terminated.
- (D) Credits. Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

# **CODE OF ORDINANCES**

## **Chapter 4**

### **FLOOD DAMAGE PREVENTION**

#### **ARTICLE I. IN GENERAL**

- Sec. 4-1. Adoption of Rowan County Ordinance.
- Secs. 4-2 – 4-10. Reserved.

#### **ARTICLE II. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

- Sec. 4-11. Statutory authorization.
- Sec. 4-12. Statement of purpose.
- Sec. 4-13. Objectives.
- Secs. 4-14 – 4-20. Reserved.

#### **ARTICLE III. DEFINITIONS**

#### **ARTICLE IV. GENERAL PROVISIONS**

- Sec. 4-21. Lands to which this ordinance applies.
- Sec. 4-22. Basis for establishing the areas of special flood hazard.
- Sec. 4-23. Establishment of Development Permit.
- Sec. 4-24. Compliance.
- Sec. 4-25. Abrogation and greater restrictions.
- Sec. 4-26. Interpretation.
- Sec. 4-27. Warning and disclaimer of liability.
- Sec. 4-28. Penalties for violation.
- Sec. 4-29. Effect on rights and liabilities under the existing flood damage prevention ordinance.
- Sec. 4-30. Effect upon outstanding building permits.
- Secs. 4-31 – 4-40. Reserved.

#### **ARTICLE V. ADMINISTRATION**

- Sec. 4-41. Designation of Administrator.
- Sec. 4-42. Development Permit and certification requirements.
- Sec. 4-43. Duties and responsibilities of the Administrator.
- Sec. 4-44. Administrative procedure.
- Sec. 4-45. Variance procedures.
- Sec. 4-46 – 4-60. Reserved.

#### **ARTICLE VI. PROVISIONS FOR FLOOD HAZARD REDUCTION**

- Sec. 4-61. General standards.
- Sec. 4-62. Same -- Specific.
- Sec. 4-63. Standards for streams without established base flood elevations and/or floodways.
- Sec. 4-64. Standards for subdivision proposals and major developments.

## FLOOD DAMAGE PREVENTION

### ARTICLE I. IN GENERAL

#### **Sec. 4-1. Adoption of Rowan County Ordinance.**

An ordinance for flood damage prevention was adopted in Rowan County on May 22, 2002 and as amended from time to time, is hereby adopted by the town.

A copy of this ordinance shall be maintained on file with the town clerk.

#### **Sec. 4-2 through 4-10. Reserved.**

### ARTICLE II. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

#### **Sec. 4-11. Statutory authorization.**

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Article 6 of Chapter 153A of the North Carolina General Statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the Board of County Commissioners of Rowan County, North Carolina, does ordain as follows:

- (1) The flood hazard areas of Rowan County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

#### **Sec. 4-12. Statement of purpose.**

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected, against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

## FLOOD DAMAGE PREVENTION

- (4) control filling, grading, dredging, and other development which may increase erosion or flood damage; and,
- (5) prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

### **Sec. 4-13. Objectives.**

The objectives of this ordinance are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money For costly flood control projects,
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public,
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;
- (6) to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas: and,
- (7) to insure that potential homebuyers are notified that property is in a flood area.

### **Sec. 4-14 through 4-20. Reserved.**

## **ARTICLE III. DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. **Accessory Structure** means structures which are located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.
2. **Addition** (to an existing building) means an extension or increase in the floor area or height of a building or structure Additions to existing buildings shall comply with the standards for new construction, unless the addition, renovation or reconstruction is to a building that was constructed prior to the initial Flood Insurance Study for that area, and the addition, renovation or reconstruction does not equal 50% of the present market value of the structure. Where a firewall is provided between the addition and the existing building, the addition(s) shall be considered a separate, building and must comply with the standards for new construction.
3. **Appeal** means a request for a review of the administrator's interpretation of any provision of this ordinance.

## FLOOD DAMAGE PREVENTION

4. **Area of special flood hazard** is the land in the floodplain within a community subject to a one percent or greater chance of being flooded in any given year.
5. **Base flood** means the flood having a one (1) percent chance of being equaled or exceeded in any given year.
6. **Basement** means, for floodplain management purposes, any area of the building having its floor subgrade (below ground level) on all sides.
7. **Building** means any stature built for support, shelter, or enclosure for any occupancy or storage.
8. **Development** means, for floodplain management purposes, any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials
9. **Elevated building** means, for floodplain management purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.
10. **Existing construction** means for the purposes of determining rates, structures for which the start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures".
11. **Existing manufactured home park or manufactured home subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before December 17, 1979.
12. **Expansion to an existing manufactured home park or subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).
13. **Flood or flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (a) the overflow of inland or tidal waters; or,
  - (b) the unusual and rapid accumulation of runoff of surface waters from any source.
14. **Flood Hazard Boundary Map (FHBM)** means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.
15. **Flood Insurance Rate Map (FIRM)** means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
16. **Flood Insurance Study** is the engineering study performed by the Federal Emergency Management Agency to identify flood hazard areas, flood insurance risk zones, and other flood data in a community. The study includes Flood Boundary and Floodway Maps (FBFMs), Flood Hazard Boundary Maps (FHBMs), and/or Flood Insurance Rate Map (FIRMs).

## FLOOD DAMAGE PREVENTION

17. **Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
18. **Floor** means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.
19. **Functionally dependent facility** means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.
20. **Highest Adjacent Grade** means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.
21. **Historic Structure** means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a State inventory of historic places; (d) individually listed on a local inventory of historic places immunities with historic preservation programs that have been certified (1) by an approved state program as determined by the Secretary of Interior, or (2) directly by the Secretary of Interior in states without approved programs.
22. **Lowest Floor** means, for floodplain management and flood insurance purposes, the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
23. **Manufactured home** means a home complying with the US Department of Housing and Urban Development Manufactured Home Construction and Safety Standards. For homes manufactured prior to June 15, 1976, Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
24. **Manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
25. **Mean Sea Level** means, for purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a FIRM are referenced,
26. **New construction** means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of this ordinance and includes any subsequent improvements to such structures.

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27. **New manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after December 17, 1979.
28. **Nonconforming building or use** means any legally existing building or use which fails to comply with the provisions of the ordinance.
29. **Recreational vehicle** 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; and, (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.
30. **Remedy a violation** means to bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.
31. **Start of construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
32. **Structure** means, for floodplain management purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank, or other man-made facility or infrastructure that is principally above ground.
33. **Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement".
34. **Substantial improvement** means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) any project of improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or, (2) any alteration of a historic structure,



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provided that the alteration will not preclude the structure's continued designation as a historic structure.

35. **Substantially improved existing manufactured home park or subdivision** means where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.
36. **Variance** is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.
37. **Violation** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

## ARTICLE IV. GENERAL PROVISIONS

### **Sec. 4-21. Lands to which this ordinance applies.**

This ordinance shall apply to all areas of special flood hazard within the unincorporated areas of Rowan County. The county may regulate territory within the jurisdiction of any municipality whose governing body, by resolution, agrees to such regulation; provided, however, that any such municipal governing body may, upon one (1) year's written notice, withdraw its approval of county regulations, and those regulations shall have no further effect within the municipality's jurisdiction.

### **Sec. 4-22. Basis for establishing the areas of special flood hazard.**

The "Areas of Special Flood Hazard" are those identified by the Federal Emergency Management Agency (FEMA) in its Flood Hazard Boundary Map or Flood Insurance Study and Flood Insurance Rate Maps, for Rowan County dated November 1, 1979, which with accompanying supporting data, and any revision thereto, including Letters of Map Amendment or Revision, are adopted by reference and declared to be a part of this ordinance. The "Areas of Special Flood Hazard" also include those defined through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This includes detailed flood information generated as a requirement of Article V, Section 4-43 (j) this Ordinance.

### **Sec. 4-23. Establishment of Development Permit.**

A Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities.

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### **Sec. 4-24. Compliance.**

No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

### **Sec. 4-25. Abrogation and greater restrictions.**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### **Sec. 4-26. Interpretation.**

In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and, (3) deemed neither to limit nor repeal any other powers granted under state statutes.

### **Sec. 4-27. Warning and disclaimer of liability.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Rowan County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

### **Sec. 4-28. Penalties for violation.**

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Rowan County from taking such other lawful action as is necessary to prevent or remedy any violation.

### **Sec. 4-29. Effect on rights and liabilities under the existing flood damage prevention ordinance.**

This ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted December 17, 1979 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have

## FLOOD DAMAGE PREVENTION

accrued thereunder are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance enacted on December 17, 1979 as amended, which are not reenacted herein are repealed.

### **Sec. 4-30. Effect upon outstanding building permits.**

Nothing in this chapter shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the chief building inspector or his authorized agents before the time of passage of the ordinance from which this chapter derives (May 20, 2002); provided, however, that when construction is not begun under such outstanding permit within a period of one hundred eighty (180) days subsequent to passage of the ordinance, construction or use shall be in conformity with the provisions of this chapter.

### **Secs. 4-31 through 4-40. Reserved.**

## **ARTICLE V. ADMINISTRATION**

### **Sec. 4-41. Designation of Administrator.**

The Rowan County Planning Manager, or his designee, hereinafter referred to as the "administrator", is hereby appointed to administer and implement the provisions of this ordinance.

### **Sec. 4-42. Development Permit and certification requirements.**

Application for a Development Permit shall be made to the administrator on forms furnished by the administrator prior to any development activities. The Development Permit shall include, but not be limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:

- (1) A plot plan that shows the 100 year floodplain contour or a statement that the entire lot is within the floodplain must be provided by the development permit applicant when the lot is within or appears to be within the floodplain as mapped by the Federal Emergency Management Agency or the floodplain identified pursuant to either Section 4-43 (j) or Sections 4-63 and 4-64. The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.
- (2) The plot plan required by subsection (1) must show the floodway as identified by the Federal Emergency Management Agency or pursuant to either Section 4-43 (j) or Section 4-63, or the setback required for streams without designated floodways as required by Section 4-63(2).

## FLOOD DAMAGE PREVENTION

- (3) Where base flood elevation data is provided as set forth in Article IV Section 4-22, or Article V, Section 4-43(j), the application for a Development Permit within the flood hazard area shall show:
  - (a) the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, and
  - (b) if the non-residential structure will be floodproofed in accordance with Article VI, Section 4-62(2), the elevation (in relation to mean sea level) to which the structure will be floodproofed.
- (4) Where the base flood elevation data is not provided, the application for a development permit must show construction of the lowest floor at least 4 feet above the highest adjacent grade.
- (5) Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include: a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation.
- (6) When a structure is floodproofed, the applicant shall provide a Floodproofing Certificate (FEMA Form 81-65) from a registered professional engineer or architect that the non- residential floodproofed structure meets the floodproofing criteria in Article VI, Section 4-62(2).
- (7) An Elevation Certificate (FEMA Form 81-31.) or a Floodproofing Certificate (FEMA Form 81-65) is required after the lowest floor is completed. Within twenty-one (21) calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the administrator a certification of the elevation of the lowest floor, or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the twenty-one (21) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

### **Sec. 4-43. Duties and responsibilities of the Administrator.**

Duties of the administrator shall include, but not be limited to:

- a. Review all development permits to assure that the requirements of this ordinance have been satisfied.
- b. Advise permittee that additional Federal or State permits may be required, and if specific Federal or State permits are known, require that copies of such permits be provided and maintained on file with the development permit.
- c. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

## FLOOD DAMAGE PREVENTION

- d. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- e. Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of Article VII are met.
- f. Obtain actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article V, Section 4-42(7).
- g. Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with Article V, Section 4-42(7).
- h. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Article VI, Section 4-62(2).
- i. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- j. When base flood elevation data or floodway data has not been provided in accordance with Article IV, Section 4-22, obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a Federal, State, or other source, including data developed pursuant to Article VI, Section 4-64, in order to administer the provisions of this ordinance.
- k. When the exact location of boundaries of the areas special flood hazards conflict with the current, natural topography information at the site the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. A copy of the Letter of Map Amendment issued from FEMA will be maintained by the administrator in the permit file.
- l. Make on-site inspections of projects in accordance with Article V, Section 4-44.
- m. Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with Article V, Section 4-44.
- n. Maintain all records pertaining to the administration of this ordinance and make these records available for public inspection.

### **Sec. 4-44. Administrative procedure.**

1. **Inspections of Work in Progress:** As the work pursuant to a permit progresses, the administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit, in exercising this power, the administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.
2. **Stop-Work Orders:** Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor,
3. **Revocation of Permits:** The administrator may revoke and require the return of the development permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable State or local law may also be revoked.

## FLOOD DAMAGE PREVENTION

4. **Periodic Inspections:** The administrator and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
5. **Violations to be Corrected:** When the administrator finds violations of applicable State and local laws, it shall be his duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law in the property that he owns.
6. **Actions in Event of Failure to Take Corrective Action:** If the owner of a building or property shall fail to take prompt corrective action, the administrator shall give him written notice, by certified or registered mail to his last known address or by personal service:
  - a. that the building or property is in violation of the Flood Damage Prevention Ordinance;
  - b. that a hearing will be held before the administrator at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
  - c. that following the hearing, the administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
7. **Order to Take Corrective Action:** If, upon a hearing held pursuant to the notice prescribed above, the administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, the administrator may prescribe; provided that where the administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.
8. **Appeal:** Any owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the administrator and the clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
9. **Failure to Comply with Order:** If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

### Sec. 4-45. Variance Procedures.

The Rowan County Zoning Board of Adjustment as established by the Rowan County Board of Commissioners, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance. Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- a. the danger that materials may be swept onto other lands to the injury of others;

## FLOOD DAMAGE PREVENTION

- b. the danger to life and property due to flooding or erosion damage;
- c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. the importance of the services provided by the proposed facility to the community;
- e. the necessity to the facility of a waterfront location, where applicable;
- f. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- g. the compatibility of the proposed use with existing and anticipated development;
- h. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. the safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- k. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

A written report addressing each of the above factors shall be submitted with the application for a variance. Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

### Conditions for Variances:

- 1. Variances may not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
- 2. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 3. Variances shall only be issued upon:
  - a. a showing of good and sufficient cause;
  - b. a determination that failure to grant the variance would result in exceptional hardship; and,
  - c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

**Sec. 4-46 through 4-60. Reserved.**

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### ARTICLES VI. PROVISIONS FOR FLOOD HAZARD REDUCTION

#### Sec. 4-61. General standards.

In all areas of special flood hazard the following provisions are required:

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;
- b. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- c. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;
- d. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- g. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and,
- h. Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.
- i. Non-Conforming Buildings or Uses. Non-conforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this ordinance. Provided, however, nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway or stream setback, provided that the bulk of the building or structure below base flood elevation in the floodway or stream setback is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

#### Sec. 4-62. Same—Specific.

In all areas of special flood hazard where base flood elevation data has been provided, as set forth in Article IV, Section 4-22, or Article V, Section 4-43(j), the following provisions are required:

- (1) Residential Construction. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than four (4) feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided.
- (2) Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential structure shall have the lowest floor, including basement, elevated no lower than four (4) feet above the level of the base flood elevation. Structures located in A Zones may be floodproofed to the flood protection level in lieu of elevation provided that all areas of the structure below



## FLOOD DAMAGE PREVENTION

the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Article V, Section 4-42(7).

(3)

### Manufactured Homes:

- (a) Manufactured homes that are placed or substantially improved on sites (i) outside a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; or, (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than four (4) feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (b) Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of Article VI, Section 4-62(3)(a) of this ordinance must be elevated on reinforced piers or other structural elements so that the lowest floor of the manufactured home is no lower than four (4) feet above the base flood elevation and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.
- (c) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with the *State of North Carolina Regulations for Manufactured/Mobile Homes, 1995 Edition*, and any revision thereto adopted by the Commissioner of Insurance pursuant to NCGS 4143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height an engineering certification is required.
- (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the administrator and the local Emergency Management coordinator.

(4)

Recreational Vehicles. A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. Recreation vehicles placed on sites shall either:

- (a) be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use; or
- (b) meet the requirements of Article V, Section 4-42 and Article VI, Sections 4-61 and 4-62(3).

(5)

Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to preclude finished living space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

- (a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
  - (1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

## FLOOD DAMAGE PREVENTION

- (2) The bottom of all required openings shall be no higher than one foot above grade; and,
    - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - (b) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
  - (c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.
- (6) Temporary Structures. Prior to the issuance of a development permit for a temporary structure the following requirements must be met:
- (a) All applicants must submit to the administrator prior to the issuance of the development permit a plan for the removal of such structure(s) in the event of a hurricane or flash flood warning notification. The plan must include the following information:
    - (1) a specified time period for which the temporary use will be permitted;
    - (2) the name, address and phone number of the individual responsible for the removal of the temporary structure;
    - (3) the time frame prior to the event at which a structure will be removed (i.e. minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
    - (4) a copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed; and
    - (5) designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.
  - (b) The above information shall be submitted in writing to the administrator for review and written approval.
- (7) Accessory Structure. When accessory structures (sheds, detached garages, etc.) with a value of \$3,000 or less, are to be placed in the floodplain the following criteria shall be met:
- (a) Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas);
  - (b) Accessory structures shall be designed to have low flood damage potential;
  - (c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
  - (d) Accessory structures shall be firmly anchored in accordance with Article VI, Section 4-61(a);
  - (e) Service facilities such as electrical and heating equipment shall be installed in accordance with Article VI Section 4-61(d); and
  - (f) Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with Article VI, Section 4-62(5).
- (8) Floodways. Located within areas of special flood hazard established in Article IV, Section 4-22, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:
- (a) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the administrator.

## FLOOD DAMAGE PREVENTION

- (b) If Article VI, Section 4-62(8)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article VI.
- (c) No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and the elevation standards of Article VI, Section 4-62(3) and the encroachment standards of Article VI, Section 4-62(8)(a) are met.

### **Sec. 4-63. Standards for streams without established base flood elevations and/or floodways.**

Located within the areas of special flood hazard established in Article IV, Section 4-22, are small streams where no base flood data has been provided or where no floodways have been identified. The following provisions apply within such areas:

- (a) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty feet each side from top of bank or five times the width of the stream whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (b) If Article VI, Section 4-63(a) is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard ordinance provisions of Article VI and shall be elevated or floodproofed in accordance with elevations established in accordance with Article V, Section 4-43(j). When base flood elevation data is not available from a Federal, State, or other source, the lowest floor, including basement shall be elevated at least four (4) feet above the highest adjacent grade.

### **Sec. 4-64. Standards for subdivision proposals and major developments.**

- (a) Proposals for subdivisions and major developments shall be consistent with the need to minimize flood damage.
- (b) Proposals for subdivisions and major developments shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (c) Proposals for subdivisions and major developments shall have adequate drainage provided to reduce exposure to flood hazards; and,
- (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of twenty lots or five acres.

# CODE OF ORDINANCES

## Chapter 5

### ANIMALS

#### ARTICLE I. IN GENERAL

Sec. 5-1.	Bird sanctuary created.
Sec. 5-2.	Maintenance of hog pens and raising of hogs.
Sec. 5-3.	Cattle, goats, sheep, horses.
Sec. 5-4.	Maintenance of pens, lots, etc.
Sec. 5-5.	Appointment of an Animal Warden.
Sec. 5-6.	Authority of Police Department.
Sec. 5-7 – 5-20.	Reserved.

#### ARTICLE II. ANIMAL CONTROL

Sec. 5-21.	Adoption of Rowan County Ordinance.
Sec. 5-22.	General provisions.
Sec. 5-23.	Agency responsibility and authority.
Sec. 5-24.	Definitions.
Sec. 5-25.	Compliance with State Rabies Laws – supplemental to Laws.
Sec. 5-26.	Restraint of von-vicious animals.
Sec. 5-27.	Impoundment.
Sec. 5-28.	Keeping stray animals; requirements, failure to surrender.
Sec. 5-29.	Public nuisances prohibited.
Sec. 5-30.	Dangerous dogs or potentially dangerous dogs; definitions and procedures.
Sec. 5-31.	Registration of exotic and dangerous exotic animals.
Sec. 5-32.	Cruelty to animals / animal abandonment.
Sec. 5-33.	Miscellaneous.
Sec. 5-34.	Citations and penalties.
Sec. 5-35.	Severability clause.

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**\*State law references** – Authority of town to regulate domestic animals, G.S. 160A-186; protection of animals, G.S. 19A-1 et seq.; cruelty to animals generally, G.S. 14-360 – 14-363.

## ANIMALS

### ARTICLE I. IN GENERAL

#### **Sec. 5-1. Bird sanctuary created.**

It shall be unlawful for any person to hunt, kill, or trap any birds within the town unless an express permit is first obtained from the town. This section shall not be construed as protecting any birds classified as unprotected by the wildlife resource commission of the state or by law.

**State law reference** – Authority of town to establish bird sanctuary, G.S. 160A-188.

#### **Sec. 5-2. Maintenance of hog pens and raising of hogs.**

It shall be unlawful for any person to have, keep, or maintain a hog pen or lot or to keep or raise hogs or swine within the town.

#### **Sec. 5-3. Cattle, goats, sheep, horses.**

It shall be unlawful for any person to locate, erect, or maintain on any property, within the corporate limits of the town, a stable for housing cattle, goats, sheep, or horses unless it shall be located at least 200 feet from any residence. No more than one of any of these animals shall be kept on a lot containing less than one acre. Not more than a total of two of these animals per acre may be kept on lots containing one acre or more. So much of the lot as may be set aside for the use of these animals shall be completely enclosed. Fences shall be maintained and in good repair to prevent the animals from getting out.

#### **Sec. 5-4. Maintenance of pens, lots, etc.**

- (a) Every person who owns or maintains a penned lot, shelter, or other place where animals are kept shall maintain the same in a sanitary and humane manner.
- (b) If the condition of the shelter shall be found not to be healthy or humane, then this condition shall be reported to the animal control officer and it shall be the duty of the animal control officer to report the condition to the health department.

#### **Sec. 5-5. Appointment of an Animal Warden.**

The Board of Aldermen or Town Manager is hereby authorized to appoint one or more town animal control officers.

#### **Sec. 5-6. Authority of the Police Department.**

Members of the police department of the town or county animal control officer shall be empowered to perform the duties of the animal warden.

#### **Secs. 5-7 through 5-20. Reserved.**

## ANIMALS

### ARTICLE II. ANIMAL CONTROL

#### Sec. 5-21. Adoption of Rowan County Ordinance.

- (a) An ordinance to control rabies and animal related diseases and problems in Rowan County was adopted by the Rowan County Board of Commissioners on November 16, 1976, and as amended from time to time, is hereby adopted by the town.
- (b) The adoption by the town of this article is intended to be in addition to, and not in substitution of, the foregoing provisions of this chapter.
- (c) If conflict arises between any of the foregoing provisions of this chapter and any provisions of this article, the town shall have the ultimate authority to enforce the provisions of this chapter.
- (d) A copy of this article shall be maintained on file with the town clerk.

#### Sec. 5-22. General provisions.

- a. **Authorization** - The Board of Health of Rowan County, hereinafter referred to as the Board, is authorized under the provisions of Chapter 130A-39 of the General Statutes of North Carolina to adopt appropriate rules for the protection of the public health regarding Animal Control concerns in Rowan County.
- b. **Purpose** - It is the purpose of these rules to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.
- c. **Policy** - Consistent with the responsibility to protect and advance the public health, it is declared to be the policy of the board that all dogs and cats are to be immunized against rabies; and, that all domesticated animals and all exotic animals are to be restrained in order to prevent a public nuisance, danger to humans, injury or disease; and, that all animals are to be treated in a humane manner.
- d. **Scope** - No person shall own or keep a dog, cat or other animal in Rowan County contrary to the provisions of these rules. Previously adopted rules, procedures and requirements of the Rowan County Health Department are rescinded.
- e. **Conflict With Other Laws and Regulations** - The provisions of any federal, state, or municipal law or regulation establishing standards affording greater protection to the public welfare, safety and health shall prevail within the jurisdiction of such agency over standards established by these rules.
- f. **Right of Entry** - The health director, through his/her authorized designee, shall have the right of entry upon the premises of any place where entry is necessary to carry out the provisions of these rules. If consent for entry is not obtained, an administrative search and inspection warrant shall be obtained pursuant to G.S. 15-27.2. However, if an imminent hazard exists, no warrant is required for entry upon the premises.
- g. **Interference With Enforcement** - It shall be unlawful for any person to interfere with, hinder or molest the employees of the health department in their enforcement of these rules, or to seek to release any animal in the custody of such person, except as otherwise specifically provided.

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- h. **Appeals** - Any person aggrieved by any action of an animal control officer with regard to these rules shall first confer with the health director, who may affirm or reverse the original decision of the representative. If the person is dissatisfied with the health director's decision he/she shall give written notice of appeal, setting forth the grievances, to the health director within thirty (30) days after the conference with the health director. Upon receiving this notice the health director shall, within five (5) working days, transmit to the chairman of the board the notice and all other pertinent papers. The board shall hold a hearing within fifteen (15) days after it receives notice of appeal. The board shall give the applicant no less than ten (10) days notice of the date, time and place of the hearing. Any party may appear in person or by agent or attorney. No person shall take any action prohibited by the health department until there is a final resolution of the grievance. On appeal, the board shall have the authority to affirm, modify or reverse the challenged action. The board shall issue a concise written decision setting forth its reasons with all deliberate speed after the hearing.

### **Sec. 5-23. Agency responsibility and authority.**

- A. Authority is hereby granted to the health department to establish and maintain an animal control program. The health department shall employ animal control officers and such other employees, as shall be determined necessary, and approved by the Rowan County Board of Commissioners. The health director, through his/her authorized designee, shall:
1. Have responsibility, along with law enforcement agencies, to enforce the laws of North Carolina and the rules of the board pertaining to animal control and shall cooperate fully with all law enforcement officers within Rowan County in support of these laws/rules.
  2. Enforce and carry out the laws of North Carolina and the rules of the board pertaining to rabies control, except those areas assigned to another agency.
  3. Be responsible for the investigation of all reported animal bites of humans, for the quarantine of any dog or cat involved and suspected of having rabies for a period of not less than ten (10) days and reporting to the health director as soon as practicable the occurrence of any such animal bite and the condition of any quarantined animal.
  4. Make such canvasses of the county as necessary for the purpose of ascertaining compliance with these rules and state laws pertaining to animal control.
  5. Be responsible for the operation of the Rowan County animal shelter.
  6. Keep or cause to keep, accurate and detailed records of:
    - a. Bite cases, violations and complaints and investigation of these cases
    - b. Seizure, impoundment and disposition of all animals coming into the custody of the animal control program.
    - c. All monies belonging to Rowan County derived from fees, penalties, or other sources and to deposit all funds so collected daily.
    - d. Any other matters required by the state law or directed by the health director.
  7. Issue notices of violations of these rules in such form as the board may prescribe.
  8. Investigate cruelty to and abuse of animals.

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9. Be responsible for the seizure and impoundment, where deemed necessary, of any dog or cat or other animal in Rowan County involved in a violation of these rules or state law pertaining to animal control.
10. It shall be unlawful for any person to interfere with, hinder, or molest the employees of the health department, in their enforcement of these rules, or to seek to release any animal in the custody of such person, except as otherwise specifically provided.

B. Penalty: Interference with Enforcement

1. Penalty: Failure to comply with the requirements in Section A. 10. shall result in a fine for each offense. Fee: \$100.00

### Sec. 5-24. Definitions.

The following words and phrases shall, for the purpose of these rules, have the meaning assigned herein unless the contents clearly indicate another meaning.

1. **Adequate Shelter:** Enclosure of three sides and a roof
2. **Aggressive:** Forceful, hostile, injurious or destructive behavior
3. **Animal:** Every live vertebrate other than human beings
4. **Animal Control Officer:** A Rowan County employee designated by the health director to enforce the Rowan County Animal Control Rules, county ordinances and state laws pertaining to animal control
5. **Animal Control Supervisor:** The animal control officer responsible for supervision of the Animal Control Section of the Rowan County Health Department
6. **Animal Shelter:** Any premises designated by the health director for the purpose of impounding and caring for animals
7. **Animal Trap:** Humane live trap
8. **At Large:** An animal shall be deemed to be at large when it is off the property of its owner or keeper, and not under the physical restraint of a competent person
9. **Board of Health:** The board is the policy-making, rule making and adjudicatory body for the county health department and is appointed by the Rowan County Commissioners
10. **Cat:** A domesticated carnivorous mammal of the genus *Felis*
11. **Competent Person:** A person of legal age and discretion to keep an animal under sufficient restraint and control in order to prevent harm to people, the animal and to other animals including, but not limited to, domesticated animals
12. **Cruelty and Cruel Treatment:** means every act, omission, or act of neglect whereby unjustifiable pain, suffering or death is caused, or permitted against animals, as well as acts or attempted acts of teasing, molesting, baiting or trapping of animals unlawfully
13. **Dangerous Exotic Animal:** Any exotic animal or hybrid thereof which is a carnivore; a member of the bear family; a non-human primate; a species of herbivore with a history of aggression toward humans; a venomous reptile; a member of the crocodile family; or a member of the boa and python family in excess of ten (10) feet in length. This definition excludes birds and ferrets



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- 14. **Dangerous/Potentially Dangerous Dog:** Refer to Section IX
- 15. **Dog:** A domesticated carnivorous mammal of the genus Canis
- 16. **Domesticated:** Tame, controllable, closely associated with and compatible with humans
- 17. **Environmental Health Supervisor:** The supervisor of the Environmental Health Division of the Rowan County Health Department
- 18. **Exotic Animals:** Any living animal other than domestic dogs, domestic cats, and animals normally kept as livestock, or such other animals as may hereafter be designated by the health director
- 19. **Health Department:** The Rowan County Health Department
- 20. **Health Director:** The Director of the Rowan County Health Department or a duly authorized representative
- 21. **Imminent Hazard:** Means a situation which is likely to cause an immediate threat to human life or animals, an immediate threat of serious physical injury, an immediate threat of serious adverse health effects, or a serious risk of irreparable damage to the environment if no immediate action is taken
- 22. **Impoundment:** The confinement or restraint of any animal by a person or animal control employee duly authorized by the health director
- 23. **Injury:** The wounding of an animal
- 24. **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 by such person
- 25. **Owner:** A person having a possessory property right in an animal
- 26. **Owner's or keeper's real property:** means any real property owned or eased by the owner of the animal
- 27. **Person:** Any individual, family, group of individuals, corporation, partnership, organization or institution commonly recognized by law as an entity
- 28. **Pet:** An animal kept for pleasure rather than utility
- 29. **Public Nuisance:** Refer to Section VIII
- 30. **Restraint:** Restriction or control of an animal's movement
- 31. **Severe injury:** means any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization
- 32. **Stray:** Any domestic or exotic animal not under restraint and found off the property of its owner or keeper
- 33. **Suspected of Having Rabies:** Any mammal, wild, exotic or domestic, that has bitten a human or another animal
- 34. **Vehicle:** Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, and expressly including bicycles
- 35. **Veterinary Hospital:** Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.
- 36. **Wild:** Living in a state of nature, not domesticated, untamed, not under the control of man.

### Sec. 5-25. Compliance with State Rabies Laws – supplemental to Laws.

- A. It shall be unlawful for any animal owner or other person to fail to comply with all applicable state laws pertaining to the control of rabies.

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- B. It is the purpose of these rules to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.

### 1. VACCINATION OF DOGS AND CATS

- a. It shall be unlawful for an owner or keeper to fail to provide a current vaccination against rabies (hydrophobia) for any dog or cat four (4) months of age or older. Should it be deemed necessary, by the health director or the board, that other domestic animals be vaccinated in order to prevent or control a threatened epizootic or epidemic or to control an existing epizootic, it shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies for any such animal.
- b. A rabies vaccination shall be deemed current if administered according to the most recent North Carolina Department of Health and Human Services recommendations, and an approved rabies vaccine must be utilized.
- c. All rabies vaccines shall be administered by a person authorized to do so in accordance with North Carolina law.
- d. The health director can authorize a canvass of the county to determine if there are any dogs or cats not wearing the required vaccination tag. If a dog or cat is found not wearing the required rabies vaccination tag, the animal control officer shall check to see if the owner's or keeper's identification can be found on the animal. If the animal control officer does not know whom the owner or keeper is, the animal control officer may impound the animal.
- e. Rabies vaccinations are not approved for exotic animals, except as authorized by the state public health veterinarian.
- f. **Penalty:** Failure to comply with the requirements in B.1a. shall result in a fine for each offense.  
Fee: \$100.00

### 2. VACCINATION TAG AND CERTIFICATE

- a. Upon compliance with the provisions of these rules, the owner or keeper of the vaccinated dog or cat shall be issued a rabies tag, containing the words 'North Carolina' or the initials "NC." and stamped with a number and the year for which issued, and a rabies vaccination certificate.
- b. It shall be unlawful for any dog or cat owner or keeper to fail to provide the dog or cat with a collar or harness to which a current rabies tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times as required by state law.
- c. In addition to all other penalties as prescribed by law, a dog or cat is subject to impoundment in accordance with the provisions of these rules if the dog or cat is found not to be wearing a currently valid rabies tag.
- d. It shall be unlawful for any person to use, for any animal, a rabies vaccination tag issued for another animal.
- e. **Penalty:** Failure to comply with the requirements in B.2b. shall result in a fine for each offense.  
Fee: \$25.00

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### 3. NOTICE TO HEALTH DIRECTOR WHEN PERSON BITTEN:

#### CONFINEMENT OF ANIMAL

- a. When a person has been bitten by an animal having rabies or suspected of having rabies, it shall be the duty of such person, or his/her parent or guardian if such person is a minor, and the person owning such animal or having the same in his/her possession or under his/her control, to notify the health director or the Animal Shelter immediately and give their names and addresses; and the owner or the keeper or person having such animal in his/her possession or under his/her control shall immediately and securely confine it for ten (10) days at the expense of the owner in such place as may be designated by the health director.
- Exotic animals shall be confined for a period to be determined by the state public health veterinarian or surrendered for rabies examination if required by the state public health veterinarian. It shall be the duty of every physician, after his/her professional attendance upon a person bitten by any animal having rabies, or suspected of having rabies to report to the health director the name, age, and sex of the person so bitten, and the precise location of the bite wound, within twenty-four (24) hours after having first knowledge that the person was bitten.
- (e) If the owner of, or a person who has in his/her possession or under his/her control, an animal having rabies or suspected of having rabies refuses to confine the animal as required by these rules and G.S. 130A-195, the health director may order seizure of the animal and its confinement for ten (10) days in such a place as the health director shall designate.
- (f) Law enforcement agencies investigating animal bites shall report such bites immediately to the health director and give the names and addresses of person bitten and of the owner or keeper of such animal.
- (g) Animals confined, pursuant to this section, shall not be released from confinement except by permission of the health director.
- (h) Animals confined, pursuant to this section, shall be confined at the expense of the owner or keeper.
- (i) In the case of an animal whose owner or keeper is not known, the animal shall be kept at the animal shelter for the supervised confinement period required by these rules. Exotic animals shall be kept at a secure location not accessible to the public. Confinement arrangements shall be approved by the health director or his designee. Staff access to the animal shall be limited to the minimum number reasonably required to provide adequate care.
- (j) Badly wounded, diseased, or suffering animals which, are suspected of having rabies, may be humanely destroyed immediately and the head forwarded to the North Carolina Department of Health and Human Services for examination.
- (k) Any dog or cat confined for observation of rabies shall be confined in a secure enclosure which shall be: A padlocked pen of sufficient strength to contain the animal, with a concrete bottom and a secured top, or a locked home or locked outbuilding with a concrete bottom and secure windows or no windows. Any requests for home confinements shall be approved at the discretion of the health director, animal control supervisor or environmental health supervisor.

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- i. **Penalty:** Failure to report a bite when a person is bitten by an animal. Fee: \$50.00  
Failure to confine or give up for confinement an animal that has bitten. Fee: \$500.00

### 4. DESTRUCTION OR CONFINEMENT OF ANIMAL BITTEN

#### BY A KNOWN RABID ANIMAL

- a. Animals not vaccinated against rabies and are bitten by a known rabid animal or an animal suspected of having rabies that is not available for diagnosis, shall be immediately destroyed unless the owner or keeper agrees to strict isolation of the animal at a veterinary hospital for the period of six (6) months at the owner's expense. If the animal has a current rabies vaccination, it shall be re-vaccinated at the expense of the owner or keeper and returned to the owner or keeper.
- b. Area Wide Emergency Quarantine
  - i. When reports indicate a positive diagnosis of rabies to the extent the lives of persons and animals are endangered, the health director may declare an area-wide quarantine for such a period as he/she deems necessary. Upon invoking of such emergency quarantine, no dog or cat may be taken or shipped from the county without written permission of the health director. During such quarantine, the health director and law enforcement officers may seize and impound at large dogs and cats in the county. During the quarantine, the health director shall be empowered to provide for a program of mass immunization for rabies by the establishment of temporary emergency rabies vaccination facilities. No animal that has been impounded as a stray, unclaimed by its owner or keeper, shall be allowed to be adopted during the period of emergency.
  - ii. In the event there are additional positive cases of rabies occurring during the period of quarantine, the quarantine may be extended at discretion of the health director.
- c. Post Mortem Diagnosis
  - i. If an animal dies while under observation for rabies, the head of such animal shall be submitted to the health department for shipment to the Laboratory Section of the North Carolina Department of Health and Human Services for rabies diagnosis.
  - ii. The carcass of any animal suspected of dying of rabies shall be processed in the same manner as an animal that died under observation.
- d. **Penalty:** Failure to comply with destruction or confinement of an animal bitten by a known rabid animal. Fee: \$500.00

Failure to comply with wide area emergency quarantine. Fee: \$500.00

### 5. UNLAWFUL KILLING OR RELEASING OF CERTAIN ANIMALS

- a. It shall be unlawful for any person to kill or release any animal under observation for rabies, or any animal under observation for biting a human or another animal, or to remove such animal from the county without written permission from the health director. The health director may authorize any animal to be euthanized for rabies diagnosis.
- b. **Penalty:** Failure to comply with 5a. Fee: \$500.00

### 6. FAILURE TO SURRENDER ANIMAL FOR CONFINEMENT OR DESTRUCTION

- a. It shall be unlawful for any person to refuse to surrender any animal for confinement or destruction as required by these rules, when required by the health director.

b. **Penalty:** Failure to comply with B.6a.

Fee: \$500.00

#### **Sec. 5-26. Restraint of non-vicious animals.**

1. Sufficient restraint shall include, but is not limited to, restraint by leash, harness, or similar effective or humane device that is capable of restraining an animal, or confinement indoors or within a cage, fence, or vehicle or similar secure enclosure. Being loose in the back of an open truck does not constitute being restrained. Sufficient restraint shall also include immediate supervision of an animal by a competent person when both are in the limits of the real property of the animal's owner or keeper.
2. It shall be unlawful for any person to keep any animal unless it is restrained, whether on or off the owner or keeper's property.
3. All chains, leashes or similar restraints shall be designed and placed so as to prevent choking or strangulation, and be of such design so as to restrain the animal during its utmost physical attempts to free itself. Such form of restraint while on the owner's or keeper's property shall be no less than ten (10) feet in length and either on a swivel designed to prevent choking or strangulation, or on a chain run with a swivel or in a securely fenced area, secure building or dwelling.
4. Nothing contained in these rules is intended to be in conflict with the laws of the State of North Carolina regarding dogs while being used in hunting. Nor are these rules intended to interfere with legal sporting events or exhibitions involving dogs, cats, or other animals. However, while engaged in such activities, the owner or keeper of such animals shall be strictly liable for damages done by those animals to the person, possessions or property of others.
5. All female dogs and cats in heat (estrus) must be confined. The owner or keeper of any female dog or cat in heat must confine the animal in a building or enclosure in such manner that it will not be in contact with another dog or cat. Restraining the animal in an open area with a chain or leash to a fixed object does not constitute confinement, and is a violation of these rules. This section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner or keeper of an animal involved in the breeding process.
6. An owner or keeper of any animal shall be held strictly liable for any damages done by the animal while in or off the owner's or keeper's real property.
7. **Penalty:** Failure to restrain non-vicious animals. Fee: \$25.00  
Failure to properly confine females in heat. Fee: \$50.00

#### **Sec. 5-27. Impoundment.**

- A. Any dog/cat/animal which appears to be lost, stray or unwanted, or not wearing a currently valid rabies vaccination tag as required by state law and these rules, or not under restraint in violation of these rules, may be seized, impounded, and confined in a humane manner in an animal shelter.
- B. The duration of the impoundment of these dogs/cats/animals may be established by the health director or his/her designee, but the duration of the impoundment shall not be less than 72 hours. During the impoundment period an animal control officer shall make a reasonable effort to locate the owner or keeper of the dog/cat/animal. If the dog/cat/animal is not reclaimed by its owner or keeper during the impoundment period, the animal shall be disposed of in the following manner:
  1. returned to the owner or keeper;
  2. adopted as a pet by a new owner; or,
  3. euthanized by a procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

- C. The Animal Shelter shall maintain a record of all dogs/cats/animals impounded under this section; which shall include the date of impoundment, the length of impoundment, the method of disposal of the dog/cat/animal and the name of the person or institution to whom any dog/cat/animal has been released.
- D. Impoundment of such dogs/cats/animals shall not relieve the owner or keeper thereof from any penalty: which may be imposed for violations of these rules.

**1. NOTICE TO OWNER OR KEEPER OF DOGS OR CATS**

- a. Upon impoundment of a dog or cat, notice of such impoundment shall be posted at the animal shelter until the dog or cat shall be disposed of as hereinafter provided, which shall be a minimum of 72 hours, beginning with the time the animal enters the animal shelter. Reasonable effort shall be made to identify the owner or keeper and to inform him/her of the requirements for redeeming the dog or cat. Notice may be by telephone or by written notice mailed by regular mail to the owner or keeper when the identity and address are known or obtained. The 72-hour holding period will not include Saturdays, Sundays or holidays.

**2. REDEMPTION BY OWNER OR KEEPER OF DOGS AND CATS**

- a. The owner or keeper of an animal impounded under these rules, except those animals suspected of being rabid, may redeem the animal within three (3) days following the impoundment date. If the owner is known and notified and does not redeem the animal within three (3) days, not including Saturdays, Sundays, and Holiday, the animal may processed under these rules. The owner or keeper shall pay all applicable fees concerning redemption as a condition of redemption.
- b. No owner or keeper may be permitted to adopt his/her own animal under these rules. Such owner or keeper must comply with #3 of these rules in order to redeem an animal that has been impounded pursuant to state law and these rules.
- c. The rules of this section shall have no application with respect to animals surrendered by the owner or keeper to the health department for immediate adoption or destruction as provided for in D.5a.

**3. PROCEDURE WITH RESPECT TO REDEMPTION OR ADOPTION OF DOGS OR CATS**

- a. All dogs or cats adopted from or redeemed from the animal shelter must have a rabies vaccination, unless written proof of a current rabies vaccination can be furnished. Every person who adopts or redeems a dog or cat must make a deposit at the animal shelter toward the cost of a rabies vaccination. Upon making the deposit, the person will be given a receipt for the deposited amount. The person may then take the dog or cat to any veterinarian in Rowan County, have the dog or cat vaccinated and present the receipt to the veterinarian. The amount deposited and shown on the receipt shall be counted toward the cost of the vaccination. The person must then supply the animal shelter with written proof of vaccination from the veterinarian. The time limit for dogs and cats over four (4) months of age will be three (3) days, excluding Saturdays, Sundays and holidays. For those animals under the age of four (4) months, the time limit will vary according to their age.
- b. All dogs and cats, which are to be adopted from the animal shelter, must be spayed or neutered. Any person wishing to adopt a dog or cat is subjected to these rules and shall sign all necessary documents concerning the adoption. The applicant shall agree not to hold Rowan County or the animal shelter responsible for any claims related to or resulting from the adoption of an animal and shall:
  - i. Pay a deposit established by the health department and county for the veterinarian who performs the spay/neuter within the time frame spelled out in subsection iii listed below.
  - ii. Take the dog or cat to any veterinarian in Rowan County for the spay/neuter treatment.

- iii. The time limit to complete spay/neuter for dogs or cats over four (4) months of age shall be thirty (30) days or at the discretion of the veterinarian.
- iv. Any adoption of a dog or cat that dies of natural causes within thirty (30) days of the adoption date, may be replaced for any dog or cat chosen by the adopter that is the property of the animal shelter and deemed suitable for adoption. If the adopter requests, the original adoption/neuter/vaccination fee will be refunded.
- v. An adopted dog or cat may be exempt from this provision if the owner furnishes a statement from a licensed veterinarian that the animal, due to health reasons, could not withstand spay/neuter surgery.
- vi. A dog or cat known to have bitten a human or known to have killed livestock shall not be offered for adoption, nor shall a known fighting dog be offered for adoption.
- vii. Sick or injured dogs or cats shall not be offered for adoption.
- viii. Aggressive dogs or cats shall not be offered for adoption.
- c. Adoption of dangerous exotic animals is restricted to persons licensed to keep such animals by the United States Department of Agriculture, Animal and Plant Health Inspection Service (USDA-APHIS). The dangerous exotic classification of an animal shall be disclosed in writing to a prospective adopter prior to adoption of such animal.

#### **4. DESTRUCTION OR ADOPTION OF UNREDEEMED DOG OR CAT**

- a. If an impounded dog or cat is not redeemed by the owner or keeper within the period prescribed in D.2a., it may be destroyed in a humane manner or shall become the property of the Rowan County Animal Shelter and offered for adoption under the requirements of D.3. of these rules.
- b. No animal which has been impounded by reason of its being a stray, unclaimed by its owner or keeper, shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine.

#### **5. IMMEDIATE PLACEMENT FOR ADOPTION OR DESTRUCTION OF OWNER SURRENDERED DOGS OR CATS**

- a. Any dog or cat surrendered by its owner or keeper to an animal control officer may be immediately placed for adoption or humanely euthanized by a procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or of the American Humane Association when:
  - i. The owner or keeper directs in writing that the dog or cat be placed for adoption or humanely destroyed; and
  - ii. The owner or keeper affirmatively represents in writing that he/she is in fact the legal owner or keeper of the dog or cat; and that the dog or cat has not bitten a person within the past ten (10) days or, in the case of exotic animals, a period to be determined by the state public health veterinarian; and
  - iii. The owner or keeper agrees that he/she will indemnify and hold the county, including the health department, harmless from any loss or damage it may sustain, including attorney's fees, by reason of destruction or placement for adoption of the dog or cat; and
  - iv. The owner or keeper transfers ownership or custody of the dog or cat to the health department and releases the health department from any future claims with respect to the dog or cat.
- b. Upon receiving said assurances, the health department may rely on the same and place the dog or cat for adoption, or euthanize the dog or cat by accepted standards. The waiting period provided in D.1. shall not apply to this section.

#### **6. NOTICE TO OWNER OR KEEPER OF OTHER ANIMALS AND EXOTIC ANIMALS**

- a. Upon impoundment of other animal(s), notice of such impoundment shall be posted at the animal shelter until the other animal(s) shall be disposed of as hereinafter provided, which shall be a minimum of 72 hours, beginning with the time the animal enters the animal shelter. Reasonable effort shall be made to identify the owner or keeper and to inform him/her of the requirements for redeeming the other animal(s). Notice may be telephone or by written notice mailed by regular mail to the owner or keeper when the identity and address are known or obtained. The 72-hour holding period will not include Saturdays, Sundays or holidays.

**7. REDEMPTION BY OWNER OR KEEPER OF OTHER ANIMALS AND EXOTIC ANIMALS**

- a. The owner or keeper of other animals impounded under these rules, except those animals suspected of being rabid, may redeem the animal within three (3) days following the impoundment date. If the owner is known and is notified in writing or by telephone and does not redeem the animal within three (3) days, not including Saturdays, Sundays, or holidays, the animal may be processed under these rules. The owner or keeper shall pay all applicable fees concerning redemption as a condition of redemption.
- b. No owner or keeper may be permitted to adopt his/her own animal under these rules. Such owner or keeper must comply with D.8 of these rules in order to redeem an animal that has been impounded pursuant to state law and these rules.
- c. The rules of this section shall have no application with respect to animals surrendered by the owner or keeper to the health department for immediate adoption or destruction as provided for in 10.a.

**8. PROCEDURE WITH RESPECT TO REDEMPTION OR ADOPTION OF OTHER ANIMALS AND EXOTIC ANIMALS**

- a. Any person wishing to adopt another animal is subjected to these rules and shall sign all necessary documents concerning the adoption. The applicant shall agree not to hold Rowan County or the animal shelter responsible for any claims related to or resulting from the adoption of an animal and shall:
  - i. Pay the appropriate administrative fee for adoption.
  - ii. Any adopted animal that dies of natural causes within thirty (30) days of the adoption date may be replaced by a similar animal if available, or any dog or cat chosen by the adopter that is the property of the animal shelter and deemed suitable for adoption. The appropriate vaccination and spay/neuter fees will have to be paid prior to the adoption of a dog or cat. If the adopter requests, the original adoption/neuter/vaccination fee will be refunded.
  - iii. An adopted animal or dog or cat may be exempt from this provision if the owner/adopter furnishes a statement from a licensed veterinarian that the animal, due to health reasons, could not withstand spay/neuter surgery.
  - iv. An animal known to have bitten a human or known to have killed livestock shall not be offered for adoption, nor shall a known fighting cock be offered for adoption.
  - v. Sick or injured animals shall not be offered for adoption.
  - vi. Adoption or redemption of exotic or dangerous exotic animals is restricted to persons licensed to keep such animals by the United States Department of Agriculture or the Animal and Plant Health Inspection Service (USDA-APHIS).

**9. DESTRUCTION OR ADOPTION OF UNREDEEMED OTHER ANIMALS OR EXOTIC ANIMALS**

- a. If an impounded animal is not redeemed by the owner or keeper within the period prescribed in D.7a., it may be destroyed in a humane manner or shall become the property of the Rowan County Animal Shelter and offered for adoption under the requirements of D.8a. of these rules.



- b. No animal which has been impounded by reason of its being a stray or unclaimed by its owner or keeper, shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine.

**10. IMMEDIATE PLACEMENT FOR ADOPTION OR DESTRUCTION OF OWNER SURRENDERED OTHER ANIMALS OR EXOTIC ANIMALS**

- a. Any animal surrendered by its owner or keeper to an animal control officer may be immediately placed for adoption (exception exotic or dangerous exotics) or humanely euthanized by accepted standards when:
  - i. The owner or keeper directs in writing that the animal be placed for adoption or humanely destroyed; and
  - ii. The owner or keeper affirmatively represents in writing that he/she is in fact the legal owner or keeper of the animal; and that the animal has not bitten a person within the last ten (10) days or, in the case of exotic animals, a period to be determined by the state public health veterinarian; and
  - iii. The owner or keeper agrees that he/she will indemnify and hold the county, including the health department, harmless from any loss or damage it may sustain, including attorney's fees, by reason of destruction or placement for adoption of the animal; and
  - iv. The owner or keeper transfers ownership or custody of the animal to the health department and releases the health department from any future claims with respect to the animal.
- b. Upon receiving said assurances, the health department may rely on the same and place the animal for adoption, or destroy the animal, as it sees fit. The waiting period provided in D.1. shall not apply to this section.

**Sec. 5-28. Keeping stray animals; requirements, failure to surrender.**

- A. **Dogs, Cats and Livestock:** It shall be unlawful for any person in the county to knowingly and intentionally harbor, feed, keep in possession by confinement, or otherwise, any stray animal which does not belong to that person, unless that person has, within 24 hours from the time such animal came into his/her possession, notified an animal control officer of his/her intentions to either surrender the stray animal to the animal control officer or advertise such stray animal in the local newspaper for three (3) consecutive days. If the individual holding the stray animal elects to advertise the animal in the local newspaper and the prior owner does not respond by the tenth day **from the last day of publication of the notice**, the individual who has advertised shall be deemed the legal owner. If the advertisement has not appeared within 72 hours, the animal shall be surrendered to the animal control officer. It shall be unlawful for any person to refuse to surrender any such animal to the animal control officer upon demand.
- B. **Dangerous Exotic Animals:** Any person finding or capturing an exotic or dangerous exotic animal shall immediately notify animal control of the same, and shall surrender the exotic animal to the health director or his designee upon request.
- C. **Penalty:** Failure to comply with the requirements in A. and B. shall result in a fine for each offense.  
Fee: \$25.00

**Sec. 5-29. Public nuisances prohibited.**

- A. If an animal has bitten a human or another animal, it shall be declared a public health nuisance and the owner or keeper shall be fined as provided for in F. of this section.

- B. An animal may be determined by the health director, or his designee to be a public nuisance when it commits any of the following acts two (2) or more times or any combination of two or more of the following acts one (1) or more times.
1. Chases, snaps at, or otherwise molests pedestrians, bicyclists, motor vehicles, farm stock or domestic animals; or
  2. Turns over garbage pails; or
  3. Damages gardens, lawns, or other foliage or other real or personal property.
- C. Upon determining that an animal is a public nuisance, the animal control officer shall make a good faith attempt to notify the owner in writing of such determination and of such requirements as may be necessary to prevent the continuation of the nuisance condition.
- D. It shall be unlawful for the owner or keeper of an animal that has been determined to be a public nuisance in accordance with this section or North Carolina General Statute 130A-200, to allow the nuisance to continue if the owner or keeper has received notice and a reasonable time to correct the nuisance.
- E. Any owner or keeper shall be held strictly liable for any damages to any person or another person's possessions or property done by any of the owner or keeper's animals while such animals are running at large or declared a nuisance.
- F. **Penalty:** Failure to comply with the requirements in A-E shall result in a fine for each of the following offenses.

1.	First Violation of Public Nuisances	Fee:	\$25.00
2.	Second Violation of Public Nuisances	Fee:	\$50.00
3.	Third Violation of Public Nuisances	Fee:	\$75.00
4.	Fourth Violation or More	Fee:	\$200.00

#### **Sec. 5-30. Dangerous dogs or potentially dangerous dogs: definitions and procedures.**

- A. The purpose of the dangerous dog rule is to protect persons and animals from unprovoked attacks from a dog or dogs that are dangerous or potentially dangerous.
- B. As used in this section, unless the context clearly requires otherwise, and except as modified in subsection (b) of this section, the term:
1. **Dangerous Dog**, a dog that:
    - a. Without provocation has killed or inflicted severe injury on a person; or
    - b. Is determined by the responsible authority designated by the board to be potentially dangerous because the dog has engaged in one or more of the behaviors listed in subsection 2 of this subsection.
    - c. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.
  2. **Potentially dangerous dog**, a dog that the responsible authority designated by the board determines to have:
    - a. Inflicted severe injury on a person; or
    - b. Killed or inflicted severe injury upon a domestic animal when not on the owner's or keeper's real property; or
    - c. Approached a person when not on the owner's or keeper's property in a vicious or terrorizing manner in an apparent attitude of attack.
- C. The provisions of this section do not apply to:
1. A dog being used by a law enforcement officer to carry out law enforcement duties;
  2. A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a herding dog, or predator control dog on the property of, or

- under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or
3. A dog where 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, assaulting the dog, had tormented, abused or assaulted the dog, or was committing or attempting to commit a crime.
- D. For the purpose of enforcing the dangerous or potentially dangerous dog rule, the board designates the health director, the environmental health supervisor or the animal control supervisor each as the responsible authority for declaring a dog to be a potentially dangerous dog or a dangerous dog. The board shall also designate a subcommittee of the board to hear any appeals. The health director shall have the authority to gather evidence and request hearings before the appellate board concerning dangerous or potentially dangerous dogs. The person making the determination that a dog is & potentially dangerous dog or a dangerous dog must notify the owner or keeper in writing, giving the reasons for the determination before the dog may be considered potentially dangerous or dangerous under this section. The owner or keeper may appeal the determination by filing written objections with the appellate board within three days. The appellate board shall schedule a hearing within 20 days of the filing of the objections. Any appeal from the final decision of such appellate board shall be taken to the superior court by filing notice of appeal and a petition for review within 10 days of the final decision of the appellate board. Appeals from rulings of the appellate board shall be heard de novo before a superior court judge sitting in Rowan County.
- E. Any animal declared a Dangerous Dog or Potentially Dangerous Dog is required to remain confined at the Rowan County Animal Shelter until such time as the owner constructs or makes available confinement facilities which are adjudged by Rowan County Animal Control officials to be secure and in keeping with all requirements.
- F. Redemption fees and daily boarding fees at a rate established by the board shall continue to accrue each day the animal remains confined at the Rowan County Animal Shelter. All charges and fees are required to be satisfied before the animal can be released to its owner.
- G. Minimum cage requirements for any animal declared as a Dangerous Dog or Potentially Dangerous Dog are as follows:
1. 10' x 10' x 6' heavy gauge chain link fence
  2. 4" concrete slab
  3. Roof suitable to contain the dog
  4. Double pad lock
  5. Beware of dog signs posted on the lot.
- H. Once the animal owner is notified that any animal has been declared to be a Dangerous or Potentially Dangerous Dog, the owner will have three (3) weeks to construct the dog lot and have it approved by the Rowan County Animal Control Supervisor.
- I. The dog must stay caged in accordance with the Rowan County Animal Control Rules until all appeals are exhausted.
- J. Precautions required against attacks by dangerous dogs or potentially dangerous dogs.
1. It is unlawful for an owner or keeper to:
    - a. Leave a dangerous dog or potentially dangerous dog unattended on the owner's or keeper's real property unless the dog is confined in a securely enclosed and padlocked chain link pen, with a concrete bottom and a secure top, along with the posting of the premises with four clearly visible warning signs adequate to inform the public, including children, of the presence of a dangerous dog, and strategically placed on the property as designated by the health director or his designee.
    - b. Permit a dangerous dog to go beyond the owner's or keeper's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled.

- c. Even in the presence of an owner or keeper or others, permit a dangerous or potentially dangerous dog on the owner's or keeper's property, not confined in a secured enclosure, to be without a muzzle.
  - 2. If the owner or keeper of the dangerous dog transfers ownership or possession of the dog to another person as identified in G.S. 12-2 (6), the owner or keeper shall provide written notice to:
    - a. The authority that made the determination under this section stating the name and address of the new owner or possessor of the dog; and
    - b. The person taking ownership or possession of the dog, specifying the dog's dangerous behavior and the authority's determination.
  - 3. Violation of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for not more than 30 days or both.
- K. The owner or keeper of a dangerous dog shall be strictly liable in civil damages for any injuries or property damage the dog inflicts upon a person, his/her property, or another animal.
- L. **Penalties:**
- 1. The owner or keeper of a dangerous dog that attacks a person and causes physical injuries requiring medical treatment in excess of one hundred dollars (\$100.00) shall be guilty of a misdemeanor punishable by a fine of up to five thousand dollars (\$5,000.00), imprisonment up to two years, or both.
  - 2. Failure to comply with this section.                      Fee:     \$500.00

**Sec. 5-31. Registration of exotic and dangerous exotic animals.**

- A. **Fully effective rabies vaccines are not available at this time for exotic mammals.** In order to more adequately protect the public from rabies, animal control officers must be aware of the location of these animals. Exotic and dangerous exotic animals constitute a potential risk to public health and safety due to the possibility of human injury or death resulting from attacks by such animals.
- B. **Dangerous Exotic Animal; Registration:** Owners or keepers of exotic and/or dangerous exotic animals as property or pets shall register each animal with the health director or his designee. No fee shall be charged for this registration. Any person who brings a dangerous exotic animal into this county for a period exceeding twenty-four (24) hours shall register the animal within one (1) business day.
- C. **Dangerous Exotic Animal; Federal and State Permits Required:** Every owner of an exotic and/or dangerous exotic animal shall be subject to the following requirements:
  - 1. No owner or keeper may possess a dangerous exotic animal in Rowan County without first obtaining all permits required by the federal government, State of North Carolina and the registration requirements by the board.
  - 2. Application. An owner of a dangerous exotic animal must complete a registration application, which shall be supplied by the Board. The application, once completed, shall contain the following information:
    - a. Name, address and telephone number of the applicant.
    - b. A description of the animal, including species, sex and body weight.
    - c. The address of the premises where the animal will be kept.
    - d. Proof of the applicant's ability to respond in damages for bodily injury or death of any person or for damages to property owned by another person that may result from the ownership, keeping or maintenance of such animal. Proof of ability to respond in damages shall be given by filing with the health director a certificate of insurance from an insurance company authorized to do business in the state, stating that the applicant is insured by a policy with a minimum coverage of \$1,000,000 per claim to compensate

persons for personal injury and property damage. In lieu of insurance the owner may post with the health director a surety bond in the same amounts conditioned upon payment of such damages. Such certificate of insurance or bond shall provide that no cancellation of the insurance or bond will be made unless ten days' written notice is first given to the health director

e. Copies of all federal and state permits and licenses required for such animal.

3. **Penalty:** Failure to register exotic or dangerous exotic animal(s) with Rowan County Animal Shelter. Fee: \$25.00 per animal

### **Sec. 5-32. Cruelty to animals / animal abandonment.**

- A. All animals shall be kept and treated under sanitary and humane conditions and failure of the owner or possessor of the animal to abide by the following provisions shall be subject to the penalties described in C. listed below.
1. All animals in the possession of any person shall be provided proper and adequate food and water. All animals, unless otherwise indicated in this chapter, shall be given at suitable intervals, not to exceed twenty-four (24) hours, a quantity of wholesome food suitable for the species and age, sufficient to maintain a healthful level of nutrition. All animals shall have access to a supply of clean, fresh water.
  2. All animals shall be kept in a clean area and provided adequate shelter that consists of an enclosure of at least three sides and a roof. The enclosure shall be ventilated and must have sufficient room for the animal(s) to move around freely and to lie down comfortably. The following shall not constitute adequate shelter:
    - a. underneath outside steps, decks and stoops;
    - b. inside vehicles during the summer;
    - c. inside metal barrels placed in direct sunlight during the summer;
    - d. inside cardboard boxes
  3. All owners or possessors of animals shall provide proper medical attention for sick, diseased, or injured animals. A sick animal shall go no longer than twenty-four (24) hours without veterinary care.
- B. No person shall beat, torment, overload, overwork, tease, molest or bait an animal as defined in this section. No person shall shoot a dog, either on or off the owner's property, unless the dog is in the act of attacking a human being, livestock or poultry. No person shall trap a dog or cat without the permission of the Rowan County Animal Control Supervisor. By way of example and not limitation, the following acts or conditions shall constitute prima facie evidence of animal cruelty:
1. animals that have not been fed or watered adequately;
  2. allowing animals to live in unsanitary and crowded conditions, and allowing animals to be exposed to extreme damp, hot or cold weather without shelter;
  3. failure or refusal of an owner to obtain medical treatment for an animal when in an Animal Control Officer's opinion such treatment is needed;
  4. a collar, rope or chain embedded in or causing injury to an animal's neck;
  5. causing, permitting or instigating any dogfight, cock fight, bullfight or other illegal contest or combat between animals or animals and humans;
  6. exposing any known poisonous substance or mix a poisonous substance with food so that it will likely be eaten by any animal. This does not include acts or attempts of persons to rid their own property of rats or any other acts permitted by the state wildlife department;
  7. anyone leaving an animal in a closed car, truck or other vehicle for such duration or at temperatures as an animal control officer in his/her sole discretion deems harmful or potentially

harmful to the animal. No person shall carry or cause to be carried in or upon any vehicle or other conveyance any animal in a cruel or inhumane manner;

8. turning loose or discarding any animal with the intent of abandoning such animal.

C. **Penalty:** Failure to comply with this section will result in a fine or cruelty to animals.

Fee: \$100 per event per animal.

Abandonment of Animal: Fee: \$75.00

## **Sec. 5-33. Miscellaneous.**

### **1. LURING, ENTICING, SEIZING, MOLESTING, OR TEASING AN ANIMAL**

- a. It shall be unlawful to seize any animal by luring or enticing that animal off its owner's or keeper's property.
- b. It shall be unlawful to seize, molest or tease any animal belonging to another person or which is legally held or controlled by another person or while the animal is on the property of its owner or keeper.
- c. An animal control officer of Rowan County may not set an animal trap within fifty yards of the animal owner's property without first notifying the owner that his/her animal has been in violation.
- d. Any animal that follows an animal control officer off the owner's property may not be impounded without first notifying the owner that the animal is in violation.
- e. Nothing in this section shall prevent authorized animal control personnel from humanely trapping animals for the purpose of enforcing these rules.
- f. **Penalty:** Anyone caught luring, enticing, seizing, molesting or teasing an animal illegally will be fined \$50.00 per event per animal.

### **2. DESTRUCTION OF WOUNDED, DISEASED, OR UNWEANED ANIMALS**

- a. Any animal seized or impounded by a Rowan County animal control officer(s), which is badly wounded, diseased, not weaned, is not a rabies suspect and has no identification, may be euthanized immediately in a humane manner. If the animal has identification, the animal control officer shall attempt to notify the owner or keeper before disposing of the animal. If the owner or keeper cannot be reached readily and the animal is suffering, the health director or his designee may destroy the animal at his/her discretion in a humane manner. Badly wounded or diseased animals brought in by their owners will be euthanized at the owner's request and with a signed release form.

### **3. DESTRUCTION OF ANIMALS WHICH CANNOT BE SEIZED BY REASONABLE MEANS**

- a. The health director or his designee is authorized to destroy animals which cannot be seized by reasonable means, under the following conditions:
  - i. A dangerous dog, a rabid animal, an animal suspected of having rabies, an animal biting humans or other animals, or seriously threatening humans or animals or killing or injuring livestock, may be considered a serious and immediate threat by the health director.
  - ii. An animal at large that constitutes a serious and immediate threat to the public or other domesticated animals and cannot be captured by reasonable means may be destroyed by order of the health director in a reasonable and safe manner.

### **4. INJURING OR KILLING OF ANIMALS, NOTICE REQUIRED**

- a. At large animals are often involved in animal biting humans cases. It is necessary to observe these animals for ten (10) days, in confinement, in order to determine if they have rabies, for the

protection of the victim and the public. The injured or killed animal may be the one sought after in a bite case and never be located if it is killed or injured and no report is made.

- b. Any person injuring or killing a dog, cat or dangerous exotic animal, accidentally or intentionally, shall immediately notify the owner or keeper of the animal or the animal shelter.

## **5. MISCELLANEOUS CONCERNS**

- a. All possessors or owners of animals that die, from any cause, shall bury the dead animal to a depth of at least three (3) feet beneath the surface of the ground on his leased or owned property. No animal shall be buried within three hundred (300) feet of any flowing stream or public body of water. In the alternative, the animal shall be disposed of in a manner approved by the health director or the Animal Control Supervisor. In any event, all dead animals shall be disposed of within twenty-four (24) hours after knowledge of the death.
- b. All persons who injure or kill a domesticated animal by running over, into or otherwise coming in contact with such an animal with an automobile, motorcycle, bicycle or other vehicle shall notify the owner of the animal immediately. If the owner is not known the person who injured or killed the animal shall immediately notify the animal control supervisor or the police department if the injury or death occurred in the city. If the injury or death occurred in the county, the owner should notify the Sheriff's Office. An owner or lessee of real property who finds an injured or suffering domesticated animal on his property shall report the same to animal control as soon as the animal is discovered on the real property.
- c. No live animal shall be given away, raffled or offered as a prize, premium or advertising device for or at an inducement to enter any contest, game or other competition involving skill or chance.
- d. Animal Control shall have the authority to inspect public exhibits of animals that are part of fairs, carnivals, festivals, fundraising events, petting zoos and any other activity or function carried on in the county. Animal Control shall have the authority to close down any exhibit, function or activity if it is determined that the animals are being cruelly treated or animals run the risk of causing injury or harm to the public or to themselves

### **Sec. 5-34. Citations and penalties.**

- A. The health director or his designee is hereby empowered to issue civil citations to any person if there is probable cause to believe that such person has violated any of the provisions of these rules.
  - 1. Citations so issued may be served in person upon the violator by the health director or his designee, or the citation may be mailed by registered or certified mail, return receipt requested or by other means reasonably calculated to give actual notice.
  - 2. Any citation so served or mailed shall describe the violation with reasonable particularity and shall state the time period within which the alleged violator shall make payment of the fine and shall result to pay such fine shall result in an additional civil action as hereinafter set forth.
  - 3. If payment is not received within the time limits specified in the citation or other equitable settlement has not otherwise been made, the health director or his/her designee may thereupon institute a civil action in the appropriate division of the General Courts of Justice for recovery of the penalties prescribed by these rules. Such civil action must be filed within three (3) years of the date that the civil citation was served on the violator.
  - 4. All citation forms shall be serially numbered in triplicate, and all records with respect to the citation forms and the disposition of the same shall be maintained so that all such forms shall be capable of an immediate accounting.
- B. Criminal Penalties- Any person who shall violate the provisions of these rules as adopted by the board shall be guilty of a Class I misdemeanor as set forth in N.C.G.S. 130A-25.

**Sec. 5-35. Severability clause.**

Any rule or portion thereof which is for any reason invalidated shall thereupon be deemed to be null and void, however all remaining provisions of these rules shall, in all respects, remain in full force and effect.



# **CODE OF ORDINANCES**

## **Chapter 6**

### **BUILDINGS AND BUILDING REGULATIONS**

#### **ARTICLE I. IN GENERAL**

- |                   |  |
|-------------------|--|
| Sec. 6-1.         | State Building Codes adopted by reference.                   |
| Sec. 6-2.         | Permits.   |
| Sec. 6-3.         | Fire districts.  |
| Sec. 6-4.         | Frame or wooden buildings within fire district.              |
| Sec. 6-5.         | Removal of trash from vacated building within fire district. |
| Secs. 6-6 – 6-30. | Reserved.  |

#### **ARTICLE II. BUILDING INSPECTOR**

- |                    |                   |
|--------------------|-------------------|
| Sec. 6-31.         | Designation.      |
| Sec. 6-32.         | Duties generally. |
| Secs. 6-33 – 6-50. | Reserved.         |

#### **ARTICLE III. MINIMUM HOUSING CODE**

- |            |   |
|------------|---|
| Sec. 6-51. | Findings; Purpose; Authority.                                   |
| Sec. 6-52. | Scope.  |
| Sec. 6-53. | Definitions.  |
| Sec. 6-54. | Office of Housing Inspector Created;; Powers and Duties.        |
| Sec. 6-55. | Inspections.  |
| Sec. 6-56. | Preliminary Investigations; Notices; Hearings.                  |
| Sec. 6-57. | Dwelling unfit for human habitation.                            |
| Sec. 6-58. | Dwellings not in compliance but not unfit for human habitation. |
| Sec. 6-59. | Procedure after hearing; order.                                 |
| Sec. 6-60. | Failure to comply with order.                                   |
| Sec. 6-61. | Service of complaints and orders.                               |
| Sec. 6-62. | Appeals.  |
| Sec. 6-63. | Alternative Remedies.   |
| Sec. 6-64. | Conflict with other provisions.                                 |
| Sec. 6-65. | Violations.   |
| Sec. 6-66. | Validity.   |

## BUILDINGS AND BUILDING REGULATIONS

### ARTICLE I. IN GENERAL

#### **Sec. 6-1. State Building Codes adopted by reference.**

- (a) The North Carolina Building Code, current edition, the North Carolina State Fire Resistance Ratings, current edition, and the North Carolina Uniform Residential Building Code, current edition, are hereby adopted as the official building codes for the town.
- (b) Copies of the codes adopted by reference in this section shall be maintained on file with the town clerk.

**State law references**-Building council and state building code, G.S.143-136-143-143.1; authority of the town to adopt technical codes by reference, G.S. 160A-76.

#### **Sec. 6-2. Permits.**

- (a) Any person desiring to erect, alter or repair any building shall apply to the building inspector for a permit to do so; provided, that this section shall not apply where the total value of the repair is less than \$500.00.
- (b) All persons and businesses doing insulation work or working on energy saving equipment shall, before beginning work, obtain a permit from the town office for the work to be done and pay the currently required fee.
- (c) No permit shall be issued to any person or business to do any insulation work unless the person or business doing the work shall have in effect a bond posted with the town in the amount of \$2,000.00, which bond shall be made for the purpose of satisfying any claim which the purchaser of any insulation services may have against the person or business doing the insulation work.
- (d) General contractors, licenses as a general contractor by the state, shall not be required to obtain the permit and bond required by this section. The permit required by this section is in addition to the annual privilege license required by Chapter 14 of this Code.
- (e) Any owner working on his own home or building shall not be required to obtain the permit and bond required by this section.

#### **Sec. 6-3. Fire districts.**

The official limits of the town are hereby designated as the fire district of the Town.

**Cross Reference**-Fire prevention and protection, Chapter 10.

**State law reference**-Establishment of fire district, G.S. 160A-435 thru 160A-438.

#### **Sec. 6-4. Frame or wooden buildings within fire district.**

Within the fire district, as defined and designated by Section 6-3, no frame or wooden building shall be hereafter erected, altered, repaired, moved into or moved from one place to another therein, except upon the permit of the town building inspector, which permit shall be approved by the insurance commissioner of the state.

## BUILDINGS AND BUILDING REGULATIONS

#### **Sec. 6-5. Removal of trash from vacated building within fire district.**

All persons who shall vacate a building within the fire district shall, within 24 hours thereafter, remove all trash therefrom constituting a fire hazard.

**Cross Reference**-Solid Waste Management, Chapter 14.

**Secs. 6-6 through 6-30. Reserved.**

## **ARTICLE II. BUILDING INSPECTOR\***

### **Sec. 6-31. Designation.**

The county building inspector is hereby designated as the building inspector for the town. The town, however, shall have the authority to appoint a building inspector for the town. Such building inspector shall have competent knowledge of building construction and may be appointed by the Town Board of Aldermen or the Town Manager.

### **Sec. 6-32. Duties generally.**

(a) Within the corporate limits of the town, the building inspector shall enforce state and local laws relating to:

1. The construction of buildings and other structures;
2. The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems and air conditioning systems;
3. Insulation work or work on energy saving equipment;
4. The maintenance of buildings and other structures in a safe, sanitary and healthful condition; and,
5. Other matters as may be specified by the Town Board of Aldermen or Town Manager.

(b) The building inspector shall receive applications for permits, issue or deny permits, make any necessary inspections, issue or deny certificates of compliance, issue orders to correct violations, bring judicial actions against actual or threatened violations, keep adequate records, and take any other actions that may be required in order to adequately enforce these laws.

**State law reference** – Powers and duties of building inspector, G.S. 160A-412.

**Secs. 6-33 through 6-50. Reserved.**

## **ARTICLE III. MINIMUM HOUSING CODE**

### **AN ORDINANCE PROVIDING MINIMUM HOUSING STANDARDS OF FITNESS THE CODE OF ORDINANCES OF THE TOWN OF GRANITE QUARRY**

**BE IT ORDAINED** by the Board of Aldermen of the Town of Granite Quarry, North Carolina:

**Part 1.** That Chapter 6, Article III, Sections 6-51 through 6-61, Unfit Dwellings, of the Code of Ordinances, Town of Granite Quarry, North Carolina, is hereby amended, renamed and rewritten in its entirety, adding Sections 6-62 through 6-66 to read as follows:

"ARTICLE III. MINIMUM HOUSING CODE

### **Section 6-51. Findings; Purpose; Authority.**

Pursuant to Section 160A-441 of the General Statutes of North Carolina, it is hereby found and declared that there exist in the Town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe and unsanitary, and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the Town.

In order to protect the health, safety and welfare of the residents of the Town, as authorized by Part 6 of Article 19, Chapter 160A of the General Statutes of North Carolina, it is the purpose of this Chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by Section 160A-444 of the General Statutes of North Carolina.

In addition, it is hereby found and declared, under the authority of North Carolina General Statutes 160A-174, that there exist in the Town dwellings which, although not meeting the classification as unfit for human habitation, fail to fully comply with all the minimum standards for housing fitness as established herein and therefore have present one or more conditions which are inimical to the public health, safety and general welfare. Such conditions, if not corrected can lead to deterioration and dilapidation of dwellings which render them unfit for human habitation.

### **Section 6-52. Scope.**

- (a) This Chapter is hereby declared to be remedial and shall be construed to secure the beneficial interests and purposes thereof which are public 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 buildings, structures or premises used or intended for use as such.
- (b) The provisions of this Chapter shall apply to all existing housing and to all housing hereafter constructed within the Town's Incorporated and Extraterritorial Jurisdictions. Portable, mobile or demountable buildings or structures, including trailers, manufactured homes and mobile homes when used or intended for use for housing within the jurisdiction, shall be subject to the applicable provisions of this Chapter. 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.
- (c) The provisions of this Chapter shall also apply to abandoned structures which are found by the Board of Aldermen to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary conditions.

### **Section 6-53. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this Chapter:

Abandoned Structure. Any structure, whether designed and intended for residential or other uses, which has been vacant or not in active use, regardless of purpose or reason, for the past two-year period and which is

determined by the Housing Inspector to be unfit for human habitation or occupancy based upon the standards as set forth in this Chapter.

Basement. A portion of a building, which is located partly underground, having access to light and air from windows located, above the level of the adjoining ground.

Cellar. A portion of a building located partly or wholly underground having inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

Deteriorated Dwelling. A dwelling that is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this Chapter, *at a cost not in excess of fifty percent of the dwelling value*, as determined by finding of the Housing Inspector using the County Tax Office valuation of the structure.

Dilapidated Dwelling. A dwelling that is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this Chapter, *at a cost not in excess of fifty percent of the dwelling value*, as determined by finding of the Housing Inspector using the County Tax Office valuation of the structure.

Dwelling. Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any accessory buildings and structures and appurtenances belonging thereto or usually enjoyed therewith.

Dwelling Unit. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

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

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.

Housing Inspector. The person appointed by the Board of Aldermen to carry out the administration and enforcement of this Chapter.

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

Manufactured Home (Mobile Home). A structure as defined in G.S. 143-145(7).

Multiple Dwelling. Any dwelling containing more than two dwelling units.

Occupant. Any person over one year of age living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

Operator. Any person who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

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

Parties in Interest. All individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

Public Authority. Any housing authority or any officer who is in charge of any department or branch of the government of the Town, County, or State relating to health, fire, building regulations, or other activities concerning dwellings in the Town.

Rooming House. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

Rooming Unit. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Rubbish. Combustible and noncombustible waste materials except garbage and ashes, and the term shall include, but not be limited to, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

Whenever the words "dwelling", "dwelling unit", "rooming house", "rooming unit" or "premises" are used in this Chapter, they shall be construed as though they were followed by the words "or any part thereof".

#### **Section 6-54. Office of Housing Inspector Created; Powers and Duties.**

For the purposes of Administering and enforcing the provisions of this Chapter, the office of Housing Inspector is hereby created. The Housing Inspector shall be appointed by the Board of Aldermen, and shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including, without limiting the generality of the foregoing, in addition to others herein granted, the following powers:

(a) Investigations

To investigate the dwelling and building conditions in the Town in order to determine which dwellings therein are unfit for human habitation and dangerous, being guided in such examination of dwellings and buildings by the requirements set forth in this Chapter.

(b) Oaths, witnesses, etc.

To administer oaths and affirmations and to examine witnesses and receive evidence.

(c) Right of Entry

To enter upon and within premises and dwellings 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.

(d) Warrants; Citations, etc.

To swear criminal warrants, issue civil citations and to take such other actions as may be necessary to carry out the enforcement procedures of this Chapter.

(e) Delegation of functions, etc.

To delegate any of his functions and powers under this Chapter to such officers and agents as he may designate.

#### **Section 6-55. Inspections.**

For the purpose of carrying out the intent of this Chapter, the Housing Inspector, upon proper identification, is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units and premises, including abandoned structures. The owners or occupants of every dwelling, dwelling unit, rooming unit, or rooming house, or the person in charge thereof, shall give the Housing Inspector free access to such dwelling, dwelling unit, rooming house or rooming unit, and its premises, at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Chapter or with any lawful order issued pursuant to the provisions of this Chapter.

#### **Section 6-56. Preliminary Investigations; Notices; Hearings.**

Whenever a petition is filed with the Housing Inspector by a public authority or by at least five (5) residents of the Town charging that any dwelling is unfit for human habitation or whenever it appears to the Housing Inspector (on his own motion) that any dwelling is unfit for human habitation, the Housing Inspector shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Housing Inspector (or his designated agent) at a place within the Town therein fixed not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Housing Inspector.

Upon the issuance of a complaint and notice of hearing pursuant to this Section, the Inspector may cause the filing of a notice of lis pendens, with a copy of the complaint and notice of hearing attached thereto, in the Office of the Clerk of Superior Court of Davie County, to be indexed and cross-indexed in accordance with the indexing procedures of the North Carolina General Statutes. The Inspector shall cause a copy of the notice of lis pendens to be served upon the owners and parties in interest in the dwelling at the time of filing in accordance with Section 160A-445 of the North Carolina General Statutes, as applicable. Upon compliance with the requirements of any order issued based upon such complaint and hearing, the Inspector shall direct the Clerk of Superior Court to cancel the notice of lis pendens.

#### **Section 6-57 Dwelling Unfit for Human Habitation.**

The Housing Inspector shall determine that a dwelling is unfit for human habitation if he finds that any one of the following conditions exist in such dwelling:

(a) Interior walls or vertical studs which seriously list, lean or buckle to such an extent as to render the dwelling unsafe.

- (b) Supporting member or members which show thirty-three (33) percent or more damage or deterioration, or non-supporting, enclosing or outside walls or covering which shows fifty (50) percent or more of damage or deterioration.
- (c) Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- (d) Such damage by fire, wind or other causes as to render the dwelling unsafe.
- (e) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or welfare of the occupants or other people in the Town.
- (f) Inadequate facilities for egress in case of fire or panic.
- (g) Defects significantly increasing the hazards of fire, accident or other calamities.
- (h) 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.
- (i) Lack of proper electrical, heating or plumbing facilities required by this Chapter which constitutes a definite health or safety hazard.
- (j) Lack of connection to a potable water supply and/or to the public sewer or other approved sewage disposal system, the lack of either one of which renders a dwelling unfit for human habitation. For the purposes of this standard, a dwelling is not connected to a potable water supply if the water supply has been "cut off" because of nonpayment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.

In addition to the ten (10) conditions stated above, any one of which renders a dwelling unfit for human habitation, the Housing Inspector shall determine that a dwelling is unfit for human habitation if he finds that a dwelling fails to fully comply with seven (7) or more of the following enumerated standards of dwelling fitness:

## STRUCTURAL STANDARDS

### Structural Integrity

- (1) Walls, partitions, supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.

### Supports

- (2) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

### Foundations

- (3) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.



### Steps

- (4) Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

### Egress

- (5) Adequate facilities for egress in case of fire or panic shall be provided.

### Interior Materials

- (6) Interior walls and ceilings of all rooms, closets and hallways shall be furnished of suitable materials which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

### Weatherization

- (7) The roof, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.

### Chimneys

- (8) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.

### Floors

- (9) There shall be no use of the ground for floors, or wood floors on the ground.

## *PLUMBING STANDARDS*

### Facilities

- (10) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and an adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply. For the purposes of this standard, a dwelling is not connected to a potable water supply if the water supply has been "cut off" because of non-payment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.

### Maintenance

- (11) All plumbing fixtures shall meet the standards of the Plumbing Code and shall be maintained in a state of good repair and in good working order.

### Accessible

- (12) All required plumbing fixtures shall be located within the dwelling and be accessible to the occupants of the same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

## HEATING STANDARDS

### Generally

- (13) Every dwelling shall have facilities for providing heat in accordance with either paragraph (a) or (b) below. Such facilities shall be maintained in a state of good repair and good working order.
- (a) Central and electrical heating systems. Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling to which it is connected with a minimum temperature of sixty-eight (68) degrees Fahrenheit measured at a point three (3) feet above the floor during average winter conditions.
- (b) Other heating facilities. Where a central or electric heating system is not provided, each dwelling shall be provided with sufficient electrical receptacles, fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms, bathrooms and water closet compartments with a minimum temperature of sixty-eight (68) degrees Fahrenheit measured three (3) feet above the floor during average winter conditions.

## ELECTRICAL STANDARDS

### Wiring

- (14) Every dwelling shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall type electrical convenience receptacles, connected in such manner as determined by the Electric Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall type electric convenience receptacles.

### Hall Lights

- (15) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural light is not sufficient.

### Maintenance

- (16) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the Electric Code.

## VENTILATION STANDARDS

### Generally

- (17) Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be ten percent of

the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light obstructions are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight type window in the top of such a room, the total window area of such skylight shall equal at least fifteen percent of the total floor area of such room.

#### Habitable rooms

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

#### **Bathroom and water closet room**

- (19) Every bathroom equipped with more than one water closet compartment shall comply with the light and ventilation requirements for habitable rooms.

#### **SPACE, USE AND LOCATION STANDARDS**

#### Room sizes

- (20) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the Residential Building Code. (Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling may count for not more than ten percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as a part of the floor area in computing the total area of the room to determine maximum permissible occupancy.) Every dwelling unit shall contain at least one hundred fifty (150) square feet of habitable floor area for the first occupant, at least one hundred (100) square feet of additional habitable area for each of the next three (3) occupants, and at least seventy-five (75) square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over, and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

#### Ceiling Height

- (21) At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.

#### Cellar

- (22) No cellar shall be used for living purposes unless:
- (a) the floor and walls are substantially watertight;
  - (b) the total window area, total openable window area and ceiling height are equal to those required for a habitable room;

- (c) the required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the windows face a stairwell, window well or access way.

## **SAFE AND SANITARY MAINTENANCE STANDARDS**

### **Exterior foundation, walls and roofs**

- (23) Every foundation wall, exterior wall and exterior roof shall be substantially weather tight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance of penetration of moisture or the weather.

### **Interior floors, walls and ceilings**

- (24) Every floor, interior wall and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

## **Windows and doors**

- (25) Every window, exterior door, basement or cellar door and hatchway shall be substantially weather tight, water tight and rodent proof; and shall be kept in sound working condition and good repair.

## **Stairs porches and appurtenances**

- (26) Every inside and outside stair, 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.

## **Bathroom and kitchen floors**

- (27) Every bathroom and kitchen floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in sound condition and good repair.

### **Supplied facilities**

- (28) Every supplied facility, piece of equipment or utility which is required under this Article shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

### **Drainage**

- (29) Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

## **Smoke Detector Systems**

- (30) Every dwelling unit shall be provided with an approved listed smoke detector installed in accordance with the manufacturer's recommendations and listing. When activated, the detector shall provide an audible alarm. The detector shall be tested in accordance with and meet the requirements of UL 217, Single and Multiple Station Smoke Detectors.

## **INSECT, RODENT AND INFESTATION CONTROL STANDARDS**

### **Screens**

- (31) For protection against mosquitoes, flies and other insects every dwelling shall have:
- (a) Supplied and installed screens on every door opening leading directly from the dwelling to outdoor space. Except, that sliding doors, doors with self closing devices, doors on mobile homes with self closing devices and doors that open into rooms of living spaces that are artificially ventilated or air conditioned are exempt from this provision.
  - (b) Supplied and installed screens on every window or other device with an opening to outdoor space, except that this requirement shall not apply for any room or rooms of a dwelling that are ventilated year round with an operable and installed heating and air conditioning system.

### **Rodent control**

- (32) Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.

### **Infestation**

- (33) Every dwelling shall be maintained in a manner to be free of any infestations of insects, rodents or other pests. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

### **Rubbish storage and disposal**

- (34) Every dwelling shall be supplied with approved containers and covers for storage of rubbish as required by Town ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

### **Garbage storage and disposal**

- (35) Every dwelling shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an incinerator unit,

to be approved by the Inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage container as required by Town ordinances.

## **ROOMING HOUSE STANDARDS**

All of the provisions of this Chapter, and all of the minimum standards and requirements of this Chapter, shall be applicable to rooming houses, and to every person who operates a rooming house or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following Subsections:

### Water closet, hand lavatory and bath facilities

- (36) At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever such facilities are shared. All such facilities shall be located within the residence building served, shall be directly accessible from a common hall or passageway and shall not be more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

### **Minimum floor area for sleeping purposes**

- (37) Every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) Square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age.

### **Sanitary conditions**

- (38) The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the rooming house; and shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

### Sanitary facilities

- (39) Every water closet, flush urinal, lavatory basin and bathtub or shower required by Subsection (36) of this Section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein.

[Note: Full compliance with a standard means that if any part of the stated standard is not complied with by a particular dwelling then that dwelling has failed to fully comply with the enumerated standard. For example, in regard to standard #10, if all standards are met in a dwelling except that a supply of hot water is not provided then the dwelling fails to fully comply with standard #10.]

## **Section 6-58. Dwellings Not in Compliance But Not Unfit for Human Habitation.**

In any case where the Housing Inspector determines that a dwelling fails to fully comply with one or more, but less than seven (7) of the above enumerated standards of dwelling fitness, such dwelling shall not be found to be unfit for human habitation and shall not be subject to the procedures and remedies as provided for in this Chapter for dwellings unfit for human habitation. Each such failure of noncompliance, however, shall constitute

a violation of the terms of this Chapter and shall subject the violator to the penalties and enforcement procedures, civil or criminal or both, of Section 1-6 of Town's Code of Ordinances. In making the determination as described in this Section, the Housing Inspector shall not be required to make notice and hold the hearing as called for in Section 6-56, but the Housing Inspector may do so if the determination of the severity and classification of dwelling fitness is not clear to the Housing Inspector upon preliminary investigation.

#### **Section 6-59. Procedure After Hearing; Order.**

If, after notice and hearing, the Housing Inspector determines that the dwelling under consideration is unfit for human habitation in accordance with the standards set forth above, he shall state in writing his findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order:

- (a) If the repair, alteration or improvement of the dwelling can be made at a cost of less than fifty (50) percent of the value of the dwelling, requiring the owner, within the time specified in the order, to repair, alter or improve the dwelling in order to render it fit for human habitation or to vacate and close the dwelling as a human habitation, based upon the Housing Inspector's standards for closing dwellings;

OR

- (b) If the repair, alteration or improvement of the dwelling cannot be made at a cost of less than fifty (50) percent of the value of the dwelling, requiring the owner, within the time specified in the order, to repair, alter or improve the dwelling in order to render it fit for human habitation or to remove or demolish such dwelling.

If, after notice and hearing the Housing Inspector determines that the dwelling under consideration is not unfit for human habitation but is not in full compliance with one or more standards of dwelling fitness as set forth above, he may proceed with the enforcement procedures of Section 1-6 of Town's Code of Ordinances, civil or criminal or both.

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

#### **Section 6-60. Failure to Comply with Order.**

- (a) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the Housing Inspector may:
  - (1) Cause the dwelling to be repaired, altered or improved or to be vacated and closed.
  - (2) Cause to be posted on the main entrance of any such dwelling, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for

human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a violation of this Chapter.

- (b) If the owner fails to comply with an order to repair, alter or improve or to remove or demolish the dwelling, the Housing Inspector may:
  - (1) Cause such dwelling to be vacated and removed or demolished.
  - (2) Cause to be posted on the main entrance of any such dwelling, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a violation of this Chapter.
- (c) The duties of the Housing Inspector set forth in Subsections (a) and (b) shall not be exercised until the Board of Aldermen shall have by ordinance ordered the Housing Inspector to proceed to effectuate the purpose of this Chapter with respect to the particular property or properties which the Housing Inspector shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the Housing Code. For the purposes of this subsection, a period of ninety (90) days following the date of the Housing Inspector's order shall constitute a reasonable opportunity. This ordinance shall be recorded in the Office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.
- (d) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Housing Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes of North Carolina. If the dwelling is removed or demolished by the Housing Inspector, he shall sell the materials of the dwelling, and any personal property, fixture or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court by the Housing Inspector, shall be secured in a manner directed by the Court, and shall be disbursed by the Court to the persons found to be entitled thereto by final order of the decree of the Court.
- (e) If any occupant fails to comply with an order to vacate a dwelling, the Housing Inspector may file a civil action in the name of the Town to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any persons occupying such dwelling. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the Housing Inspector produces the certified copy of an ordinance adopted by the Board of Aldermen pursuant to Subsection (c) authorizing the Housing Inspector to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in



the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with

notice at least 30 days before the filing of the summary ejectment proceeding that the Board of Aldermen has ordered the Housing Inspector to proceed to exercise his duties under Subsections (a), (b) and (c) of this Section to vacate and close or remove and demolish the dwelling.

(f) If the Board of Aldermen shall have adopted an ordinance, or the Housing Inspector shall have issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in Section 6-60 (a), and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or order, then if the board of Aldermen shall find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, moral, and welfare of the Town in that the dwelling would continue to deteriorate, would create a fire and safety hazard would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the areas and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in the Town, then in such circumstances, the Board of Aldermen may, after the expiration of such one year period, enact an ordinance and serve such ordinance to the owner, setting forth the following:

- (1) If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days; or
- (2) If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner demolish and remove the dwelling within 90 days.

#### **Section 6-61. Service of Complaints and Orders.**

Complaints or Orders issued by the Housing Inspector shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the inspector in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the inspector makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the town at least not later than the time at which personal service would be required under the provisions of this Chapter. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

## **Section 6-62. Appeals.**

- (a) The Board of Adjustment is hereby appointed as the Housing Appeals Board to which appeals from any decision or order of the Housing Inspector may be taken. Except where this Chapter provides for different rules or procedures, the Board of Adjustment acting as the Housing Appeals Board shall follow its rules of procedure, which may be amended to provide specifically for this function.
- (b) 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 Board a written notice of appeal which shall 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 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 such act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the Housing Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Housing Inspector certifies to the Board after the notice of appeal is filed with him, that because of facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his 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 Subsection (e) of this Section.
- (c) The Board of Adjustment shall fix a reasonable time for hearing appeals, shall give due 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 partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Housing Inspector, but the concurring vote of four-fifths of the members of the Board shall be necessary to reverse or modify any decision or order of the Housing Inspector. The Board shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the Chapter, to adapt the application of the Chapter to the necessities of the case to the end that the spirit of the Chapter shall be observed, public safety and welfare secured, and substantial justice done.
- (d) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

Any person aggrieved by an order issued by the Housing Inspector or a decision rendered by the Board may petition the Superior Court 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. Hearings shall be had by the Court on a petition within 20 days, and shall be given preference over other matters on the Court's calendar. The Court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this Subsection.

## **Section 6-63. Alternative Remedies.**

Nothing in this Chapter nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their removal or abatement by summary proceedings or

otherwise nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violation of the terms of this Chapter shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in Section 1-6 of the Code of the Town of Granite Quarry.

No dwelling shall be hereafter erected, altered, moved, or changed in occupancy without a Certificate of Occupancy. In any case where the Housing Inspector, after notice and hearing as required herein, finds that a dwelling or dwelling unit is unfit for human habitation, he shall withhold issuance of a Certificate of Occupancy for such dwelling or dwelling unit: until such time that he determines that it is fit for human habitation. In addition, in any case where the Housing Inspector, after preliminary investigation as provided for herein, concludes, based upon that investigation, that a dwelling or dwelling unit is unfit for human habitation and believes that the occupancy of such dwelling or dwelling unit could cause imminent peril to life or property from fire or other hazards, he shall withhold issuance of a Certificate of Occupancy for such dwelling or dwelling unit until such time that he determines that it is fit for human habitation.

If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this Chapter or of any valid order or decision of the Housing Inspector or Board made pursuant to any ordinance or code adopted under authority of this Chapter, the Housing Inspector may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or occupancy, to restrain, correct or abate the violation, to prevent the occupancy of the dwellings, or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

#### **Section 6-64. Conflict with Other Provisions.**

In the event any provision, standard or requirement of this Chapter is found to be in conflict with any provision of any other ordinance or code of the Town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the Town's jurisdiction shall prevail. The North Carolina Building Code, current edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions and other acts of building made or required pursuant to this Chapter.

#### **Section 6-65. Violations.**

In addition to the conditions, acts or failures to act that constitute violations specified in this Chapter above, it shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close or vacate and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. It shall be unlawful for the owner of any dwelling, with respect to which an order has been issued pursuant to Section 6-59, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, or vacation and removal or demolition.

#### **Section 6-66. Validity.**

If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The Board of Aldermen hereby declares that it would have passed this Chapter 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."

**Part 2.** All ordinances in conflict with the provisions of this Chapter are hereby repealed to the extent of such conflict. This Ordinance shall become effective upon its adoption by the Board of Aldermen of the Town of Granite Quarry, North Carolina.

**ADOPTED** this the 6<sup>th</sup> day of June, 2010.

Rebecca B. Shives  
Rebecca B Shives, Town Clerk

Mary S. Ponds  
Mary S. Ponds, Mayor

# CODE OF ORDINANCES

ADOPTED 12-7-2015 BOA)

## Chapter 7 BUSINESSES

### ARTICLE I. IN GENERAL

**Secs. 7-1 through 7-30. Reserved.**

### ARTICLE II. OCCUPATIONAL BUSINESS REGISTRATION FEE\* - GENERALLY

#### **Sec. 7-31. Definitions.**

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

1. **Business:** Any trade, occupation, profession, business, franchise or calling of any kind, subject by the provisions of this article to a registration fee.
2. **Engaged or engaging:** A person is engaged in business within the town when he engages in business activity of any type, either as owner or operator of such business, by maintaining a business location within the town, or by soliciting or performing business within the town.
3. **Person:** Any individual, trustee, executor, other fiduciary, corporation, association, partnership, company, firm or other legal entity or agent thereof.
4. **Seasonal in nature:** A business that is registered by this article on an annual basis, but is operated within the town for less than six months of the year.

**Cross reference** - Definitions and rules of construction Chapter 1, §1-2.

#### **Sec. 7-32. BUSINESS REGISTRATION FEE.**

A registration fee is hereby levied for every business within this town that is on file in the town clerk's office. Any person so engaged in business shall be responsible for making certain that the applicable registration fee is paid before opening.

#### **Sec. 7-33. Duties of town clerk.**

- (a) The town clerk is hereby designated as the proper town official to collect the registration fee and to issue privilege licenses.
- (b) The town clerk shall make any investigation necessary to determine the registration of persons engaged in business within the town. If necessary, the town clerk is authorized to enter upon the premises of any such business during normal business hours for the purpose of determining whether this article has been complied with.

**\*State law reference**-Authority to levy privilege license taxes on trades, professions, etc., G.S. 153A-152.

## BUSINESSES

### **Sec. 7-34. Due date.**

- (a) The business registration shall cover the 12-month period beginning July 1 of each calendar year and ending June 30 of the subsequent calendar year.
- (b) The registration fee is due on July 1 of each year. If however, a person begins a business after July 1<sup>st</sup> the fee for that year must be paid before the business is begun.

### **Sec. 7-35. Application; required information; false statements.**

- (a) Every person desiring to obtain a registration for the privilege of engaging in a business within this town shall fill out registration form and pay fee and turn into the town clerk. The registration, to be made on a form provided by the town clerk, shall contain the following information:
  - (1) The name and nature of the business for which the registration is sought.
  - (2) The address where the business is conducted, and a mailing address for the business, if different.
  - (3) The name and address of the person filling out the application and his relationship to the business.
  - (4) The name and address of the principal owner or the person primarily responsible for the business.
- (b) Any person who willfully makes a false statement on a registration form shall be guilty of a violation and, upon conviction, shall be punished as provided in Chapter 1, §1-6 of this Code.

### **Sec. 7-36. Proration of fee, seasonal businesses.**

- (a) If a business is begun after January 31 but before July 1, the registration fee shall be one-half of the amount otherwise due.
- (b) A person engaged in a business, which is seasonal in nature, is liable for one-half of the amount of the registration fee otherwise due.

### **Sec. 7-37. Multiple businesses.**

If a person is engaged in more than one business made subject to a registration fee under this article, such person shall pay the registration fee for each such business, even if the businesses are conducted at the same business location.

### **Sec. 7-38. Separate places of business.**

Unless otherwise provided by state law, *if a person engages in a business in two or more separate places*, a separate registration fee shall be required for each such place of business. For purposes of this section, if a person engages in the same business at two or more locations within the town, which locations are contiguous, communicate with and open directly into each other and are operated as a unit, the person is liable for only one registration fee.

### **Sec. 7-39. Display of business registration.**

Each person issued a business registration under this article shall post the registration in a conspicuous place in his regular place of business. If there is no regular place of business, the registration shall be kept where it may

be inspected at appropriate times by the town clerk. If a machine or other item of personal property is registered, the registration shall be affixed to the machine or item.

#### **Sec. 7-40. Change in place of business.**

If a person who has obtained a business registration for a business under this article desires to move from one business location to another within the town, the registration that has been issued shall be valid for the remainder of the registration year at the new location, and no additional fee will need be paid. Within a reasonable time after the change in location, however, such person shall inform the town clerk of the change in address.

#### **Sec. 7-41. Refund policy.**

If a registered business discontinues a business before the end of the period for which the registration was issued, the registration fee shall not be abated nor shall a refund of any part of the fee be made.

#### **Sec. 7-42. Effect of business registration issuance.**

The issuance of a business registration under this article does not authorize the carrying on of a business for which additional registration or qualifications are required by state or local law, nor does the issuance of a business registration prevent the town from enacting additional regulations applicable to the business.

#### **Sec. 7-43. Exemptions.**

- (a) Any person who engages in business within the town for religious, educational or charitable purposes shall be exempt from paying any registration fee levied by this article.
- (b) Any blind person engaging in business within this town shall be exempt from paying any registration fee levied in this article to the extent provided by G.S. 105-249.
- (c) Any person completely disabled as defined by the social security laws shall be exempt from a registration fee.
- (d) Any person who is engaged in a business as a hobby, in that he/she does not make in excess of \$100.00 per year, shall be exempt from a registration fee.

#### **Sec. 7-44. Conducting business without a business registration; penalty.**

- (a) It shall be unlawful for any person to engage in a business within this town upon which a registration fee is imposed by this article without having paid the fee. Violators shall be guilty of a violation and, upon conviction, shall be punished as provided in Chapter 1, §1-6. Each day that a person engages in business in violation of this section constitutes a separate offense.
- (b) The town may seek an injunction against any person engaging in business in violation of this section.
- (c) A conviction under this section does not relieve a person of his liability for the registration fee imposed by this article.

#### **Sec. 7-45. Collection of unpaid registration fee.**

- (a) If a person begins or continues to engage in a business hereunder without payment of the required registration fee, the town clerk may use either of the following methods to collect the unpaid fee:
  - (1) The remedy of levy and sale or attachment and garnishment in accordance with G.S. 160A-207; or
  - (2) The remedy of levy and sale of real and personal property of the taxpayer in accordance with G.S. 105-109(d).
- (b) Any person who begins or continues to engage in a business under this article without payment of registration fee is liable for an additional fee of five percent of the original fee for each 30 days or portion thereof that the fee is delinquent.

**Sec. 7-46 through 7-60. Reserved.**

### **ARTICLE III. SCHEDULE\***

**Sec. 7-61. Changes in registration fee.**

The registration fee in this article is subject to change from time to time.



# CODE OF ORDINANCES

## Chapter 8

### ELECTIONS

Section 8-1.	Nonpartisan basis.
Section 8-2.	Date.
Section 8-3.	Filing Fee

#### **Sec. 8-1. Nonpartisan basis.**

All elected officials of the town shall be elected on a nonpartisan basis.

#### **Sec. 8-2. Date.**

The members of the Board of Aldermen are elected to four-year terms. In 1989, and each four years thereafter, two members of the Board shall be elected. In 1991, and each four years thereafter, three members of the Board shall be elected.

#### **Sec. 8-3. Filing fee.**

The filing fee for the elected positions of the town shall be the minimum prescribed by the North Carolina General Statutes.

# **CODE OF ORDINANCES**

## **Chapter 9**

### **ENVIRONMENT**

#### **ARTICLE I. IN GENERAL**

Sec. 9-1. – 9-30. Reserved.

#### **ARTICLE II. DECLARATION OF PUBLIC NUISANCES; UNLAWFUL CONDITIONS ON PRIVATE PROPERTY**

Sec. 9-31. Purpose.  
Sec. 9-32. Jurisdiction.  
Sec. 9-33. Declaration of Public Nuisance.  
Sec. 9-34. Complaint; Investigation of public nuisance.  
Sec. 9-35. Abatement Procedure.  
Sec. 9-36. Enforcement powers and authority.  
Sec. 9-37. Other unlawful actions.  
Sec. 9-38. Procedure is alternative.  
Secs. 9-39 – 9-55. Reserved.

#### **ARTICLE III. ABANDONED, JUNKED AND NUISANCE VEHICLES**

Sec. 9-56. Administration.  
Sec. 9-57. Definitions.  
Sec. 9-58. Abandoned vehicle unlawful, removal authorized.  
Sec. 9-59. Nuisance vehicle unlawful, removal authorized.  
Sec. 9-60. Junked motor vehicle regulated, removal authorized.  
Sec. 9-61. Removal of abandoned, nuisance, or junked motor vehicles; pre-towing notice requirements.  
Sec. 9-62. Exceptions to prior notice requirement.  
Sec. 9-63. Removal of vehicles; post-towing notice requirements.  
Sec. 9-64. Right to probable cause hearing before sale or final disposition of vehicle.  
Sec. 9-65. Redemption of vehicle during procedures.  
Sec. 9-66. Sale and disposition of unclaimed vehicle.  
Sec. 9-67. Conditions on removal of vehicles from private property.  
Sec. 9-68. Protection against criminal or civil liability.  
Sec. 9-69. Exceptions.  
Sec. 9-70. Unlawful removal of impounded vehicle.

#### **ARTICLE I. IN GENERAL**

**Secs. 9-1 through 9-30. Reserved.**

#### **AMENDING CHAPTER 9**

#### **AN ORDINANCE DECLARING UNLAWFUL CONDITIONS THE CODE OF ORDINANCES OF THE TOWN OF GRANITE QUARRY**

**BE IT ORDAINED** by the Board of Aldermen of the Town of Granite Quarry, North Carolina, that the Code of Ordinances of the Town of Granite Quarry be amended as follows:

**Part 1.** That Article I, IN GENERAL, Sections 9-1 through 9-30, are hereby repealed and reserved.

**Part 2.** That Article II, TRASH, DEBRIS AND DILAPIDATED BUILDINGS, Sections 9-31 through 9-55, are hereby rewritten and renamed as follows:

**"ARTICLE II, Declaration of Public Nuisances, Unlawful Conditions on Private Property;**

**Section 9-31. Purpose.**

The purpose of this article is to arrest, prevent, and mitigate the hazards to health, safety, and general welfare of the residents of the town and its environs caused by trash, debris, the improper storage of materials, overgrown lots and the existence of dilapidated buildings, sheds, accessory buildings and nuisance vehicles which create areas which harbor vermin, insects, and increase the hazard of fire, accident or other calamities.

**Section 9-32. Jurisdiction.**

The provisions of this article are applicable to all properties, whether improved or vacant lands, which are located within the town's corporate limits and its extraterritorial jurisdiction as now or hereafter fixed.

**Section 9-33. Declaration of Public Nuisance.**

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

1. Any weeds or other vegetation having an overall height of more than twelve (12) inches above the surrounding ground provided that the following shall not be considered to be a part of this condition: trees and ornamental shrubs; cultured plants; natural vegetation on undeveloped property that is not a threat to the character of surrounding properties; and flowers and growing and producing vegetable plants.
2. Any accumulation of trash and/or garbage which is the result of the absence of or overflowing or improperly closed trash or garbage containers;
3. Accumulation in an open place of hazardous or toxic materials and chemicals.
4. An open place of concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, leaves, old clothes, rags, or any other combustible materials or objects of a like nature;
5. Any accumulation of garbage, rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, mosquitoes, or vermin prejudicial to the public health.

6. Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health.
7. The open storage of any discarded ice box, refrigerator, stove, washer, dryer, other "white goods", glass, building materials, building rubbish or similar items.
8. Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the Town Board or their designee can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises.
9. Any condition which blocks, hinders, or obstructs in any way the natural flow of branches, streams, creeks, surface waters, ditches, or drains, to the extent that the premises is not free from standing water.
10. The outside or outdoors use of any furniture originally designed or intended for interior use such as, but not limited to, couches, sofas, chairs, recliners or other like items.
11. Nuisance vehicle: A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:
  - (a) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
  - (b) A point of heavy growth of weeds or other noxious vegetation which exceeds eight (8) inches in height ; or
  - (c) In a condition allowing the collection of pools or ponds of water; or
  - (d) A concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or
  - (e) An area of confinement which cannot be operated from the inside, such as, but not limited to, trunks or hoods; or
  - (f) So situated or located that there is a danger of it falling or turning over; or
  - (g) A collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind; or
  - (h) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass;
  - (i) Any condition detrimental to the public health which violates the rules and regulations of the County Health Departments.

#### **Section 9-34. Complaint; Investigation of Public Nuisance.**

When any condition in violation of this Article is found to exist, the Code Administrator or such persons as may be designated by the Mayor, the Board of Aldermen or the Code Administrator himself, shall give notice to the owner of the premises to abate or remove such conditions within ten (10) days. Such notice shall be in writing, shall include a description of the premises sufficient for identification and shall set forth the violation and state that, if the violation is not corrected within ten (10) days, the town may proceed to correct the same as authorized by this section. Service of such notice shall be by any one of the following methods.

1. By delivery to any owner personally or by leaving the notice at the usual place of abode of the owner with a person who is over the age of sixteen (16) years and a member of the family of the owner.
2. By depositing the notice in the United States Post Office addressed to the owner at his last known address with postage prepaid thereon.
3. By posting and keeping posted, for ten (10) days, a copy of the notice, in placard form, in a conspicuous place on the premises on which the violation exists, when notice cannot be served by method (1) and (2).

#### **Section 9-35. Abatement Procedure.**

If the owner of any property fails to comply with a notice given pursuant to this Article, within period specified in the notice, he shall be subject to prosecution for violation of this ordinance in accordance with law and each day that such failure continues shall be a separate offense. In addition, the town may have the condition described in the notice abated, removed or otherwise corrected and all expenses incurred thereby shall be chargeable to and paid by the owner of the property and shall be collected as taxes and levies are collected. All such expenses shall constitute a lien against the property on which the work was done.

#### **Section 9-36. Enforcement Powers and Authority.**

The Code Administrator is hereby designated and appointed to administer and exercise the powers and authority prescribed by this Article. The Code Administrator shall have the authority to consult and request the advice or assistance of any public authority he/she may deem necessary in the enforcement of this Article. The Code Administrator may grant extensions or authorize longer deadlines at his/her discretion based upon the extent of the violation and a reasonable time to comply or extenuating circumstances which would reasonably require a longer period in which to comply.

#### **Section 9-37. Other Unlawful actions.**

No person shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of this Article.

#### **Section 9-38. Procedure Is Alternative.**

Nothing in this Article nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violation of the terms of this Article shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in Section 1-6 of the Code of the Town of Granite Quarry.

**Section 9-39 through Section 9-55. Reserved. "**

**Part 3.** All ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

**Part 4.** This Ordinance shall become effective upon its adoption by the Board of Aldermen of the Town of Granite Quarry, North Carolina.

**ADOPTED** this, the 2<sup>nd</sup> day of August, 2004.

**ATTEST**

Denise B. Miller  
Town Clerk: Denise B. Miller

Mary Ponds  
Mayor: Mary Ponds

### **ARTICLE III. ABANDONED, JUNKED AND NUISANCE VEHICLES**

#### **AMENDING CHAPTER 9**

#### **AN ORDINANCE WITH RESPECT TO**

#### **ABANDONED, JUNKED AND NUISANCE VEHICLES**

#### **THE CODE OF ORDINANCES OF THE TOWN OF GRANITE QUARRY**

**BE IT ORDAINED** by the Board of Aldermen of the Town of Granite Quarry, North Carolina, that the Code of Ordinances of the Town of Granite Quarry be amended as follows:

**Part 1.** That Article III, ABANDONED VEHICLES, Sections 9-56 through 9-66 are hereby rewritten, Sections 9-67 through 9-70 are added, and the Article is renamed to read as follows;

### **“ARTICLE III, ABANDONED, JUNKED AND NUISANCE VEHICLES**

#### **Section 9-56. Administration.**

The Police Department and the Code Administrator of the Town shall be responsible for the administration and enforcement of this Article. The Police Department shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the Town, and on property owned by the Town. The Code Administrator shall be responsible for administering the removal and disposal of "abandoned", "nuisance" and "junked" motor vehicles located on private property. The Town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles, and junked motor vehicles in compliance with this Article and applicable State laws. Nothing in this Ordinance shall be construed to limit the legal authority or powers of officers of the Town Police Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.

## **Section 9-57. Definitions.**

For the purpose of this Article, certain words and terms are defined as herein indicated:

- (a) Abandoned vehicle: As authorized and defined in G.S. 160A-303, an abandoned vehicle is one that:
  - (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking; or
  - (2) Is left upon a public street or highway for longer than seven (7) days; or
  - (3) Is left upon property owned or operated by the Town for longer than twenty-four (24) hours; or
  - (4) Is left upon private property without the consent of the owner, occupant, or lessee thereof for longer than two (2) hours.
- (b) Authorized Official: The supervisory employee of the Police Department or the Town Code Administrator, respectively, designated to order the removal of vehicles under the provisions of this Article.
- (c) Motor vehicle or vehicle: All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.
- (d) Junked motor vehicle: As authorized and defined in G.S. 160A-303.2, the term junked motor vehicle means a vehicle that does not display a current license plate lawfully upon that vehicle and that:
  - (1) Is partially dismantled or wrecked; or
  - (2) Cannot be self-propelled or move in the manner in which it originally was intended to move; or
  - (3) Is more than five (5) years old and appears to be worth less than one hundred dollars (\$100.00).
- (e) Nuisance vehicle: A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:
  - (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
  - (2) A point of heavy growth of weeds or other noxious vegetation which exceeds eight (8) inches in height; or
  - (3) In a condition allowing the collection of pools or ponds of water; or
  - (4) A concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or
  - (5) An area of confinement which cannot be operated from the inside, such as, but not limited to, trunks or hoods; or
  - (6) So situated or located that there is a danger of it falling or turning over; or

- (7) A collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind; or
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the authorized Board of Aldermen.

**Section 9-58. Abandoned vehicle unlawful, removal authorized.**

- (a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.
- (b) Upon investigation, the authorized officials of the Town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

**Section 9-59. Nuisance vehicle unlawful, removal authorized.**

- (a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.
- (b) Upon investigation, the Town Code Administrator may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.

**Section 9-60. Junked motor vehicle regulated, removal authorized.**

- (a) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.
- (b) It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of private property. A single, permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section.
- (c) It shall be unlawful for the owner, person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to fail to comply with the location requirements or the concealment requirements of this section.
- (d) Subject to the provisions of subsection (e), the Town Code Administrator may order the removal of a junked motor vehicle found in violation of this Article to a storage garage or area. No such vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the premises unless the Code Administrator finds in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood, or area appearance. The following, among other relevant factors, may be considered:



- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community; and
- (5) Promotion of the comfort, happiness and emotional stability of the area residents.

(e) Permitted concealment or enclosure of junked motor vehicles:

(1) One junked motor vehicle, in its entirety, may be located in the rear yard, as defined in the Town Zoning Ordinance, provided the junked motor vehicle is entirely concealed from public view from a public street and/or abutting premises by an acceptable covering for not more than sixty (60) calendar days. Junked motor vehicles kept on the premises more than sixty (60) calendar days shall be kept inside a completely enclosed building. The Town Code Administrator has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision. The covering must remain in good repair and must not be allowed to deteriorate.

(2) Any one or more junked motor vehicles kept for a period exceeding sixty (60) calendar days shall be kept within a completely enclosed building, as defined in the Town Zoning Ordinance.

**Section 9-61. Removal of abandoned, nuisance, or junked motor vehicles; pre-towing notice requirements.**

Except as set forth in Section 9-62 below, an abandoned, nuisance, or junked motor vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to whom and to which mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the Town on a specified date (no sooner than seven (7) days after the notice is affixed). The notice shall state that the vehicle will be removed by the Town on a specified date, no sooner than seven days after the notice is mailed or affixed, unless the vehicle is moved by the owner or legal possessor prior to that time.

With respect to abandoned vehicles on private property, nuisance vehicles and junked vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the Board of Adjustments in writing, heard at the next regularly scheduled meeting of the Board of Adjustments, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

**Section 9-62. Exceptions to prior notice requirement.**

The requirement that notice be given prior to the removal of an abandoned, nuisance, or junked motor vehicle may, as determined by the authorized official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorized official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice includes:

(a) Vehicles abandoned on the streets. For vehicles left on the public streets and highways, the Board of Aldermen hereby determines that the immediate removal of such vehicles may be warranted when they are:

- (1) Obstructing traffic.
- (2) Parked in violation of an ordinance prohibiting or restricting parking.
- (3) Parked in a no-stopping or standing zone.
- (4) Parked in loading zones.
- (5) Parked in bus zones, or
- (6) Parked in violation of temporary parking restrictions.

(b) Other abandoned or nuisance vehicles. With respect to abandoned or nuisance vehicle left on town-owned property other than the streets or highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorized official finds a special need for prompt action to protect and maintain the public health, safety, and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

### **Section 9-63. Removal of vehicles; post-towing notice requirements.**

Any abandoned, nuisance, or junked motor vehicle which has been ordered removed may, as directed by the Town, be removed to a storage garage or area by a tow truck operator or towing business contracted to perform such services for the Town. Whenever such a vehicle is removed, the authorized Town official shall immediately notify the last known registered owner of the vehicle with such notice to include the following;

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

The Town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, indicating the information set forth in subsections (1) through (5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent.

If the vehicle is registered in North Carolina, notice shall be given within twenty-four (24) hours. If the vehicle is not registered in the State, notice shall be given to the registered owner within seventy-two (72) hours from the removal of the vehicle.

Whenever an abandoned, nuisance, or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorized Town official shall make reasonable efforts, including checking the vehicle identification number to determine the last known registered owner of the vehicle and to notify him of the information set forth in subsections (1) through (5) above.

#### **Section 9-64. Right to probable cause hearing before sale or final disposition of vehicle.**

After the removal of an abandoned vehicle, nuisance vehicle, or junked motor vehicle, the owner or any person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the chief district court judge to receive such hearing requests. The Magistrate will set the hearing within seventy-two (72) hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. 20-219.11, as amended.

#### **Section 9-65. Redemption of vehicle during proceedings.**

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fees, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this Article.

#### **Section 9-66. Sale and disposition of unclaimed vehicle.**

Any abandoned, nuisance, or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the Town and in accordance with Article 1 of Chapter 44A of the North Carolina General Statutes.

#### **Section 9-67. Conditions on removal of vehicles from private property.**

As a general policy, the Town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable State law procedures. In no case will a vehicle be removed by the Town from private property without a written request of the owner, occupant or lessee, except in those cases where the vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the Town Code Administrator. The Town may require any person requesting the removal of an abandoned, nuisance, or junked motor vehicle from private property to indemnify the Town against any loss, expense or liability incurred because of the removal, storage, or sale thereof.

#### **Section 9-68. Protection against criminal or civil liability.**

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance, or junked motor vehicle, for disposing of such vehicle as provided in this Article.

### **Section 9-69. Exceptions.**

Nothing in this Article shall apply to any vehicle: (1) which is located in a bona fide "automobile graveyard" or "junkyard" as defined in N.C.G.S. 136-143, in accordance with the "Junkyard Control Act", N.C.G.S. 136-141, et seq., (2) which is in an enclosed building, (3) which is on the premises of a business enterprise being operated in a lawful place and manner, or (4) which is in an appropriate storage place or depository maintained in a lawful place and manner by the Town.

### **Section 9-70. Unlawful removal of impounded vehicle.**

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the Town, any vehicle which has been impounded pursuant to the provision of this Article unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

**Part 2.** All ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

**Part 3.** This Ordinance shall become effective upon its adoption by the Board of Aldermen of the Town of Granite Quarry, North Carolina.

**ADOPTED** this, the 2nd day of August, 2004.

**ATTEST**

Denise B. Miller  
Town Clerk: Denise B. Miller

Mary Ponds  
Mayor: Mary Ponds

# CODE OF ORDINANCES

## Chapter 10

### FIRE PREVENTION AND PROTECTION\*

#### ARTICLE I. IN GENERAL

Sec. 10-1.	Firefighters.
Sec. 10-2.	Driving through street where fire is occurring or fire department is practicing.
Sec. 10-3.	False alarms.
Sec. 10-4.	Driving over fire hose.
Sec. 10-5.	Unauthorized mounting or operation of fire apparatus.
Sec. 10-6.	Spectators at fire.
Sec. 10-7.	Loitering near fire station, tampering with equipment.
Sec. 10-8.	Composition, duties of committee on fire department personnel.
Sec. 10-9.	Fighting fires beyond town limits.
Sec. 10-10.	Power to enlist aid of citizens during fire; Volunteer Firefighters.
Secs. 10-11 – 10-35.	Reserved.

#### ARTICLE II. BUREAU OF FIRE PREVENTION

Sec. 10-36.	Created; duties; supervision.
Sec. 10-37.	Appointment of Fire Marshal.
Sec. 10-38.	Inspectors.
Secs. 10-39 – 10-45.	Reserved.

#### ARTICLE III. FIRE ALARM SYSTEMS

Sec. 10-46.	False alarms.
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\* **Cross references** – Buildings and building regulations, chapter 6; subdivisions, App. B.

**State law references** – Investigation of fires and inspection of premises, G.S. 58-79-1 et seq.; authority of town to establish fire department and prescribe its duties, G.S. 160A-291.

#### IN GENERAL

##### **Sec. 10-1. Firefighters.**

- (a) The Chief of the fire department or the Town Manager is authorized to enlist, subject to the approval of the Board of Aldermen, firefighters, including volunteer firefighters. Such persons would have the same insurance benefits as all other firefighters and they would be authorized to respond to any call to which a town department is authorized to respond, regardless of whether such firefighter lives within the town limits or outside thereof.
- (b) To be eligible for such fire services, the persons enlisted should agree to follow the fire department's Standard Operating Guidelines (SOG's).

##### **Sec. 10-2. Driving through street where fire is occurring or fire department is practicing.**

It shall be unlawful for any person, after being forbidden by an officer of the town, to ride or to drive a vehicle through any street, alley or square on which the fire department is assembled for practice or for active service during the progress of a fire.

**Sec. 10-3. False alarms.**

It shall be unlawful for any person to give or cause to be given a false fire alarm by any means.

**Sec. 10-4. Driving over fire hose.**

It shall be unlawful for any person to drive any vehicle or animal willfully or carelessly over the hose of the fire department laid in any street, alley or square. In addition to any other penalty prescribed by this ordinance or state law, any such person violating this ordinance shall be liable for the replacement cost of the hose.

**State law reference** – Driving over fire hose, G.S. 20-157.

**Sec. 10-5. Unauthorized mounting or operation of fire apparatus.**

It shall be unlawful for any person, not a bona fide member of the fire department, to mount or operate any fire engine or apparatus before it leaves the station, on its way to or from a fire, or at any other time unless by permission of the chief or an officer of the fire department or the mayor; provided, that this section shall not apply to police officers.

**Sec. 10-6. Spectators at fire.**

When the fire department is engaged in fighting a fire, spectators shall remain at a safe distance from the scene of the fire and shall not interfere with the work of the department in any way.

**State law reference** – Interference with firemen in performance of duties, G.S. 58-82-1.

**Sec. 10-7. Loitering near fire station, tampering with equipment.**

It shall be unlawful for any person to loiter in or around the fire station or to tamper with any firefighting equipment.

**Sec. 10-8. Reserved.** (revision 6/7/2010)

**Sec. 10-9. Fighting fires beyond town limits.**

Neither the personnel of the fire department nor the department's firefighting apparatus shall be used for fighting fires beyond the town limits, except as follows:

- (1) Where it becomes necessary to protect property within the town from fires occurring outside the town.
- (2) Where agreements authorized by the Board of Aldermen have been entered into to afford town standby fire protection to county property and the properties of business and industry located beyond the town limits, but only to the extent of such agreements.

- (3) Where mutual aid agreements have been entered into by the town and its neighboring cities and towns.
- (4) Where agreements exist between the town and any persons outside the town limits.

**State law reference** – Services beyond town limits, G.S. 58-83-1.

**Sec. 10-10. Power to enlist aid of citizens during fire; volunteer firefighters.**

During the continuance of any fire, the Chief of the fire department and the Town Manager shall have power to call on any and all persons to assist in extinguishing such fire, in pulling down or blowing up any building, in removing any building, or in removing any goods, wares, merchandise and furniture from any building on fire, or in danger, to some place of safety. It shall be unlawful for any person to fail to obey any such order given for such purposes.

**Sec. 10-11 through 10-35. Reserved.**

## **ARTICLE II. BUREAU OF FIRE PREVENTION**

**Sec. 10-36. Created; duties; supervision.**

The fire prevention code of the town shall be enforced by the Bureau of Fire Prevention which is hereby established and which shall operate under the supervision of the Chief of the fire department.

**Sec. 10-37. Appointment of Fire Marshal.**

The Fire Marshal shall be appointed by the Chief of the fire department, subject to the approval of the Town Manager or Board of Aldermen, on the basis of his qualifications and merit.

**Sec. 10-38. Inspectors.**

The Chief of the fire department may detail such members of the fire department as Inspectors as shall from time to time be necessary.

**Sec. 10-39 through 10-45. Reserved.**

## **ARTICLE III. FIRE ALARM SYSTEMS**

**Sec. 10-46. False alarms.**

For a fire response to any false alarm, the following procedure shall be followed:

- (1) The town year shall consist of the period from July 1 to June 30.
- (2) For a response to premises at which two (2) or fewer false alarms have occurred within the preceding year period, no fine shall be charged, but the Fire Chief shall send the subscriber owning or leasing the alarm system a letter apprising him/her of each false alarm and the consequences of future false

alarms, and encouraging him/her to rectify the situation. Such letter of notice shall be sent after the second false alarm occurring in any year period.

- (3) For a response to premises at which three (3) false alarms have occurred within the preceding year period, a fine of \$100.00 shall be imposed upon the subscriber for such response.
- (4) For a response to premises at which four (4) or more false alarms have occurred within the preceding year period, a fine of \$250.00 shall be imposed upon the subscriber for any response.
- (5) Appeals may be made upon any decision of the Fire Chief to the Board of Aldermen for its determination.

#### **ARTICLE IV. FIRE DEPARTMENT FEES**

##### **Sec. 10-47. Permit fees**

**The Town of Granite Quarry code of Ordinance allows fees to be set by the Town Board of Aldermen.**



# CODE OF ORDINANCES

## Chapter 11

### LAW ENFORCEMENT\*

#### ARTICLE I. IN GENERAL

Sec. 11-1.	Organization.
Sec. 11-2.	Appointment and compensation of officers.
Sec. 11-3.	Duties of Officers.
Sec. 11-4.	Auxiliary police.
Sec. 11-5 – 11-10.	Reserved.

#### ARTICLE II. YOUTH PROTECTION ORDINANCE

Sec. 11-11.	Purpose.
Sec. 11-12.	Definitions.
Sec. 11-13.	Offenses.
Sec. 11-14.	Exceptions.
Sec. 11-15.	Defense.
Sec. 11-16.	Enforcement.
Sec. 11-17.	Penalties.
Sec. 11-18.	Severability.

\* **State law reference** – Law enforcement of town, G.S. 160A-281 – 160A-289.

## LAW ENFORCEMENT

### ARTICLE I. IN GENERAL

#### **Sec. 11-1. Organization.** \*Revised 6/7/10

- (a) The law enforcement personnel shall be organized under the direction of the Police Chief and Town Manager.
- (b) The Chief of Police shall be appointed by the Town Manager. The Chief shall have control over the law enforcement department under the supervision of the Town Manager. The Chief shall keep the Board informed of the department's activities and make such reports to the Board as may from time to time be required and shall perform such other duties as may be required of him/her by the Town Manager. The Chief of Police shall be a duly qualified peace officer.

#### **Sec. 11-2. Appointment and compensation of officers.**

The Town Manager may appoint as many law enforcement officers as he/she deems necessary from time to time. Compensation of law enforcement officers shall be as set from time to time by the Board.

#### **Sec. 11-3. Duties of officers.**

It shall be the duty of law enforcement officers to:

- (1) Preserve the public peace and prevent crimes.
- (2) Protect the rights of persons and property and guard the public health.
- (3) Regulate vehicular movement within the town limits.
- (4) Enforce the laws and ordinances of the town, the county and the state.
- (5) Perform other such duties as may be assigned to them by the Board of Aldermen for which they are authorized under the laws of the state.

**State law reference** – Powers and duties of police officers, G.S. 160A-285.

#### **Sec. 11-4. Auxiliary police.**

There is hereby established an auxiliary law enforcement department for the town. The auxiliary law enforcement officers shall be volunteers and composed of as many members as may from time to time be determined by the Board of Aldermen. The auxiliary law enforcement officers shall be under the direct control of the Chief of Police acting under the general supervision of the Town Manager. The duties of the auxiliary law enforcement officers shall be as set from time to time by the Chief of Police under the general supervision of the Town Manager.

**State law reference** – Auxiliary law enforcement personnel authorized, G.S. 160A-282.

#### **Sec. 11-5 through 11-10. Reserved.**

## ARTICLE II. YOUTH PROTECTION ORDINANCE

### Sec. 11-11. Purpose.

The purpose of this ordinance is to protect juveniles from victimization and exposure to criminal activity by establishing a curfew for juveniles under the age of sixteen (16) years in the Town of Granite Quarry. The Youth Protection Ordinance is intended to reinforce and promote the role for the parent in training and guiding children, and promote the health, safety, and welfare of both juveniles and adults by creating an environment offering better protection and security for all concerned.

### Sec. 11-12. Definitions.

For the purposes of this ordinance, the following words and phrases shall have the following meanings:

- (1) **Direct Route:** The shortest reasonable path of travel or a commonly used route to reach a final destination without any detour or stop along the way.
- (2) **Emergency:** An unforeseen combination of circumstance or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or death. This term also shall include any action that is reasonably necessary in order to respond to the medical needs of a family member of the juvenile regardless of whether the juvenile's action is taken in order to prevent death or serious bodily injury.
- (3) **Establishment:** Any privately owned place of business operated for profit to which the public has access or is invited including but not limited to any place of amusement or entertainment.
- (4) **Guardian:** A person who is court-appointed to be the guardian of a juvenile.
- (5) **Juvenile:** Any person under the age of sixteen (16) years.
- (6) **Owner/Operator:** Any individual, firm, association, partnership or corporation, operating, managing or conducting any establishment, including the employees, members or partners of an association or partnership and the officers of a corporation.
- (7) **Parent:** A person who is a natural parent, adoptive parent, foster parent or step-parent of another person, or a person to whom legal custody has been given by court order.
- (8) **Public Place:** Any place that is generally open to and used by the public or a substantial group of the public, whether it is publicly or privately owned, including but not limited to, streets, sidewalks, highways, alleys, right of way, public vehicular areas and parking lots, transportation facilities, theaters, restaurants, shops, bowling alleys, schools and school grounds, place of business and amusement, playgrounds, parks, similar areas that are open to the public, and other common areas open to or accessible to the public.
- (9) **Remain:** To linger or stay in a public place, or to fail to leave the premises when requested to do so by a police officer, or fail to leave the premises of an establishment when requested to do so by the owner/operator or employee of the premises.
- (10) **Restricted hours:** The time of night referred to herein is based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Savings Time, generally observed at that hour by the public in the Town of Granite Quarry, North Carolina. Restricted hours shall mean:
  - (a) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and,
  - (b) 12:01 a.m. until 6:00 a.m. on any Friday or Saturday.

### **Sec. 11-13. Offenses.**

Except as provided by §11-14, the following offenses constitute a violation of this ordinance:

- (1) A juvenile commits an offense by being present in or remaining in any public place or on the premises of any establishment within the Town during the restricted hours.
- (2) A parent or guardian of a juvenile commits an offense if he/she knowingly permits, or by insufficient control, allows the juvenile to remain in any public place or on the premises of any establishment within the Town during the restricted hours. The term "knowingly" includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore: be no defense that a parent was completely indifferent to that activities or conduct or whereabouts of such juvenile.
- (3) The owner, operator, or any employee of an establishment commits an offense if he/she knowingly allows a juvenile to remain upon the premises of the establishment during the restricted hours. The term "knowingly" includes knowledge that an operator or employer should reasonably be expected to have concerning the patrols of an establishment. The standard for "knowingly" shall be applied through an objective test: whether a reasonable person in the operator's or employee's position should have known that the patrol was a juvenile in violation of this ordinance.
- (4) It shall be a violation of this ordinance for any person sixteen (16) years of age or older to aid or abet a juvenile in the violation of subsection (c) (1).
- (5) It shall be a violation of this ordinance for a parent or guardian to refuse to take custody during the restricted hours of a juvenile for whom the parent or guardian is responsible.

### **Sec. 11-14. Exceptions.**

A juvenile who is in the public place or establishment during the restricted hours shall not be in violation of this ordinance if the juvenile is:

- (1) Accompanied by his parent or guardian.
- (2) Accompanied by an adult eighteen (18) years of age or older authorized by the parent or guardian of such juvenile to take the parent or guardian's place in accompanying the juvenile for a designated period of time and purpose within a specified area.
- (3) On an errand, using a direct route, at the direction of the juvenile's parent or guardian until the hour of 12:30 a.m.
- (4) In a motor vehicle with parental consent engaged in interstate travel through the Town of Granite Quarry or originating or terminating in the Town of Granite Quarry.
- (5) Traveling in a motor vehicle with a parent or guardian, or traveling in a motor vehicle with an adult eighteen (18) years of age or older authorized by the parent or guardian of such juvenile to take the parent or guardian's place in accompanying the juvenile for a designated period of time and purpose within a specified area.
- (6) Engaged in a lawful employment activity, or using a direct route to or from a place of employment.
- (7) Reacting or responding to an emergency.
- (8) Attending or traveling to or from, by direct route, an official school, religious, or recreations activity that is supervised by adults and sponsored by a public or private school, the Town of Granite Quarry or other governmental entity, a civic organization, or another similar entity that accepts responsibility for the juvenile.
- (9) Exercising First Amendment rights protected by the United States Constitution such as the free exercise of religion, freedom of speech, and the right of assembly.
- (10) Married or emancipated.

- (11) When authorized by special permit from the Chief of Police or his designee carried on the person of the juvenile thus authorized, as follows:

When necessary nighttime activities of a juvenile may be inadequate provided for by other provisions of the ordinance, then recourse may be had to the Chief of Police, or his designee, either for a regulation as provided in §11-14 or for a special permit as the circumstances warrant. Upon the findings of reasonable necessity for the use of a public place to extent warranted by a written application signed by a juvenile, and by a parent of the juvenile, if feasible, stating (1) the name, age and address of the juvenile; (2) the name, address, and telephone number of the parent thereof; (3) the height, weight, sex, color of eyes and hair and other physical characteristics of the juvenile; (4) the necessity that requires the juvenile to remain upon a public place during the restricted hours otherwise applicable; (5) the public place; and, (6) the beginning and ending of the period of time involved by date and hour, the Chief of Police or his designee may grant and permit in writing for the juvenile's use of a public place at such hours as in the opinion of the Chief of Police may reasonably be necessary and consistent with the purposes of this ordinance.

- (12) When authorized by regulation issued by the Chief of Police or his designee in other similar cases of reasonable necessity, similarly handled as set forth in § 11-14 but adapted to reasonably necessary nighttime activities or more juveniles than can readily be dealt with on an individual special permit basis. Normally such regulation by the Chief of Police or his designee permitting use of public places should be issued sufficiently in advance to permit appropriate publicity through news media and through other agencies such as the schools, and shall define the activity, the scope of the use of the public places permitted, the period of time involved not to extend more than one (1) hour beyond the time for termination of the activity, and the reason for finding that the regulation is reasonably necessary and is consistent with the purpose of this ordinance.

#### **Sec. 11-15. Defense.**

It is a defense to prosecution under § 11-13 (3) that the owner, operator, or employee of an establishment promptly notified the police department that a juvenile was present on the premises of the establishment during the restricted hours and refused to leave.

#### **Sec. 11-16. Enforcement.**

- (1) Before taking any enforcement action under this ordinance, a police officer shall ask the apparent offender's age and reason for being in the public place or establishment during restricted hours.
- (2) The officer shall not prepare a juvenile arrest report, issue a citation, or make an arrest under this ordinance unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception or defense in § 11-14 or 11-15 is present.

#### **Sec. 11-17. Penalties.**

- (1) A juvenile who violates any provision of this ordinance is subject to be adjudicated delinquents. The Court may, in its discretion, impose any dispositional alternative(s) that are provided in the North Carolina Juvenile Code for any juvenile who is delinquent.
- (2) Any person other than a juvenile who violates any provision of this ordinance shall be guilty of a misdemeanor and shall be subject to a fine not to exceed \$100.00, and imprisonment in the discretion of the court in accordance with G.S. 14-4.

**Sec. 11-18. Severability.**

If any section, subsection, sentence, term, or exception of this ordinance, or any application thereof to any person or circumstance is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of any remaining portion of this ordinance or its application to any other person or circumstance. The Town Board does not intend a result through the enforcement of this ordinance that is absurd, impossible or execution or unreasonable. The Town Board intends that the ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional under the Constitution of the State of North Carolina or under the Constitution of the United States of America.

# CODE OF ORDINANCES

## Chapter 12

### OFFENSES AND MISCELLANEOUS PROVISIONS\*

#### ARTICLE I. IN GENERAL

Sec. 12-1.	Reserved.
Sec. 12-2.	Destruction of public property, shrubs, flowers, etc.
Sec. 12-3.	Disorderly conduct.
Sec. 12-4.	Firearms on town property.
Sec. 12-5.	Noise.
Sec. 12-6.	Firearms and explosives.
Sec. 12-7	Open Burning
Sec. 12-8-12-15	Reserved

#### ARTICLE II. PEDDLERS

Sec. 12-16.	Exhibition of license.
Sec. 12-17.	Peddlers and solicitors going on private premises.
Sec. 12-18.	No Peddlers on Streets

**State law reference** – State criminal code, G.S. 14-1 et seq.

#### ARTICLE I. IN GENERAL

**Sec. 12-1. Reserved.**

**Sec. 12-2. Destruction of public property, shrubs, flowers, etc.**

It shall be unlawful for any person willfully to break, disfigure, damage or deface any public property or shrubbery, flowers or ornamental figures within any cemetery, church yard, or other public place.

**State law references** – Willful and wanton injury to real property, G.S. 14-127, injury to trees, shrubbery, etc., G.S. 14-128.

**Sec. 12-3. Disorderly conduct.**

It shall be unlawful for any person to engage in any disorderly conduct. A person commits the crime of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he/she:

- (1) Engages in fighting or other violent conduct or in conduct creating the threat of imminent fighting or other violence.
- (2) Makes or uses any utterance, gesture, display or abusive language which is intended and plainly likely to provoke violent retaliation and thereby cause a breach of peace.
- (3) Disturbs any lawful assembly of persons without lawful authority.

- (4) Obstructs vehicular or pedestrian traffic on a public way.
- (5) Congregates with other persons in a public place and refuses to comply with a lawful order of the law enforcement officials to disperse.
- (6) Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency.

**State law references**-Disorderly conduct in or near public buildings, G.S. 14-132; disorderliness in public places, G.S. 14-444.

#### **Sec. 12-4. Firearms on town property.**

(a) It shall be unlawful for any person to display any firearm not used solely for instructional or town sanctioned ceremonial purposes, in any town building, or any town park, grounds, recreation area, athletic field or other property owned, used or operated by the town. This section shall not apply to the following persons:

- (1) Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such acting under order requiring them to carry arms or weapons.
  - (2) Civil officers of the United States while in the discharge of their official duties, officers and soldiers of the militia and the National Guard when called into actual services, officers of the state, when acting in the discharge of their official duties.
  - (3) Students who are members of the Reserve Officer Training Corps and who are required to carry arms or weapons in the discharge of their official class duties.
- (b) Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished in the discretion of the court by fine or imprisonment or by both.

#### **Sec. 12-5. Noise.**

- (a) Excessive noise is prohibited. Subject to the provisions of this section, the creation of any unreasonably loud, disturbing and unnecessary noise is prohibited. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.
- (b) Radios, phonographs, etc.: The playing of any television, radio, phonograph or other musical instrument in such a manner or with such volume, particularly during the hours between 9:00 p.m. each night until 7:00 a.m., Monday through Saturday, and until 12:00 noon on Sunday, so as to annoy or disturb the quiet, comfort or repose of any person in any dwelling, hotel, or other type of residence, shall be deemed to be unlawful and a violation of the provisions of this article.
- (c) Animals, birds: The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity shall be deemed to be unlawful and a violation of the provisions of this section.
- (d) Noise from operation of vehicle: The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such a manner as to create loud or unnecessary grating, grinding, rattling or other noise, shall be deemed to be unlawful and a violation of the provisions of this article.

#### **Sec. 12-6. Firearms and explosives.**

It shall be unlawful for any person to shoot any kind of firearm or explosive within the town without first having obtained express permission from the Board of Aldermen. This section shall not be interpreted so as to prohibit the use of firearms for self-protection.

**State law reference** – Explosives, G.S. 160A-183.

#### **Sec. 12-7. Open Burning**



All open burning, except campfires and outdoor barbecues, shall follow the guidelines established by the NC department of Environment of and Natural Resources. Permits for open burning excluding the afore mentioned will require permits issued by the Town of Granite Quarry Fire Department. Campfires and barbecues must be extinguished prior to being abandoned. (Rev.9-4-2007)

**Sec. 12-8 through 12-15. Reserved**

## **ARTICLE II. PEDDLERS**

### **Sec. 12-16. Exhibition of license.**

It shall be unlawful for any person engaged in the business of peddling to fail, neglect or refuse to exhibit a peddler's license on demand of any officer of the town.

### **Sec. 12-17. Peddlers and solicitors going on private premises.**

The practice of going in and upon businesses and private residences in the town by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise not having been requested or invited to do so by the owner or occupant of the business or private residence for the purpose of aggressively soliciting orders for the sale of goods, wares and merchandise or disposing of and peddling or hawking goods, wares and merchandise is declared to be a nuisance and punishable as such nuisance as a misdemeanor.

### **Sec. 12-18. No Peddlers on Streets**

It is the purpose of this section to protect persons engaged in the business of peddling as well as operators of motor vehicles who may be distracted or alarmed at peddlers operating within the streets of the town and for these reasons of safety, it shall be a misdemeanor for any peddler, solicitor, hawker, itinerant merchant or transient vendor to carry on such business on the streets of the town.

# CODE OF ORDINANCES

## Chapter 13

### PERSONNEL

#### ARTICLE I. IN GENERAL

- Sec. 13-1. Purpose of this chapter.
- Sec. 13-2. Equal Employment Opportunity and Affirmative Action.
- Sec. 13-3. Employment principle.
- Sec. 13-4. Qualifications for appointment.
- Sec. 13-5. At-will employer.
- Sec. 13-6. Position classification plan.
- Sec. 13-7. Grievance procedure.
- Sec. 13-8. Reserve police officers and firefighters\* **Cross references** – Administration,

Chapter 2; law enforcement, Chapter 11.

**State law reference** – Municipal personnel, G.S. 160A-162 et seq.

#### ARTICLE I. IN GENERAL

##### **Sec. 13-1. Purpose of chapter.**

It is the intent of the Board to establish a uniform and equitable personnel system to support the effective performance of job duties, as set forth in those certain policies adopted from time to time by the Board.

##### **Sec. 13-2. Equal Employment Opportunity and Affirmative Action.**

The town affords equal employment opportunity based on the relationship between candidate's qualifications for employment and stated requirements for jobs. This policy of equal opportunity shall apply to all areas of personnel administration to insure equitable treatment to persons in protected classes. The areas of personnel administration specifically included are recruitment, testing, placement, training, promotion, performance appraisal, disciplinary action, compensation and benefits. The Board may implement affirmative action plans and policies as needed.

##### **Sec. 13-3. Employment principle.**

Municipal employment will be made on the best match of employee or applicant qualifications to bona fide job requirements. All appointments and promotions will be made in accordance with the provisions of this chapter and policies, which may be established by the Board.

##### **Sec. 13-4. Qualifications for appointment.**

The Personnel Committee of the Board may prescribe reasonable and minimum qualification standards for all positions within the town service as well as specific occupationally related qualifications for any class or position,

including the ability to satisfy bona fide physical demands for any position. Any such requirement may be used as the basis for rejecting or refusing to examine any applicant. Qualifications set forth by the Finance/Administrative Committee will make reasonable accommodations for disabilities.

**Sec. 13-5. At-will employer.**

The town is an at-will employer and may terminate an employee at any time for reasons not prohibited by law.

**Sec. 13-6. Position classification plan.**

The Personnel Committee shall establish, administer and maintain a plan of classification of all positions subject to this chapter upon approval of the Board.

**Sec. 13-7. Grievance procedure.**

It is a policy of the town to provide for the settlement of problems and differences through an orderly grievance procedure as set out in the personnel manual and procedures.

**Sec. 13-8. Reserve police officers and firefighters.**

The Board is authorized to appoint, organize, recruit, train and equip reserve police officers and firefighters for the town.

# CODE OF ORDINANCES

## Chapter 14

### SOLID WASTE MANAGEMENT

#### ARTICLE I. IN GENERAL

Sec. 14-1.	Containers required; placement for collection.
Sec. 14-2.	Certain items not collected; volume restricted.
Sec. 14-3.	Rules and regulations generally.
Sec. 14-4 – 14-30.	Reserved.

#### ARTICLE II. ROWAN COUNTY ORDINANCE

Sec. 14-31.	Scope.
Sec. 14-32.	Definitions.
Sec. 14-33.	Purpose, statutory authority.
Sec. 14-34.	Storage and disposal.
Sec. 14-35.	Landfill management.
Sec. 14-36.	Solid waste containers (greenboxes).
Sec. 14-37.	Authorized disposal of solid waste.
Sec. 14-38.	Penalties.
Sec. 14-39 – 14-60.	Reserved.

#### ARTICLE III. LITTER

Sec. 14-61.	Definitions.
Sec. 14-62.	Unlawful deposits on streets, sidewalks.
Sec. 14-63.	Litter in public places.
Sec. 14-64.	Placing litter in receptacles.
Sec. 14-65.	Sweeping litter into gutters prohibited.
Sec. 14-66.	Merchants' duty to keep sidewalks free of litter.
Sec. 14-67.	Throwing litter from vehicles.
Sec. 14-68.	Truckloads causing litter.
Sec. 14-69.	Littering parks.
Sec. 14-70.	Littering lakes, fountains, etc.
Sec. 14-71.	Littering streams.
Sec. 14-72.	Littering private property.
Sec. 14-73.	Owner to maintain premises free of litter.
Sec. 14-74.	Littering vacant lot.
Sec. 14-75.	Clearing litter from vacant property.

**\*Cross references** – Buildings and building regulations, Chapter 6; abandoned vehicles, §9-56 et seq.

**State law reference** – Authority of town to regulate refuse and garbage, G.S. 160A-192.

#### ARTICLE I. IN GENERAL

**Sec. 14-1. Containers required; placement for collection.**

- (a) It shall be the duty of every person owning or occupying premises upon which refuse or garbage of any kind may accumulate to obtain approved containers to accommodate and receive all refuse or garbage which shall collect upon his/her premises.
- (b) Each person shall maintain such container at some suitable place upon his/her lot and shall place them at curbside, as designated by the solid waste contractor prior to the times designated for collection by the town refuse and garbage collection system.
- (c) It shall be the duty of every person owning a trash container to remove it from the curb within forty-eight (48) hours of trash collection and place upon his/her lot as indicated in (b) above until the next scheduled collection.

**Sec. 14-2. Certain items not collected; volume restricted.**

- (a) Large limbs, stumps, construction debris, materials from store openings, dead animals or fowl, leaves, rubbish, and other bulky items shall not be picked up by the town refuse and garbage collection system.
- (b) The amount of refuse and garbage that a customer may deposit for collection in a single week shall be limited to one container, unless special provisions are made with the solid waste contractor.

**Sec. 14-3. Rules and regulations generally.**

The Board of Aldermen may, by resolution from time to time, promulgate rules and regulations, not inconsistent with this chapter, for the collection of refuse and garbage within the town. Such rules and regulations, when spread upon the minutes and filed in the office of the town clerk, shall be binding upon all persons affected thereby.

**Secs. 14-4 through 14-30. Reserved.**

**ARTICLE II. ROWAN COUNTY ORDINANCE**

**Sec. 14-31. Scope.**

All solid wastes, garbage or other refuse not otherwise collected by the town garbage collection system shall be subject to the county ordinance for the management of solid wastes, which is set out in this article.

**Sec. 14-32. Definitions.**

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

**Board:** The Board of Commissioners of the county.

**Bulky waste:** Large items of solid waste such as household appliances, furniture, automobiles, large auto parts, trees, branches, stumps, and other oversize wastes whose large size precludes or complicates their handling by normal solid waste collection, processing or disposal methods.

**Collection:** The act of removing solid wastes from a point of generation to a central storage point or to a disposal site, and from a central storage point to a disposal site.

**Commercial solid waste:** Solid wastes generated by stores, offices, restaurants, warehouses and other non-manufacturing activities.

**Construction and demolition waste:** Waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.

**Demolition landfill:** A sanitary landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes as approved by the division of health services.

**Director of environmental services:** The county director of environmental services, or his authorized representative.

**Disposal:** The discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

**Division of health services:** The division of health services of the state department of human resources.

**Garbage:** All putrescible solid wastes, animal and vegetable matter, animal offal and carcasses, and recognizable industrial byproducts, but excluding sewage and human wastes.

**Geographic area:** The area which, pursuant to G.S. 130A-294, is designated for the collection, transportation, storage and disposal of solid waste in accordance with an approved solid waste management plan.

**Hazardous wastes:** Solid waste, or combination of solid wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

**Health director:** The director of the county health department, or his authorized representative.

**Incineration:** The process of burning solid, semisolid or gaseous combustible wastes to an inoffensive gas and residue containing little or no combustible material.

**Industrial solid waste:** Solid wastes generated by industrial processes and manufacturing.

**Infectious waste:** Solid waste capable of producing an infectious disease. The types of waste designated as infectious are microbiological waste, pathological waste, blood products and sharps.

**Institutional solid waste:** Solid waste generated by educational, health care, correctional and other institutional facilities.

**Landfill:** A disposal facility or part of a disposal facility where waste is placed in or on land which is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility or a surface storage facility.

**Microbiological waste:** Cultures and stocks of etiologic agents. The term includes cultures of specimens from medical, pathological, pharmaceutical, research, commercial and industrial laboratories.

**Open burning:** Any fire wherein the products of combustion are emitted directly into the outdoor atmosphere and are not directed thereto through a stack or chimney, incinerator or other similar devices.

**Pathological waste:** Includes human tissues, organs, body parts, secretions and excretions, blood and body fluids that are removed during surgery and autopsies, and the carcasses and body parts of all animals that were exposed to pathogens in research, were used in the production of biologicals or in the in vivo testing of pharmaceuticals, or that died of known or suspected infectious disease.

**Person:** An individual, corporation, company, association, partnership, unit of local government, state agency, federal agency or other legal entity.

**Putrescible:** Solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal and carcasses.

**Radioactive waste:** Any waste containing radioactive material as defined in G.S. 104E-5(14).

**Recycling:** The process by which recovered resources are transformed into new products so that the original products lose their identity.

**Refuse:** All nonputrescible waste.

**Resource recovery:** The process of obtaining material or energy resources from discarded solid waste which no longer has any useful life in its present form and preparing such solid waste for recycling.

**Sanitary landfill:** A facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted

**Sharps:** Needles, syringes and scalpel blades.

**Sludge:** Any solid, semisolid or liquid waste generated from a municipal, commercial, institutional or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effect.

**Solid waste:** Any hazardous or non-hazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include:

- (1) Fecal waste from fowls and animals other than humans.
- (2) Solid or dissolved material in:
  - (a) Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters;
  - (b) Irrigation return flows; and,
  - (c) Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under the Federal Resource Conservation and waste under the Federal Resource Conservation and Recovery Act (P.L. 94-580), as amended, shall also be a solid waste for the purposes of this article.

- (3) Oils and other liquid hydrocarbons controlled under G.S. chapter 143, article 21A. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (P.L. 94-580), as amended, shall also be a solid waste for the purposes of this article.
- (4) Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011).
- (5) Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290). However, any specific mining waste that meets the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (P.L. 94-580), as amended, shall also be a solid waste for the purpose of this article.

**Solid waste collector:** Any person who collects or transports solid waste by whatever means, including but not limited to, highway, rail and navigable waterway.

**Solid waste container:** A large metal container used for the temporary storage of solid wastes and capable of being automatically emptied into collection vehicles.

**Solid waste container site:** Any place owned, leased, rented or otherwise operated by the county environmental services department at which refuse, garbage or other solid waste is collected, transported or disposed of.

**Solid waste disposal site:** Any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.

**Solid waste generation:** The act or process of producing solid waste.

**Solid waste management:** Purposeful, systematic control of the generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.

**Solid waste management facility:** Land, personnel and equipment used in the management of solid waste.

**Storage:** The containment of solid waste, either on a temporary basis or for a period of years, in a manner that does not constitute disposal.

**Unit of local government:** A county, city, town or incorporated village.

**Vector:** A carrier, usually an arthropod that is capable of transmitting a pathogen from one organism to another.

**Cross reference** – Definitions and rules of construction generally, § 1-2.

#### **Sec. 14-33. Purpose, statutory authority.**

- (a) The purpose of this article is to regulate the generation, storage, collection, transportation, separation, treatment, processing, recycling, recovery, and disposal of solid waste in the county. This article is adopted pursuant to the authority contained in G.S. 153A-121, 153A-132.1, 153A-136 and 130A-294.
- (b) This article shall govern the unincorporated areas of the county and the municipal jurisdictions that have requested to be included within the geographic area designated pursuant to G.S. 130A-294, and which have adopted this article within the municipal corporate limits pursuant to G.S. 153A-122.



#### **Sec. 14-34. Storage and disposal.**

- (a) No owner, occupant, tenant or lessee of any property may deposit, store or permit to accumulate any solid wastes upon his/her property that is not stored or disposed of in a manner prescribed by this article.
- (b) The owner, occupant, tenant or lessee of any property shall be responsible for the storage, collection and disposal of solid waste and shall remove or cause to be removed all solid wastes from his/her property on a regular basis. The owner, occupant, tenant or lessee of property shall ensure that his/her waste is disposed of at a site or facility that is permitted to receive the waste.
- (c) Garbage shall be stored only in a container that is durable, rust resistant, nonabsorbent, water resistant, and easily cleaned, with a close-fitting, fly-resistant cover in place. Solid waste receptacles may also be used for storage provided they meet the requirements of this subsection. The number of containers shall be adequate to store the accumulated garbage. Each container shall be kept clean so that no odor or other nuisance condition exists.
- (d) Refuse shall be stored in a manner that will resist harborage to rodents and vectors and will not create a fire hazard. Regulated refuse under this subsection includes, but is not limited to, lumber, boxes, barrels, bottles, cans, tires, paper, cardboard, rags, old furniture and appliances. Useful materials, such as firewood and building materials, may be stored on the premises, provided they are stored in a safe manner at a reasonable height above ground.
- (e) Materials to be recycled such as cans, bottles, paper, cardboard, metal and rags shall be stored in rodent-resistant, water-resistant containers.
- (f) No owner, occupant, tenant or lessee of a building or dwelling, other than a licensed junk dealer, may place or leave, or cause to be placed or left, outside the building or dwelling any bulky wastes for longer than two weeks.
- (g) No owner, occupant, tenant or lessee of any building or dwelling may leave outside the building or dwelling, in a place accessible to children, any abandoned or unattended icebox, refrigerator or other receptacle that has an airtight door without first removing the door.
- (h) Solid waste shall be disposed of only in one of the following ways:
  - (1) In a sanitary landfill approved by the division of health services.
  - (2) In an incinerator that has all required local, state, and federal air pollution control permits.
  - (3) By any other method, including reclamation and recycling processes that have been approved by the division of health services.
- (i) In addition to the methods listed in subsection (h) of this section, refuse may be disposed of in solid waste receptacles provided by the county in accordance with rules established by the county.
- (j) Construction and demolition wastes may be disposed of at disposal sites approved and permitted by the division of health services, but in no case within 100 feet of any structure.
- (k) Infectious, hazardous and radioactive wastes shall be disposed of according to written procedures approved by the division of health services.
- (l) Vehicles and containers used for the collection and transportation of solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill, and when necessary, shall be secured and/or covered to prevent the blowing of material. If spillage or leakage should occur, the material shall be recovered immediately by the driver and returned to the vehicle or container, and the area properly cleaned.
- (m) All sharps, including needles, syringes and scalpel blades, whether broken or unbroken, shall be placed in a sealed, puncture proof container prior to disposal.
- (n) Open burning of solid waste is prohibited.
- (o) Open dumping of solid waste is prohibited.

#### **Sec. 14-35. Landfill management.**

- (a) The county sanitary landfill may be used for the disposal of solid wastes by county residents or nonresident property owners. The landfill shall be open during business hours as established by the Board. In emergency situations, the landfill shall be opened for additional hours as may be directed by the county manager or his authorized representative. Except when open during regular business hours, the landfill shall be kept locked and entry shall not be permitted. Solid wastes shall be disposed of at the landfill in the manner and according to the procedures required by the director of environmental services or his representative.
- (b) The following wastes may not be disposed of in the landfill, or in the county's solid waste containers (greenboxes):
  - (1) Asbestos.
  - (2) Burning or smoldering materials, or any other materials that would create a fire hazard.
  - (3) Hazardous wastes.
  - (4) Infectious wastes.
  - (5) Liquid wastes.
  - (6) Radioactive wastes.
- (c) The following wastes may be accepted on a conditional basis only:
  - (1) Sludges.
  - (2) Barrels.
  - (3) Sharps.

Conditionally acceptable wastes may be disposed of in the county landfill in accordance with policies promulgated by the director or environmental services and adopted by the Board of Commissioners. Generators of conditionally acceptable waste shall obtain prior approval from the landfill administrator at least three (3) working days before transporting conditionally approved wastes to the landfill.

- (d) Loitering or rummaging about landfills and removing articles therefrom is prohibited. Actions that either make the orderly operation of the landfill difficult or endanger the safety of any person shall not be permitted.
- (e) No person shall deposit material at any point in the landfill except where indicated by authorized employees of the landfill or by official signs.
- (f) Discharging firearms or explosives on landfill property is prohibited.
- (g) The maximum speed limit on the landfill property shall be ten (10) miles per hour.

#### **Sec. 14-36. Solid waste containers (greenboxes).**

- (a) Solid waste containers are maintained at sites throughout the county for the convenience of county residents, and nonresident county property owners. Solid wastes may be deposited in the solid waste containers only in accordance with the provisions of this article. Entry into container sites or disposal of solid wastes at container sites, except during authorized business hours, is prohibited.
- (b) All solid wastes intended for disposal in a solid waste container shall be deposited inside the solid waste containers. Each container shall be labeled with a designation of the specific type of waste authorized to be placed within the container, and no person shall deposit in such solid waste containers any garbage, waste, or other matter except that which is specifically designated and authorized by label. No solid waste may be left at the solid waste disposal site outside the containers.
- (c) Commercial, industrial and institutional solid wastes may not be deposited in solid waste containers. Solid waste containers shall be used only by private citizens for disposal of residential solid wastes. Solid waste containers shall not be used by persons engaged in the business of collecting solid waste for disposal.
- (d) No person, unless authorized by the county, may remove any item from a solid waste container, climb on or into a container, or damage any container.
- (e) The County Board of Commissioners has established a fee schedule for the use of solid waste containers, which may be amended by the Board. The fee schedule shall be filed with the clerk to the Board and the

Director of Environmental Services, and such fees shall be collected from citizens using the containers. Any person using one of the convenience centers to dispose of any solid waste, which is subject to a collection fee, shall pay the appropriate fee charged and failure to do so shall be punishable as provided in section 42-38(a).

- (f) The disposal of household solid waste in containers within county parks and recreation areas, or at other county facilities, is prohibited.
- (g) Materials not acceptable. No person(s) shall place in a solid waste container:
  - (1) Fire or embers.
  - (2) Herbicides.
  - (3) Liquids.
  - (4) Pesticides.
  - (5) Poisons.
  - (6) Chemicals.
  - (7) Animals.
  - (8) Other materials as designated by the county.
- (a) Fire prevention. It shall be unlawful for any person to set or cause to be set any fire in a solid waste container. No person shall place in a container, embers, ashes or other material that would create a fire hazard.

#### **Sec. 14-37. Authorized disposal of solid waste.**

The disposal within the county of solid waste from areas outside the boundaries of the county is prohibited.

#### **Sec. 14-38. Penalties.**

- (a) Criminal penalty. Any person violating this article shall be guilty of a violation punishable by a fine not to exceed \$50.00 or imprisonment for not more than thirty (30) days, or both for the first offense. Any second or subsequent offense is punishable by a fine of not more than \$200.00, or imprisonment for not more than thirty (30) days, or both. Each day's violation shall be treated as a separate offense.
- (b) Civil penalty. Any person who is found in violation of this article shall be subject to a civil penalty not to exceed \$500.00, as provided in G.S. 153A-123. The provisions of this article may be enforced by equitable remedy, and any unlawful condition existing or in violation of this article may be enforced by injunction and order of abatement in accordance with the provisions of G.S. 153A-123.

#### **Secs. 14-39 through 14-60. Reserved.**

### **ARTICLE III. LITTER**

#### **Sec. 14-61. Definitions.**

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

**Authorized private receptacle:** A litter storage and collection receptacle as required and authorized by the town refuse and garbage collection system ordinance.

**Garbage:** Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

**Litter:** Garbage, refuse and rubbish, as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

**Park:** A park, reservation, playground, beach, recreation center, or any other public area in the town, owned or used by the town, devoted to active or passive recreation.

**Private premises:** Any dwelling, house, building or other structure designated or used, either wholly or in part, for private residential purposes, whether inhabited or temporarily, or continuously uninhabited or vacant and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

**Public place:** Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

**Refuse:** All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

**Rubbish:** Nonputrescible solid wastes consisting of both combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

**Vehicle:** Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

**Cross reference** – Definitions and rules of construction generally, § 1-2.

#### **Sec. 14-62. Unlawful deposits on streets, sidewalks.**

No person shall deposit, throw, sweep, dump or place in any manner, or allow to be placed, any glass, tacks, rubbish, garbage or other matter upon any street or sidewalk.

#### **Sec. 14-63. Litter in public places.**

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the town except in public receptacles or in authorized private receptacles for collection.

#### **Sec. 14-64. Placing litter in receptacles.**

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.

**Sec. 14-65. Sweeping litter into gutters prohibited.**

No person shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

**Sec. 14-66. Merchants' duty to keep sidewalks free of litter.**

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the town shall keep the sidewalk in front of their business premises free of litter.

**Sec. 14-67. Throwing litter from vehicles.**

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the town or upon private property.

**Cross reference** – Traffic and vehicles, Chapter 16.

**Sec. 14-68. Truck loads causing litter.**

No person shall drive or move any truck or other vehicle within the town unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place.

**Sec. 14-69. Littering parks.**

No person shall throw or deposit litter in any park within the town except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place.

Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

**Sec. 14-70. Littering lakes, fountains, etc.**

No person shall throw or deposit litter in any fountain, pond, lake, bay or any other body of water in a park or elsewhere within the town.

**Sec. 14-71. Littering streams.**

No person shall place in any natural stream any trash, garbage, or refuse or any industrial, chemical or other waste which in any way impedes or interferes with the natural flow of the stream.

**Sec. 14-72. Littering private property.**

No person shall throw or deposit litter on any private property within the town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place.

**Sec. 14-73. Owner to maintain premises free of litter.**

The owner or person in control of any private property shall at all times maintain the premises free of litter. This section shall not prohibit the storage of litter in authorized private receptacles for collection.

**Sec. 14-74. Littering vacant lot.**

No person shall throw or deposit litter on any open or vacant private property within the town whether owned by such person or not.

**Sec. 14-75. Clearing litter from vacant property.**

The public works department is hereby authorized and empowered to notify the owner of any open or vacant private property within the town or the agent of such owner to properly dispose of litter located on such owner's property, which is dangerous to public health, safety or welfare. Such notice shall be by registered or certified mail and addressed to such owner at his last known address, the cost to be charged on the property owner, which will constitute a lien on the property.

# CODE OF ORDINANCES

## Chapter 15

### STREETS, SIDEWALKS AND OTHER PUBLIC PLACES\*

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## STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

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**\*Cross references** – Buildings and building regulations, Chapter 6; traffic and vehicles, Chapter 16; zoning, Appendix A; subdivisions, Appendix. B.

**State law reference** – Municipal authority relative to streets and sidewalks, G.S. 160A-296 et seq.



## **ARTICLE I. IN GENERAL**

### **Sec. 15-1. Driving over sidewalk.**

No person shall at any time operate or drive any vehicle, skateboard or bicycle, whether propelled by motor or otherwise, regardless of size or type of construction over or upon any of the sidewalks which are now constructed or which may be hereafter constructed within the town.

### **Sec. 15-2. Paving generally.**

- (a) All new streets proposed for paving within the town limits shall be subgraded and shall also be proof rolled by means of a loaded dump truck with a minimum weight of 25,000 pounds. Stone placed upon the subgrade shall be a minimum of six (6) inches in depth, compacted. The stone shall be proof rolled before placement of the asphalt and crown. The street shall be a minimum of one-fourth (1/4) inch per foot. No asphalt shall be less than one and one-half (1 ½) inch in depth.
- (b) No street having curb and gutter shall have less than one percent grade in the gutter flow line.

### **Sec. 15-3. Requirements for curbs and gutters.**

- (a) At any location where there is curb and guttering and where a culvert is required, the driveway shall be the same level as the top of the curb, at a distance of thirty (30) inches behind the curb, or a variance granted by the department of public works.
- (b) Where there is no curb cut, the driveway, four (4) feet back from the edge of the pavement shall be at a higher elevation than the elevation at the edge of the pavement. This is to prevent flooding of the driveway by keeping water in the street.
- (c) All new proposed streets within town limits or any area controlled by the town shall be subgraded and shall also be proof rolled by means of a loaded dump truck with a minimum weight of 25,000 pounds. Stone placed upon said subgrade shall be a minimum of eight (8) inches of ABC compacted stone. The stone shall be proof rolled before placement of the asphalt and crown. The street shall be a minimum of one-fourth (1/4) inch per foot and no more than one-half (1/2) inch per foot. No asphalt shall be less than two (2) inches of 1-2 asphalt.

Any street having curb and gutter shall have no less than 1.00% grade in the gutter flow line. Where curb and gutter is to be used on streets controlled by the Town of Granite Quarry, it shall be "Valley Curb".

**Secs. 15-4 through 15-50. Reserved.**

## **ARTICLE II. DRIVEWAYS**

### **Sec. 15-51. Construction specifications.**

The construction of driveways shall be according to town specifications.

### **Sec. 15-52. Permit required.**

It shall be unlawful for any person to break out any street curb for the purpose of constructing a driveway entrance, or to construct any driveway across the grass plot or sidewalk, without first obtaining a written permit from the public works department.

**Sec. 15-53. Supervision of work.**

Any and all work performed under the provisions of this article shall be done under the supervision of the public works department.

**Sec. 15-54. Paving generally.**

All driveway entrances constructed or reconstructed upon the street rights-of-way of the town shall be paved in the manner described in this article.

**Sec. 15-55. Proximity to intersections, hydrants, etc.**

No driveway entrance shall be permitted to intersect the radius of any street corner or be so located that it interferes with intersection sidewalks (or no closer than twenty-five (25) feet to the intersection of right-of-way line, whichever is greater), traffic signals, lamp standards, fire hydrants or other public improvements unless specific approval is obtained from the public works department and necessary adjustments to public improvements or installations are accomplished without cost to the town, and in accordance with section 15-58(g).

**Sec. 15-56. Minimum size of serviced area.**

The area to which a driveway provides access shall be sufficiently large to store vehicles using the driveway completely off the right-of-way and shall be of sufficient size to allow the functions related thereto to be carried out completely on the private property.

**Sec. 15-57. Side clearance.**

All portions of the driveway including the returns shall be between the property lines of the property served, and shall not encroach on adjoining properties. (Rev. 8-7-2006)

**Sec. 15-58. Number, width of openings.**

- (a) Residential generally. The width of residential driveway entrances shall be limited to twenty (20) feet each as measured along the curbline with not more than two (2) such entrances to the same property. When two entrances are constructed to serve the same residence, there shall be a minimum distance of twenty-five (25) feet of curb allowed to remain between the driveway entrances measured along the curbline.
- (b) Duplex (two-family). The width of a driveway entrance shall be limited to twenty (20) feet each as measured along the curbline when two entrances are made to the same property, provided there shall be a minimum distance of twenty-five (25) feet of curbline allowed to remain between the driveways. The width of a single driveway entrance to serve a duplex shall be limited to twenty-four (24) feet. There shall be no more than two (2) entrances to the same property.

- (c) Multifamily. When driveway entrances are constructed to serve apartment houses, such entrances may be twenty-four (24) feet in width measured at the curblane with not more than two such entrances to the same property from the same street. When two driveway entrances are constructed, there shall be at least twenty-five (25) feet between driveway entrances measured at the curblane.
- (d) Joint driveways. The width of a joint driveway, as may be authorized by the zoning department, serving two adjacent pieces of property shall be limited to twenty-four (24) feet along the curblane, provided no other means of driveway access is reasonably available and the permit for such driveway is signed by the then owner(s) of the adjacent property. There shall be no more than one (1) joint driveway for each two (2) adjacent pieces of general residential property and no more than two (2) joint driveways for each two (2) adjacent pieces of duplex or multifamily residential property.
- (e) Business. Driveway entrances and exits, either or both, constructed to serve business property shall not exceed thirty-five (35) feet in width and not more than two (2) such curb openings shall be permitted from the same street to serve any business or combined group of businesses such as shopping centers. When two (2) openings are constructed, there shall be a minimum distance of five (5) feet of curb allowed to remain between the driveway entrances.
- (f) Industrial. Curb openings made to provide entrances or exits to industrial plants may be fifty (50) feet in width with not more than one such entrance to the same property; except, that the zoning department may approve, without the concurrence of the Board of Aldermen, a second entrance when it deems such is in the public interest to facilitate ingress and egress to the property. When two (2) or more such industrial driveway entrances are constructed, there shall be a minimum of fifty (50) feet between such entrances as measured at the curblane.
- (g) Corner lots. Property having frontage on two intersecting streets within one hundred (100) feet of the intersection of such streets shall have access only from the minor or less intensively used street except as may be authorized under section 15-69, and in accordance with section 15-55.

**Sec. 15-59. Relocation, alteration or driveway approaches-Permit required; limitation.**

Existing driveway approaches shall not be relocated, altered or reconstructed without a permit approving such relocation, alteration or reconstruction. Such driveway approaches when so relocated, altered or reconstructed shall be subject to the limitations set forth in sections 15-59 through 15-62.

**Sec. 15-60. Same-Replacement of curbs.**

When the use of any driveway approach is changed making any portion or all of any driveway approach unnecessary in the opinion of the zoning department, the owner of the abutting property shall, at his own expense, replace all necessary curbs, gutters and sidewalks within sixty (60) days after written notice from the zoning officer.

**Sec. 15-61. Same-Reconstruction by abutting property owner.**

When an existing building or structure is served by a driveway approach (not conforming to the provisions of this article) which is demolished, repaired or altered, the owner of the abutting property shall, at his/her own expense, reconstruct the driveway approach so as to conform to the provisions of sections 15-59 through 15-62.

**Sec. 15-62. Driveway approaches; conformance to town standards.**

All work done in the construction of driveway approaches shall conform to town standards for concrete sidewalk and driveway approaches as established in this chapter or by the zoning department. The maintenance department will inspect all such work.

**Sec. 15-63. Thickness of pavements.**

The thickness of pavement shall not be less than six (6) inches including a top surface of not less than one inch of asphaltic concrete and the stone base.

**Sec. 15-64. Replacement of existing sidewalks.**

When any driveway entrance is constructed or reconstructed, any existing four (4) inch sidewalk shall be replaced with concrete specifications of 3,000 PSI or of not less than six (6) inches in thickness where the driveway crosses the sidewalk. The pedestrian walk shall be indicated by false cracks or lines in the pavement. The newly constructed section of sidewalk shall be at an elevation or grade approved by the maintenance department.

**Sec. 15-65. Materials for construction of residential driveways.**

Paving materials used shall be of cement with specifications of 3,000 PSI or asphaltic concrete with a thickness of at least six (6) inches.

**Sec. 15-66. Property owner's responsibility for maintenance and repairs.**

Responsibility for maintenance and repairs to new and existing driveway entrances or exits shall rest with the property owner. Upon receipt of a notice to repair damaged pavement, the property owner shall make the necessary repairs within sixty (60) days in accordance with the requirements set forth in this article. If the required repairs and/or maintenance are not completed within the time specified, the maintenance department will complete the necessary repairs and/or maintenance and the owner will be responsible for reimbursing the town. Failure to do so within the specified time will result in a lien being placed upon the property.

**Sec. 15-67. Driveways from state highway streets.**

Where the property is to be served by a driveway opening into a state highway street, a permit as required by the State Highway Commission Manual on Driveway Entrance Regulations shall be first submitted to the planning department for its review and approval. The requirements of this article or those of the Manual on Driveway Entrance Regulations, whichever is greater, shall be the minimum standards for development.

**Sec. 15-68. Responsibility for damages; use of barricades, lights.**

The property owner shall be responsible for removing all debris and surplus materials upon completion of the work and shall maintain the premises in a safe manner, providing adequate barricades and lights at his/her own expense to protect the safety of the public using adjacent street or sidewalks and shall hold the town free and harmless from all damages for any liability incurred.

**Sec. 15-69. Variances.**

The zoning board of adjustments may grant variance from the standards of this article.

**Sec. 15-70. Rescinding of permit.**

The Board of Aldermen shall have the authority to rescind by resolution any permit granted for a driveway when the Board finds such action to be necessary to abate a potentially hazardous situation, and that such action would be in the public welfare.

**Secs. 15-71 through 15-85. Reserved.****ARTICLE III. PROPERTY NUMBERING SYSTEM****Sec. 15-86. Official map.**

The property number map entitled "Property Numbering System, dated January, 1970, Granite Quarry, N.C.", is hereby adopted as the official property numbering map, and no property numbers shall be used or displayed in the town except numbers assigned in accordance with the official number map.

**Sec. 15-87. Axis; numbering generally.**

On the property numbering map, Main Street is hereby designated as the north-south axis and Bank Street is hereby designated as the east-west axis. All avenues, streets and alleys running generally north and south shall be numbered from the east-west axis consecutively to the corporate limits extremity of such avenue, alley or street. Avenues, streets or alleys running generally east and west shall be numbered from the north-south axis in the same manner as those running north and south. Wherever possible, one hundred (100) numbers shall be allowed to each block so that the numbers of each consecutive block shall commence with consecutive hundreds and one.

**Sec. 15-88. Assignment of numbers.**

- (a) One whole number shall be assigned for every fifty (50) feet of ground, whether improved property or vacant lot, on every street within the corporate limits, excluding the business district, in which case one whole number shall be assigned for twenty five (25) feet, whether improved property or vacant lot.
- (b) Odd numbers shall be assigned to the left side of the street and even numbers to the right side going from the axis street toward the corporate limits of the town.

**Sec. 15-89. Buildings erected in future.**

All residence and business buildings erected after February 5, 1970, shall be assigned a number in accordance with the property numbering map.

**Sec. 15-90. Purchase, display of numbers.**

Every property owner of improved property shall purchase and display in a conspicuous place on the property the number assigned the property.

**Sec. 15-91. Alteration, defacement, etc., of numbers.**

It shall be unlawful for any person to alter, deface or take down any number placed on any property in accordance with this article, except for repair or replacement of such number.

**Secs. 15-92 through 15-100. Reserved.**

## **ARTICLE IV. PARKS AND RECREATION**

**Sec. 15-101. Definitions.**

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

**Department:** The town maintenance department.

**Footpath or trail:** Any path or trail maintained for pedestrians.

**Pedestrian:** A person afoot.

**Permit:** Any written license issued by or under the authority of the department, permitting the performance of a specified act.

**Regulation:** Any regulation duly adopted by the Town Board of Aldermen and posted as a town parks and recreation department regulation.

**Vehicle:** Any conveyance, except baby carriages, including motor vehicles, trailers of all types, campers, sleds, sleighs, pushcarts, or vehicles propelled by other than muscular power. Also, any horse or horse-drawn conveyance, but excluding non-motorized bicycles or tricycles.

**Sec. 15-102. Fees.**

Fees for the use of the park will be as set by the Town Board of Aldermen's resolution.

**Sec. 15-103. Enforcement of Article.**

- (a) In addition to any other penalties provided by law, enforcement of this article is punishable by immediate suspension from the park.
- (b) Each person receiving a citation may within fifteen (15) days of its issuance pay, as a penalty in full satisfaction of such violation, the sum set forth in this article. Each person receiving a citation may file a written appeal to the Town Board of Aldermen and waive payment of said citation until after the appeal is heard and judgment rendered.

**Sec. 15-104. Penalty for violation of article; fines.**

Violations of this article concerning parking shall be infractions considered to be civil fines punishable in accordance with the following fine schedule:

	<u>VIOLATION</u>	<u>FINE</u>
(1)	Municipal violations	\$ 50.00 or as per the ordinance
(2)	Handicapped Parking	\$100.00
(3)	Parking in a Fire Lane	\$ 50.00
(4)	All other parking violations (to include parking within a tow-away zone, no parking zones, parking on sidewalk, parking within 15 ft. of a fire hydrant, parking more than 12" from curb, etc.).	\$ 10.00

**Sec. 15-105. Park preservation.**

It shall be unlawful for any person to:

- (1) Mark, deface, disfigure, injure, tamper with or displace or remove any buildings, bridges, tables, benches, fireplaces, railings, paving or paving materials, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.
- (2) Fail to cooperate in maintaining restrooms and kitchen in a neat and sanitary condition.
- (3) Dig or remove any soil, rock, sand, stones, trees, shrubs or plants or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency, except as authorized by the Town of Granite Quarry.
- (4) Damage, cut, carve, mark, transplant or remove any plant, or injure the bark, or pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas, or in any other way injure the natural beauty or usefulness of any area, except as authorized by the Town of Granite Quarry.
- (5) Construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon, or across such lands, except on special written permit issued pursuant to this article.
- (6) Throw, discharge, or otherwise place or cause to be placed in the lake, waters of any fountains, stream or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such water, any substance, matter or thing, liquid or solid, which will or may result in the pollution of waters.
- (7) All refuse and rubbish must be deposited in receptacles so provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.
- (8) Attach or place any sign, banner, wire, rope or cable, or any other contrivance to any building, sign, tree or other park property by use of nails or staples. These items may be attached with tape or thumbtacks and must be removed before leaving the area.
- (9) Bring any animals except for a dog that is kept under restraint. Said animal must be cleaned up after.
- (10) Rollerblading or skateboarding is prohibited.
- (11) Fish unless sponsored as a Town event.

**Sec. 15-106. Firearms; explosives; alcoholic beverages; drugs; dangerous substances.**

It shall be unlawful for any person to bring into or have in his possession:

- (1) Any rifle, shotgun, BB gun, air gun, spring gun, slingshot, bow, paint ball guns, or any other weapon in which the propelling force is gunpowder, spring or air, or any explosive of any kind. Upon entering the park any of the weapons enumerated in this subsection, which a person possesses, must be made inoperative and placed in an enclosed area that is not readily accessible.
- (2) Any alcoholic beverage or any narcotic drug, hallucinogen, or any other controlled substance without a valid physician's prescription. While in the park, a person should conduct him or herself in a proper and orderly manner and further shall not display, consume, or be under the influence of alcoholic beverages or any narcotic drug, hallucinogen, or any other controlled substance without a valid physician's prescription.
- (3) Any fireworks or explosive of any kind or nature.

**Sec. 15-107. Camping; fires; picnic areas.**

It shall be unlawful to:

- (1) Camp, park a car, trailer, or camper for the purpose of camping or stay overnight anywhere within the park.
- (2) Kindle, build, maintain or use a fire except in places provided for such purposes. Any fire shall be continuously under the care and direction of a competent person from the time it is kindled until it is extinguished. No person shall throw away or discard any lighted match, cigar, cigarette, tobacco, paper or other material within or against any building, vehicle, or under by tree or in underbrush.

**Sec. 15-108. Hour of operation.**

It shall be unlawful for any person to enter or remain in the park except during those hours of operation that it is open to the general public. Any person found in the park at a time other than the hours of operation may be subject to a trespassing violation.

**Sec. 15-109. Vehicles and parking.**

It shall be unlawful for any person to:

- (1) Drive any vehicle or bicycle on any area except in designated areas.
- (2) Park a vehicle anywhere except on a designated parking area unless otherwise permitted.
- (3) Leave a vehicle standing or parked in established parking area or elsewhere in the park and recreation areas during hours when the park and recreation area is closed.
- (4) Ride a bicycle without reasonable regard to the safety of others.
- (5) Leave a bicycle laying on the ground or paving or set against trees, or in any place or position where other persons may trip over or be injured by it.
- (6) Operate a motorized trail bike or any other vehicle designed primarily for off-road use within the confines of the park.
- (7) Park a vehicle in a towing area, such as a handicapped-parking area, on the grass, or on the shoulder of a road. Any vehicle so parked may be towed at the owner's expense. The decision to tow a vehicle shall be made by the patrol officer on duty.



## **Sec. 15-110. Personal conduct.**

It shall be unlawful for any person to:

- (1) Engage in criminal or disorderly conduct of any kind within the park.
- (2) Engage in any activity that may constitute a hazard to the safety of him/herself or other person, except when conducted within reasonable safety guidelines in specific areas designated by park management for such activity.
- (3) Engage in threatening, offensive, or vulgar language or in excessively noisy conduct of any kind at any time within the park such that it unreasonably disturbs other park patrons or neighbors. The police officer on duty is empowered to determine whether noise is excessive or unreasonable disturbing.
- (4) Throw rocks or objects of any kind. This does not include balls or games used in athletic events when used in a reasonable manner and in such a way that they do not become hazards to the park patrons.
- (5) Solicit, peddle or beg within any recreation facility or sell any merchandise or wares without obtaining a permit from the Town.
- (6) Interfere with or in any manner hinder any employee of the park in the performance of his/her duties.

## **Sec. 15-111. General responsibility for all recreation organizations.**

- (1) All persons shall be offered the opportunity to use the park in all organizations and their programs regardless of race, color, natural origin, religion, handicap, or any non-merit factors.
- (2) The organization shall have exclusive rights to operate concession stand facilities on the designated site for the program period. The organization is responsible to comply with the Rowan County Health Department regulations and all applicable laws and ordinances. The playing area, concession area, parking area, and immediate playing areas must be free of debris after all practices and game sessions.
- (3) Alcohol or drug use is prohibited by any of the programs. Anyone under the influence of alcohol and/or illegal drugs before, during, or after a scheduled program will be suspended from all facilities.
- (4) All practices, games, and other related activities must be under adult supervision. These supervisors must be provided by the athletic organization, be listed on the official team roster, and be at least eighteen (18) years of age.
- (5) The organization will carry liability insurance at their own expense and agrees to hold harmless and indemnify the Town of Granite Quarry from and against all claims, losses, damages, injuries, causes of action, lawsuits, expenses, and liability arising from or arising out of the organization's failure to comply with the responsibilities and stipulations stated herein.

**Secs. 15-112 through 15-120. Reserved.**

## **ARTICLE V. TREES AND SHRUBS ON PUBLIC PROPERTY**

### **Sec. 15-121. Purpose.**

This chapter regulates the planting, maintenance, protection and removal of trees and shrubs on public streets, parks and other town owned property; provides for a Shade Tree Advisory Committee; and establishes the office of a Town Forester in the Department of Maintenance. This chapter also provides for the issuing of permits for the planting, maintenance, protection and removal of trees and shrubs in town owned places.

### **Sec. 15-122. Title.**

This chapter shall be known and may be cited as the "Town Tree Ordinance".

### **Sec. 15-123. Definitions.**

The following terms shall have the meanings provided in this section unless their context indicates a different meaning:

**Caliper:** The diameter in inches of the tree trunk twelve (12) inches above the base of the tree.

**Town Agency:** Any department, board, commission, committee or other entity within the government of the Town of Granite Quarry.

**DBH (Diameter at Breast Height):** The diameter of tree trunks at a height of four (4) feet six (6) inches from the finished grade at the base of the tree.

**Person:** Any corporation, firm, partnership, association, trust, estate, one (1) or more individuals and any unit of government or agency or subdivision thereof, except for a town agency.

**Trees and Shrubs:** Any woody plants that have self-supporting, aboveground parts that are viable year round.

### **Sec. 15-124. Town Forester.**

The office of the Town Forester shall be held by the Department of Maintenance.

- The Town Forester, in consultation with the Shade Tree Advisory Committee (STAC) shall have the authority to implement and enforce the provisions of this chapter.
- In furtherance of the purposes of this chapter, the Shade Tree Advisory Committee, in consultation with the Town Forester shall have the authority to adopt rules and regulations regarding arboricultural specifications and standards of practice and such additional rules and regulations as the Board determines are necessary. These regulations shall govern the planting, maintenance, removal, fertilization, pruning, and protection of trees and shrubs on public streets, parks, or other town property.
- In the absence of the Town Forester, the duties of that office shall be the responsibility of the Supervisor of Parks and Forestry within the Department of Maintenance.

**Cross reference** – Parks and recreation – See Chapter 15, Article IV., Site development plan review – See Chapter 'Appendix' A, Article VI, Sec. 14. Subdivision of land – See Chapter 'Appendix' B, Article IV.

### **Sec. 15-125. Planting, maintenance and removal regulations.**

- (a) No person or town agency shall plant, spray, fertilize, prune, remove, replace or otherwise disturb any tree or shrub on any public street, park or other town owned property without first submitting a written request therefore and obtaining written permission from the Town Forester. Requests for written permission shall be acted on within five (5) business days of filing the written request with the Town Forester. All work for which such permission is given shall be done in accordance with this ordinance.
- (b) Persons or town agencies conducting regular maintenance work on trees or shrubs may be granted general permits to cover their work on a yearly basis.

- (c) Except as provided in Subsection D, whenever a person or town agency obtains written permission pursuant to Subsection A of this section to remove a tree or shrub from any town owned land for the purpose of construction or for any other reason, such person or agency shall subsequently replace the tree or shrub within one (1) year of the issuance of the tree-removal permit in a location to be determined by the Town Forester somewhere in the city or have the city replace such tree or shrub at the expense of the person who obtained such permission. Such replacement shall meet the standards of size, species and placement as provided for in the tree removal permit issued by the Town Forester. Unless the Town Forester, for good cause, determines otherwise, trees shall be replaced by the caliper inch, such that for every inch of diameter (DBH) removed, an equal number of caliper inches shall be replaced (e.g. the removal of one (1) twelve (12) inch DBH tree shall necessitate the planting of six (6) two (2) inch caliper trees or four (4) three (3) inch caliper trees, etc.).
- (d) It is the responsibility of the Town Forester to determine if trees or shrubs on town owned property are hazardous and to remove dead or hazardous trees or shrubs from town owned property. If replacement is recommended by the Town Forester, the town shall replace the tree or shrub within one (1) year of removal.
- (e) Wherever it is necessary to remove a tree or shrub from a public right-of-way in connection with the paving of a sidewalk or the paving or widening of a street, the town or responsible agency or person shall replant such tree or shrub or replace it. If conditions prevent planting in the right-of-way, this requirement may be satisfied by planting on the adjoining property if the property owner agrees.
- (f) Requests from private citizens that new street trees be planted near their property shall be accommodated in accordance with planting priorities set by the Town Forester in consultation with the STAC.
- (g) Specifications governing tree species, size, spacing and method and location of planting, shall be approved by the Town Forester. Inspection of the trees by the Town Forester shall be carried out, whenever possible, prior to planting in order to ensure tree health and quality. Whenever any person is required to replace a tree pursuant to this chapter, a one-year guaranty of the tree's health shall be provided for such replacement trees.
- (h) Excavation within the street right-of-way for the purpose of compliance with this section shall not be undertaken without approval from the Town Board of Aldermen.

#### **Sec. 15-126. Damage prohibited.**

Unless specifically authorized in writing by the Town Forester, no person or town agency shall intentionally damage, cut, carve, transplant or remove any tree or shrub on town owned property; attach any rope, wire, nails, advertising posters or other contrivance to any such tree or shrub; allow any gas, liquid or solid substance which is harmful to any such tree or shrub to come in contact with it; or set fire or permit any fire to burn when such fire or heat thereof will injure any portion of any tree or shrub on city property. Written authorization for any action governed by this section may be obtained in the same manner as provided in Sec.125 of this chapter.

#### **Sec. 15-127. Protection.**

- (a) Without written permission from the Town Forester, no person or town agency shall:
  - (1) Undertake any construction or development activity (including but not limited to the excavation of any ditches, tunnels, or trenches or the laying of pavement) within the drip-line of any city tree or shrub.
  - (2) Move or park vehicles associated with any construction or development activity, which may affect any tree or shrub on town property.
- (b) Guarding during construction or excavation:
  - (1) Unless the Town Forester, for good cause, determines otherwise, all trees or shrubs on any public street or other town owned property directly impinging on any excavation or construction of any

building, structure or street work shall be guarded as follows: (a) for trees or shrubs with a crown spread of eight (8) feet or less, a substantial fence, frame or box not less than four (4) feet high and eight (8) feet square shall surround the tree or shrub; (b) For a tree or shrub with a crown spread over eight (8) feet, a fence not less than four (4) feet high shall be placed at the tree or shrub's drip-line or at a distance prescribed by the Town Forester.

(2) All building material, soil or debris shall be kept outside these barriers.

- (c) No person or city agency shall deposit, place, store or maintain upon any public place of the town any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots on any tree or shrub growing thereon, except by written permit of the Town Forester.
- (d) Any written permission required by this section may be obtained in the same manner as provided for in §125.

#### **Sec. 15-128. Obstruction of streets.**

- (a) It shall be the duty of any person owning real property bordering on a public street to ensure that trees and shrubs on that property are pruned in a manner that will not obstruct or shade streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs or obstruct the view of any street or alley intersection. If trees are interfering with utility wires, it is the obligation of the appropriate utility company to correct the situation.
- (b) Should any person owning real property bordering on any public street fail to comply as hereinabove provided, the Town Forester shall order the owner to take corrective action within fifteen (15) days after receipt of written notice. The order required herein shall be served by mailing a copy of it to the last known address of the property owner.
- (c) When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the town to prune such trees or shrubs or to pay for such pruning, and the cost thereof shall be assessed to the owner.

#### **Sec. 15-129. Coordination of review.**

When plantings are to be done on projects that also require site development plan review Appendix A, Article VI, the Town Forester and the Zoning Administrator shall coordinate review of the proposed planting plan.

#### **Sec. 15-130. Emergency work.**

- (a) This chapter shall not govern any emergency activity immediately necessary to protect life, safety or property or to maintain access to any property. Any such activity shall incorporate reasonable efforts to protect trees and shrubs on town property from unnecessary damage.
- (b) Any person or town agency engaged in any action covered by Subsection A shall make a reasonable effort to notify the Town Forester prior to commencing that action and shall, in any event, provide written notice of the emergency and the work done to the Town Forester within three (3) calendar days of commencing that work.

#### **Sec. 15-131. Appeals.**

Should a dispute arise in the administering of this chapter, an appeal can be requested by petitioning, in writing, the Town Forester. The Town Forester will have five (5) working days to reply in writing. Should this provide and unsatisfactory resolution, a second appeal can be requested by petitioning the STAC. In such event, the

STAC shall consult with the Town Forester. The STAC will have ten (10) working days from the filing of the second appeal to reply in writing. Should this also provide an unsatisfactory resolution, a third appeal can be requested by petitioning the Town Board of Aldermen. The Town Board of Aldermen will act upon the petition within thirty (30) days from the date of receiving the petition.

**Sec. 15-132. Penalties for offenses.**

Any person who violates or fails to comply with any part of this ordinance may be fined two hundred fifty dollars (\$250) plus the cost of rectifying damage to any tree or shrub on town owned property.

# CODE OF ORDINANCES

## Chapter 16

### TRAFFIC AND VEHICLES\*

#### ARTICLE I. IN GENERAL

- |                    |  |
|--------------------|--|
| Sec. 16-1.         | Applicability of state law.                                    |
| Sec. 16-2.         | Official traffic map.  |
| Sec. 16-3.         | Obedience to stop signs, yield signs, traffic control devices. |
| Sec. 16-4 – 16-35. | Reserved.  |

#### ARTICLE II. OPERATION\*

- |                     |                                       |
|---------------------|---------------------------------------|
| Sec. 16-36.         | Vehicles on sidewalks.                |
| Sec. 16-37.         | Stop intersections.                   |
| Sec. 16-38.         | Speed limits.                         |
| Sec. 16-39.         | Trucks prohibited on certain streets. |
| Sec. 16-40 – 16-60. | Reserved.                             |

#### ARTICLE III. STOPPING, STANDING AND PARKING\*

- |             |  |
|-------------|--|
| Sec. 16-61. | Obedience to signs.  |
| Sec. 16-62. | Compliance with street markings.                                 |
| Sec. 16-63. | Parking on public sidewalks.                                     |
| Sec. 16-64. | Parking near fire hydrants.                                      |
| Sec. 16-65. | Blocking entrances, exits, etc.                                  |
| Sec. 16-66. | Moving vehicle into area where parking is prohibited or illegal. |
| Sec. 16-67. | Moving vehicles within limited parking areas.                    |
| Sec. 16-68. | Fire lanes.  |
| Sec. 16-69. | Handicapped parking spaces.                                      |

#### ARTICLE IV. ORDINANCE TO REGULATE GOLF CARTS\*

- |             |                        |
|-------------|------------------------|
| Sec. 16-80. | Golf Cart Regulations. |
|-------------|------------------------|

**\*Cross reference** – Abandoned vehicles, § 9-56 et seq.; driving through street where fire is occurring, § 10-2; driving over fire hose § 10-4; throwing litter from vehicles, § 14-67; streets, sidewalks and other public places, Chapter 15.

**State law reference** – Authority of town to regulate and control traffic, G.S. 20-169, 160A-300; motor vehicles and traffic generally, G.S. 20-1 et seq.

**State law reference** – Authority of Town to regulate and control golf carts, G.S. 153A-245, 160A-300.6

## TRAFFIC AND VEHICLES

### ARTICLE I. IN GENERAL

#### **Sec. 16-1. Applicability of state law.**

Drivers of vehicles and pedestrians within the town shall conform to the provisions of G.S. 20-115 through 20-175.4 insofar as such provisions are applicable.

#### **Sec. 16-2. Official traffic map.**

An official traffic map shall be kept on file in the town clerk's office showing any of the following regulations applicable within the town:

- (1) Location of traffic control devices.
- (2) Regulations applicable to parking, loading, bus stops or taxicab stands.
- (3) Speed limits.
- (4) Location of through streets.
- (5) Stop intersections.
- (6) Yield right-of-way intersections.
- (7) Waiting lanes.
- (8) One-way streets.
- (9) Truck traffic routes.
- (10) Regulations upon vehicle turns at designated locations.

Such map shall constitute the official codification of town ordinances regarding those areas of traffic regulation enumerated by this section.

**State law reference** – Authority of city to codify traffic regulations by use of official traffic maps, G.S. 160-61-77.

#### **Sec. 16-3. Obedience to stop signs, yield signs, traffic control devices.**

It shall be unlawful for any person to disregard or fail to obey the directions of any sign requiring a full stop at an intersection or requiring the operator of a vehicle to yield the right-of-way to other vehicles at an intersection or to disregard or fail to obey the directions of any traffic light or other traffic control device at any intersection or other location.

#### **Secs. 16-4 through 16-35. Reserved.**

### ARTICLE II. OPERATION

#### **Sec. 16-36. Vehicles on sidewalks.**

No person shall at any time operate or drive any self-propelled vehicle, whether propelled by motor or otherwise, regardless of size or type of construction, upon any of the sidewalks which are now constructed or which may be hereafter constructed within the town.

**State law reference** – Authority of town to prohibit operation on sidewalk, G.S. 160A-300.

**Sec. 16-37. Stop intersections.**

When stop signs are placed upon streets which intersect a through street, as designated on the official traffic map, the driver of any vehicle shall bring his vehicle to a stop before entering such intersection, and he/she shall not proceed into or across the through street until he/she has first determined that no conflict with traffic will ensue.

**State law reference** – Authority of town to designate stop and yield intersections, G.S. 20-158.

**Sec. 16-38. Speed limits.**

When signs designating the speed limit on streets or portions of streets have been erected, as indicated on the official traffic map, it shall be unlawful for any vehicle to travel in excess of such speed limit.

**State law reference** – Authority of town to impose speed limits, G.S. 20-141.

**Sec. 16-39. Trucks prohibited on certain streets.**

When signs prohibiting the operation of trucks exceeding five thousand (5,000) pounds in weight on certain streets have been erected, as indicated on the official traffic map, it shall be unlawful for any truck to travel on any of the designated streets for any purpose other than the delivery of goods, parcels or materials to premises on such streets.

**Secs. 16-40 through 16-60. Reserved.****ARTICLE III. STOPPING, STANDING AND PARKING\*****Sec. 16-61. Obedience to signs.**

In any location designated on the official traffic map, no person shall stand or park any vehicle in any place where signs are posted prohibiting parking, nor shall any person park any vehicle longer than the time indicated on any sign restricting parking.

**Sec. 16-62. Compliance with street markings.**

In any location designated on the official traffic map where the parking or standing of a vehicle is regulated by markings on any street within the town, it shall be unlawful for any person to park or stand a vehicle in violation of such markings.

**Sec. 16-63. Parking on public sidewalks.**

It shall be unlawful for any person to park any vehicle upon the public sidewalks in any manner as to obstruct the free passage of pedestrians upon such sidewalks.

**Sec. 16-64. Parking near fire hydrants.**

No person shall park any vehicle within fifteen (15) feet of any fire hydrant that may be needed for fire protection.



**State law reference** – Similar provisions, G.S. 20-162.

**Sec. 16-65. Blocking entrances, exits, etc.**

- (a) In any area set aside for the use of the public for parking vehicles therein, it shall be unlawful for any person to park or otherwise leave a vehicle stationary in such position as to interfere with the free entry into such parking area or withdrawal therefrom. It shall likewise be unlawful for any person, having entered such an area with a vehicle, to park such vehicle in such manner and in such position with reference to any other vehicle already parked therein as to interfere with the free movement of such other vehicle.
- (b) It shall be unlawful for any person to park any vehicle in such a manner that it will block or obstruct the passage of vehicles into or out of any alley or public or private driveway.

**Sec. 16-66. Moving vehicle into area where parking is prohibited or illegal.**

No person shall move a vehicle into any prohibited area, where parking is prohibited or limited, or sufficiently away from the curb to make the distance between the curb and the vehicle unlawful.

**State law references** – Standing and parking, G.S. 20-161 – 20-163; authority of town to regulate on-street parking, G.S. 160A-301.

**Sec. 16-67. Moving vehicles within limited parking areas.**

The changing of the position of a vehicle from one point directly to another point within the same block shall not be deemed to interrupt the period of continuous parking within limited parking areas within the town.

**Sec. 16-68. Fire lanes.**

- (a) *Designation.* Pursuant to the provisions of G.S. 160A-301 and for the protection and safety of the lives and property of the citizens of the town, there are hereby established certain fire lanes as designated on the traffic map and subject to those policies on file in the office of the traffic engineer. Fire lanes may be established upon the request of the property owner or person in general charge of the operation and control of the area, with approval by the town Board of Aldermen, both on private property which constitutes a public vehicular area as that term is defined by G.S. 20-4.01(32), and on any public drive, driveway, road, roadway, street, alley or other surface generally used or reserved for the movement or parking of motor vehicles.
- (b) *Blocking fire lane; authority to remove vehicles.*
  - (1) It shall be unlawful for any person to park a vehicle or permit it to stand, whether attended or unattended, or to put or place any other object, structure or obstruction in a fire lane which has been established and properly marked under the provisions of the section; provided, however, that it shall not be unlawful for governmental vehicles, including municipal transit buses, or nongovernmental emergency vehicles, including rescue squad vehicles, to stop, stand or travel within such fire lanes when required to do so in the performance of their official duties.

- (2) Any vehicle which shall be or remain standing or parked in any fire lane established under this section may be removed by or upon order of the chief of police or his designee with the concurrence of the property owner upon whose premises the fire lane is located.

#### **Sec. 16-69. Handicapped parking spaces.**

It shall be unlawful for any person to park or leave standing any vehicle in a parking space designated for handicapped or visually impaired persons when the vehicle does not display the distinguishing license plate or placard as provided in G.S. 20-37.6. The penalty for violation of this section shall be a fine in the amount of \$100.00.

#### **Sec. 16-80.                    Golf Cart Regulations.**

The establishment of a golf cart ordinance is necessary to address the interests of public safety. Golf carts, are not designed or manufactured to be used on public streets, roads and highways, hereinafter "road(s)," and the Town of Granite Quarry in no way advocates or endorses their operation on roads. The Town of Granite Quarry, by regulating such operation is merely trying to address obvious safety issues, and adoption of this Ordinance is not to be relied upon as a determination that operation on roads is safe or advisable if done in accordance with this Ordinance. All persons who operate or ride upon carts on roads do so at their own risk and peril and must be observant of and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists, and pedestrians. The Town of Granite Quarry has no liability under any theory of liability for permitting carts to be operated on roads under special legislation granted by the State Legislature. Any person who operates a cart must procure liability insurance sufficient to cover the risks involved in using a cart on the roads of the Town of Granite Quarry.

(A) PURPOSE: The purpose of this ordinance shall be to establish a Golf Cart Ordinance within the Town of Granite Quarry to promote the health, safety and welfare of persons operating cart(s) within the Town of Granite Quarry and to protect the safety of their passengers and other users of roads.

(B) DEFINITIONS: For the purpose of this section, the following words and phrases shall have the following meanings.

1. Golf Cart:        A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 MPH.G.S. 20-4.01(12a).
2. Driver's License: A valid license issued to operate a motor vehicle issued by North Carolina or any other state.
3. Financial Responsibility: Liability insurance coverage on a golf cart in an amount not less than required by North Carolina law for motor vehicles operated on public highways in the State of North Carolina.
4. Operator:        Only persons 16 years of age and older holding a valid driver's license may operate a golf cart on roads.

This ordinance is to establish guidance in the interest of public safety. Golf carts hereinafter:

1. Golf carts shall not be operated on or alongside a public road or street with a posted speed limit greater than 35 miles per hour.
2. Golf carts may cross a road with a posted speed limit greater than 35 mph. However, once this segment of road has been transversed, the golf cart is still required to travel only on or along a roadway with a speed limit of 35 mph or less. Golf carts must cross in a manner that is the most direct route in order to decrease crossing distance, i.e. no riding along a road or crossing at an angle. Under no circumstance is a golf cart allowed to cross a control access facility other than at bridges which cross over or under a control access facility.
3. With exception to the aforementioned paragraph, at no point shall golf carts travel on any portion of Hwy 52 but may be transversed, otherwise known as Salisbury Ave. North and South.
4. Any person who operates a golf cart must be responsible for all liability associated with operation of the golf cart and must have liability insurance coverage which will cover the use of a golf cart in an amount not less than required by North Carolina law for motor vehicles operated on public highways in the State of North Carolina.
5. Any person who operates a golf cart must be at least sixteen (16) years of age or older. No person may operate a golf cart unless that person is licensed to drive upon the public streets, roads and highways of North Carolina and then, only in accordance with such valid driver's license. Golf cart operators must carry their driver's license on their person at all times while operating a golf cart on public roads.
6. Any person who operates a golf cart on public streets and roads must adhere to all applicable State and local laws, regulations and ordinances, including but not limited to those banning the possession and use of alcoholic beverages, and all other illegal drugs. In addition, no golf cart containing any open container of alcohol shall be operated on public roads.
7. The operator of the golf cart shall comply with all traffic rules and regulations adopted by the State of North Carolina and the County/Town/City which governs the operation of motor vehicles.
8. An operator may not allow the number of people in the golf cart at any one time to exceed the maximum capacity specified by the manufacturer. The operator shall not allow passengers to ride on any part of a golf cart not designed to carry passengers, such as the part of the golf cart designed to carry golf bags.
  - a. In no instance shall a golf cart be operated at a speed greater than 20 miles per hour. No golf cart may be operated at a speed greater than reasonable and prudent for the existing conditions.
9. Golf carts must be operated at the right edge of the roadway and must yield to all vehicular and pedestrian traffic.
10. Golf carts must park in designated spaces in such a manner that multiple golf carts can utilize the space. All parking rules and limits apply. No parking on sidewalks is allowed.
11. Golf carts must have basic and safety equipment supplied by the manufacturer, including a vehicle identification or serial number. Such equipment must include rear view mirror and rear reflectors of the same type required by North Carolina law.
12. Golf carts without lights may be operated only during daylight hours. Golf carts meeting the requirements set forth below may operate at any time:

- a. Golf carts having two (2) operating headlights, one on each side of the front of the golf cart and two (2) operating tail lights, one on each side of the rear of the cart, all four (4) lights must be visible from a distance of 500 feet; and
- b. If a mechanical turn signal indicator is not installed, then hand signals are required for turns.

## Section 2: Enforcement

Violation of the provisions of this Ordinance shall constitute an infraction in accordance with Chapter 20 of the North Carolina General Statutes, the maximum penalty for which shall be (\$150) dollars.

**Adopted by the Granite Quarry Board of Aldermen on April 7, 2014**

# CODE OF ORDINANCES

## Chapter 17

### WATER & SEWER\*

#### ARTICLE I. IN GENERAL

Sec. 17 -1.	Definitions.
Sec. 17-2.	Disclaimer of liability.
Sec. 17-3.	Right of entry.
Sec. 17-4.	Water and sewer connections.
Sec. 17-5.	Metering of water connections.
Sec. 17-6.	Tampering with meters.
Sec. 17-7.	Interference with hydrants, valves, etc.
Sec. 17-8.	Water consumers not to supply other persons.
Sec. 17-9.	Use of private fire hydrants.
Sec. 17-10.	Use of water for private fire protection systems.
Secs. 17-11 – 17-30.	Reserved.

#### ARTICLE II. RATES AND CHARGES

Sec. 17-31.	Revision of rates and estimates.
Sec. 17-32.	Deposit for water or sewer service (schedule A).
Sec. 17-33.	Water meter and sewer installation charges, meter testing, inspection charges (Schedule B).
Sec. 17-34.	Utility user charges.
Sec. 17-35.	Water and sewer charges generally (schedule C).
Sec. 17-36.	Water service charges for bulk sales (schedule D).
Sec. 17-37.	Sewer service charges (schedule E).
Sec. 17-38.	Sewer service surcharge for industrial users (schedule F).
Sec. 17-39.	Water and sewer flat rate customers.
Sec. 17-40.	Acreage charge.
Secs. 17-41 – 17-60.	Reserved.

#### ARTICLE III. CUSTOMER SERVICES; BILLING ADJUSTMENTS

Sec. 17-61.	Procedure upon complaint of excessive bill.
Sec. 17-62.	Cutting off water.
Sec. 17-63.	Procedure when water used without knowledge of water department.
Sec. 17-64.	Water leakage.
Sec. 17-65.	Correction of failures in customer's pipes or fixtures; authority to discontinue service or make repairs.
Secs. 17-66 – 17-85.	Reserved.

#### ARTICLE IV. WATER AND SEWER CONNECTIONS

Sec. 17-86.	Prerequisites.
Sec. 17-87.	Mandatory connection; use of private systems.
Sec. 17-88.	Connections outside city.
Sec. 17-89.	Installation.
Secs. 17-90 – 17-104.	Reserved.

## **WATER & SEWER\* (cont'd)**

### **ARTICLE V. EXTENSIONS OF WATER AND SEWER MAINS**

Sec. 17-105.	Construction at city's expense – Generally
Sec. 17-106.	Same – Assessment for costs.
Sec. 17-107.	Reimbursement of assessments.
Sec. 17-108.	Construction in primary and secondary growth areas.
Sec. 17-109.	Construction in rural area.
Sec. 17-110.	Construction in areas outside of extraterritorial planning jurisdiction.
Sec. 17-111.	Design approval.
Sec. 17-112.	Authority to require oversized mains.
Sec. 17-113.	Easements and rights-of-way.
Sec. 17-114.	Connection with city system.
Sec. 17-115.	Special arrangements.
Secs. 17-116 – 17-135.	Reserved.

### **ARTICLE VI. BACKFLOW PREVENTION AND CROSS-CONNECTION CONTROL**

Sec. 17-136.	Backflow prevention.
Sec. 17-137.	Right of entry.
Sec. 17-138.	Cross-connections.
Secs. 17-139 – 17-155.	Reserved.

### **ARTICLE VII. WATER EMERGENCY MANAGEMENT**

Sec. 17-156.	Declaration of water emergency.
Sec. 17-157.	Staged water use restrictions.
Sec. 17-158.	Compliance plan for industries during level III emergencies.
Sec. 17-159.	Penalties for violation of mandatory restrictions.
Sec. 17-160.	Authority to discontinue service.
Sec. 17-161.	Adoption and enforcement of article by municipal customers.
Sec. 17-162.	Termination of restrictions.
Secs. 17-163 – 17-179.	Reserved.

### **ARTICLE VIII. SEWER USE REGULATIONS**

Sec. 17-180.	Powers of the director.
Sec. 17-181.	Severability.
Sec. 17-182.	Conflicting provisions.
Sec. 17-183.	Federal categorical standards and applicability of federal standards.
Sec. 17-184.	Enforcement of article.
Sec. 17-185.	Penalties.
Sec. 17-186.	Local limits development and wastewater discharge permits.
Sec. 17-187.	Prohibited use and prohibited discharge standards
Sec. 17-188.	Permissive use; pretreatment and holding facilities; excessive waste surcharge.
Sec. 17-189.	Inspections and sampling; methods for tests and analyses.
Sec. 17-190.	Measurement of flow.
Sec. 17-191.	Determination of character and concentration of wastes.
Sec. 17-192.	Tampering with or damaging equipment.
Sec. 17-193.	Authority of director in control of prohibited wastes.

## **WATER & SEWER\* (cont'd)**

Sec. 17-194.	Accidental discharges.
Sec. 17-195.	Accidental spill prevention program.
Sec. 17-196.	Monitoring and reporting requirements.
Sec. 17-197.	New sewer construction.
Sec. 17-198.	Municipal users.
Sec. 17-199.	Public participation; annual publication of significant noncompliance.
Sec. 17-200.	Confidential information.

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**\*Granite Quarry's Editor's Note**—All water and sewer service for the town is furnished by the City of Salisbury and all ordinances listed herein are the same as the City of Salisbury's. Therefore, any reference to other chapters or codes are referring to chapters and codes within the City of Salisbury Ordinances.

**\*Salisbury Editor's Note**—Ordinance No. 1999-29, adopted May 18, 1999, amended Chapter 25, § 25-1 – 25-200, in its entirety, to read as herein set out. See the Code Comparative Table.

**\*Salisbury Charter references-** Connection of sanitation facilities, § 7-11; water and sewer, § 8-10; eminent domain and local improvements, § 8-30 et seq.

**\*Salisbury Cross reference(s)**—Administration, Ch. 2; buildings, Ch.7; plumber's bond, §7-41; fire prevention and protection, Ch. 9; housing, Ch. 10; mobile homes, Ch. 12; planning and development, Ch. 19; streets and sidewalks, Ch. 22; discharge of sewage, etc. on street or sidewalks, § 22-14; duties of tree board, § 24-28; subdivisions, App. A; flood damage prevention, App. C; fees, App. F.

**State law references** – Public utilities, G.S. Chapter 62; water and air resources, G.S. 143-211 et seq.; revenue bonds, G.S. 159-80 et seq.; ordinances effective on municipal property outside limits, G.S. 160A-176; municipal regulation of the emission of pollutants or contaminants, G.S. 160A-185; health and safety nuisances, G.S. 160A-193; special assessments, G.S. 160A-216 et seq.; excavations, placing pipes, etc. G.S. 160A-296; franchises G.S. 160A-76, 160A-319; public enterprises, G.S. 160A-311 et seq.

## ARTICLE I. IN GENERAL

### Sec. 17-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Except as defined in this section, all other words used in this chapter shall have their customary dictionary definition.

**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.

**Administrative order:** An order from the director, which requires corrective action on the part of the violator, a compliance schedule with specific progress dates and a final compliance deadline, and interim effluent permit limits. The conditions of an administrative order are not negotiated with the industrial user (IU) and do not require the consent of the industrial user prior to issuing the order.

**Applicant:** Any person requesting facilities for the supply of water or sewer service from the city.

**Application:** A formal request for water or sewer service from the city submitted by an applicant.

**Approval authority:** The director of the Division of Environmental Management of the North Carolina Department of Environment, Health and Natural Resources or his designee.

#### **Authorized representative of the industrial user:**

- (1) If the industrial user is a corporation, authorized representative shall mean:
  - a. The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
  - b. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00) (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
- (3) If the industrial user is a federal, state or local government facility, an authorized representative shall mean a director of that government facility or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in paragraphs (1), (2), and (3) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City of Salisbury.



**Average:** The value calculated by dividing the sum of the data values collected over a time period by the number of data points which comprise the sum.

**Backflow:** The flow of water or other liquids, mixtures, gases or other substances into the distribution piping of a portable supply of water from any source.

**Backflow prevention device, approved:** Backflow preventers that have been tested and approved by the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California.

**Backflow prevention device, type:** Any effective device, method or construction used to prevent backflow into a potable water supply. The type of device used should be based on the degree of hazard, either existing or potential.

**Bioassay:** Any of several state-approved biological tests involving live organisms designed to indicate the presence of or an absence of toxic materials in the effluent (discharge) from a pretreatment facility, an industrial user, a commercial user, a municipal user or a wastewater treatment plant.

**Biochemical oxygen demand (BOD):** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty (20) centigrade, usually expressed as a concentration (e.g. mg/l).

**Building:** A structure as defined in the North Carolina Building Code.

**Building sewer:** A sewer conveying wastewater from the premises of a user to the POTW.

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

**Capital improvements program or CIP:** A five-year program of proposed water and sewer capital improvements. This program shall contain major capital facilities projects such as treatment plants, raw water delivery components, sewer outfall and water distribution mains and shall be approved by the city council.

**Categorical standards:** National Categorical Pretreatment Standards or Pretreatment Standard.

**CCF:** One hundred (100) cubic feet of water or wastewater, being equal to 748.052 gallons.

**Chronic violation:** That sixty-six (66) percent or more of the measurements exceed by any magnitude the same daily maximum limit or the same average limit in a six-month period.

**COD, denoting chemical oxygen demand:** The quantity of equivalent oxygen utilized in the chemical oxidation of organic matter as measured by standard laboratory methods, as set out in this chapter, expressed in milligrams per liter.

**Color:** The true color due to substances in solution which cause any variation in the hue of the receiving stream.

**Compatible pollutant:** BOD, suspended solids, pH and fecal coliform bacteria, and such additional pollutants as may be specified and controlled in the city's NPDES permit for its waste water treatment works where the works have been designed and used to reduce or remove such pollutants.

**Condominium:** Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

**Connection:** That part of the water or sewer service line which runs from the main to the property line, including all appurtenances to make the service complete and ready to use.

**Consent order:** An order from the director which requires corrective action on the part of the violator and includes a compliance schedule with specific progress dates and a final compliance deadline. Actions required, schedule dates and interim permit limits are negotiated with the industrial user and both the director and the industrial user sign the order.

**Consumer:** The person legally or equitably responsible for the payment of charges for water or sewer service to any premises.

**Contamination:** An impairment of the quality of the city water supply by sewage, industrial fluids or any other foreign substance to a degree which creates a hazard to the public health through poisoning or through the spread of disease.

**Cooling water:** Water discharged from any use such as air conditioning, cooling or refrigeration, during which the only pollutant added to the water is heat.

**Cross-connection:** Any unprotected connection between any part of a water system used or intended to supply water for drinking purposes and any source or system containing water or substance that is not or cannot be approved as safe, wholesome and potable for human consumption.

**Demand commodity rate methodology:** A rate-setting methodology that recognizes that the cost of serving customers depends not only on the total volume of water used, but also on the demand placed on the systems by a customer as a function of his meter size. This methodology consists of three (3) cost components: customer account costs, customer demand costs, and volumetric consumption costs.

**Director or director of utilities:** The City of Salisbury's Director of the Utilities Department or his designated representative.

**Domestic wastes or domestic wastewater:** Liquid wastes which contain only human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and institutions.

**Economic development project area:** An economic capital development project within a certain defined area of the city as established by the city council occupied by one (1) or more buildings or other improvements and including any public or private facilities. By way of illustration, but not limitation, such a project area may include the construction or renovation of any one (1) or combination of the following projects:

- (1) Privately owned hotel.
- (2) Privately owned office building.
- (3) Housing.
- (4) Parking facilities.
- (5) Industrial building.
- (6) Site improvements.
- (7) Privately owned commercial buildings including townhouses.

**Environmental Protection Agency or EPA:** The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.

**Excessive radiation dose:** A dose of radiation in excess of the maximum permissible dose.

**Flat rate customer:** A customer who is charged a set fee for being connected to water or sewer services but who is not charged for usage by volume. This category of customer is subject to elimination by the city council.

**Garbage:** Solid waste from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of food.

**Good payment history:** That a customer has not had any delinquent bills in his payment record in eleven (11) out of the last twelve (12) months.

**Grab sample:** A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

**Hazardous discharge:** A discharge by a sewer user which, in the opinion of the director or his designated agent, poses immediate danger or hazard to the public or city personnel, the treatment plants, to the integrity of the sewer collection system, or to the receiving stream.

**Hearing authority:** the utilities director, a member of the city council, and the city manager or his appointed representative.

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

**Improved street:** Any street having a wearing surface of concrete, brick, stone, block, asphalt or any bituminous compound.

**Incompatible pollutant:** Any pollutant which is not a compatible pollutant.

**Indirect discharge or discharge:** The discharge or the introduction from any nondomestic source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system)

**Industrial user or user:** Any person which is a source of indirect discharge.

**Industrial wastewater:** The liquid wastes from industrial, manufacturing, trade or business establishments, as distinct from domestic wastes.

**Infiltration:** The water entering a sewer system, including sewer service connections, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguishable from, inflow.

**Inflow:** The water discharged into a sewer system, including service connections, from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers and combined sewers, catch basins, storm water, surface runoff, street was waters, or drainage. Inflow does not include, and is distinguishable from, infiltration.

**Interference:** The inhibition, or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or non-discharge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations

developed pursuant to the Solid Waste Disposal Act (SWDA) (42 U.S.C. § 6901, et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the PCTW.

**IOD, denoting immediate oxygen demand:** The quantity of oxygen utilized by an industrial waste in excess of that normally attributable to sewage as measured by using standard laboratory methods, as set out in this chapter, expressed in milligrams per liter.

**Judicial order:** An order from the general court of justice, superior or district court division, which requires corrective action on the part of the violator, which includes a preliminary, permanent or mandatory injunction as may be appropriate, which restrains or compels the activities in question.

**Lateral:** That portion of the water or sewer connection which does not include the meter box or meter setter or connection.

**Main:** The water or sewer pipe usually laid in a street running parallel to the property line but whose purpose is to distribute water to or collect sewage from individual customers.

**Master meter:** A single large water or sewer meter that registers water use by or sewer discharge from any one (1) or more than one (1) building of the categories permitted in sections 54-4 and 54-5.

**Maximum permissible dose:** A dose of radiation to any part of the body, internal or external or both, that in the light of present knowledge is not expected to cause appreciable bodily injury to a person at any time during his lifetime.

**Medical waste:** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

**Municipal user:** Any municipality whose sewer system or POTW discharges into sewers which connect to the sanitary sewers of the City of Salisbury.

**Municipality:** Any city, town, county, sanitary district, association, or other public body created under state law or having jurisdiction over the disposal of domestic or industrial wastes.

**National categorical pretreatment standard or categorical standard:** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which applies to a specific category or industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

**National prohibitive discharge standard or prohibitive discharge standard:** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 54-187 of this chapter and are developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.

**New source:**

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

- (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or,
  - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or,
  - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section (1) b. or (1) c. above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) For purposes of this definition, construction of a new source has commenced if the owner or operator has:
- (a) Begun, or caused to begin, as part of a continuous on-site construction program:
    - (1) Any placement, assembly, or installation of facilities or equipment; or,
    - (2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - (b) Entered into a finding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

**NH<sub>3</sub>-N, denoting nitrogen as ammonia:** A form of nitrogen resulting from the initial decomposition of nitrogenous organic matter as measured by using standard laboratory methods, usually expressed in milligrams per liter.

**Non-contact cooling water:** Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

**Non-discharge permit:** A disposal system permit issued by the state pursuant to NCGS 143-215.1.

**NPDES, Denoting National Pollutant Discharge Elimination System:** The program for issuing, conditioning and denying permits for the discharge of pollutants from point sources into the navigable waters, the contiguous zone and the oceans pursuant to section 402 of the Clean Water Act.

**NPDES permit:** A permit issued pursuant to section 402 of the Act (33 U.S.C. § 1342), or pursuant to NCGS 143-215.1 by the state under delegation from EPA.

**Notice of significant violation or NOSV:** A formal notice that requires corrective actions be taken for noncompliance and warns of a more severe response if the noncompliance is not corrected.

**Notice of violation or NOV:** A formal notice that warns of a more severe response if the non-compliance is not corrected.

**Notice to comply:** A written notice from the city to a noncompliant discharger requiring immediate response to notification of significant violations.

**Occupant:** The consumer who is actually in possession or control of any premises.

**Organic nitrogen:** The concentration of nitrogen, including but not limited to organically bound nitrogen in the tri-negative oxidation state as well as proteins, peptides, nucleic acids, urea and numerous synthetic organic materials.

**Owner:** The person having legal or equitable title to any premises.

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

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

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

**Planning area:** Land located within the city and that unincorporated portion of the county upon which the city's growth management and urban area development decisions may have a significant impact over the course of the planning period. The boundaries of the planning area are shown on the growth strategies map of the Salisbury 2000 land development plan.

**Planning period:** The years 1988 through 2000.

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

**Pollutant mass:** The amount of a pollutant in pounds, calculated by multiplying the pollutant's concentration in milligrams per liter by the volume of wastewater, expressed as millions of gallons, containing the pollutant, times the factor 8.345 pounds per gallon.

**Publicly owned treatment works (POTW) or municipal wastewater system:** A treatment works as defined by section 212 of the Act, (33 U.S.C § 1292) which is owned in this instance by the City of Salisbury. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City of Salisbury who are, by contract or agreement with the City of Salisbury, or in any other way, users of the City of Salisbury's POTW.

**POTW treatment works, or POTW treatment plant:** That portion of the POTW which is designed to provide treatment, including recycling and reclamation of municipal sewage and industrial waste.

**ppm:** Parts per million by weight.

**Premises:** Land, buildings or other structures and appurtenances thereto.

**Pretreatment program:** The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the City of Salisbury in compliance with 40 CFR 403.8 and approved by the approval authority, authorized by NCGS 143-215.3(a)(14) in accordance with 40 CFR 403.11.

**Pretreatment requirements:** Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

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

**Pretreatment standards:** Prohibited discharge standards, categorical standards, local limits and all applicable federal rules and regulations implementing section 307 of the Clean Water Act, as well as any non-conflicting state or local standards. In cases of conflicting standards or regulations, the more stringent thereof shall be applied.

**Primary growth area:** That portion of the urban growth area where urban level services or facilities are already in place or can be provided very cost-effectively. This is the area where near term growth and development is to be especially encouraged. The primary growth area is delineated and shown on the growth strategies map of the Salisbury 2000 land development plan.

**Priority pollutant or PP:** Those substances as defined in the Federal Register, 40 CFR part 122, appendix D.

**Properly shredded garbage:** The wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normal prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

**Public sewer:** A sewer in which all owners of abutting properties have equal rights, and which is controlled by the city.

**Publicly owned treatment works (POTW) or municipal wastewater system:** A treatment works as defined by section 212 of the Act, (33 U.S.C. § 1292) which is owned in this instance by the City of Salisbury. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this chapter, "PTOW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City of Salisbury who are, by contract or agreement with the City of Salisbury, or in any other way, users of the City of Salisbury's POTW.

**Receiving stream:** That body of water, stream or watercourse receiving the discharge of waters from the waste treatment plant or formed by the water discharged from the waste discharge plant.

**Reduced pressure principle backflow prevention device:** A device containing within its structure a minimum of two (2) independently acting, approved check valves, together with an automatically operating pressure differential relief valve. This valve is located between the two (2) check valves. The first check valve reduces the supply pressure a predetermined amount, so that during normal flow and at cessation of normal flow the pressure between the checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the

checks less than the supply pressure. The unit shall include tightly closing shutoff valves located at either end of the device and each device shall be fitted with properly located test cocks.

**Rural area:** That portion of the planning area that is influenced by urban growth area sources, but within which urban level development shall be prohibited for at least the length of the planning period. Urban level services and associated development densities are not planned for this area, except in case by case evaluations of major economic development projects. The rural area is delineated and shown on the growth strategies map of the Salisbury 2000 land development plan.

**Sanitary sewer:** A sewer intended to receive domestic sewage and industrial waste, except that of the type expressly prohibited by this chapter, without admixture of surface water and storm-water.

**Secondary growth area:** That portion of the urban growth area where urban level services will eventually be provided, but not on as high a priority basis as the primary growth area. The secondary growth area is delineated and shown on the growth strategies map of the Salisbury 2000 land development plan.

**Self-monitoring:** The act of monitoring and reporting to the city on the nature of the industrial user's wastewater effluent by the industrial user.

**Service connection:** The terminal end of a service connection from the public potable water system, i.e. where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's water system. If a meter is installed at the end of the service connection, then the service connection shall mean the downstream end of the meter. There should be no unprotected takeoffs from the service line ahead of any meter or backflow prevention device located at the point of delivery to the consumer's water system.

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

**Service line:** A small line which may service a house or a limited number of houses and which may be in the street or on private property.

**Sewage:** A combination of the water carried wastes from residences, business buildings, institutions and industrial and municipal establishments.

**Sewage works:** All facilities for monitoring, collecting, pumping, treating and disposing of sewage.

**Sewer:** Sanitary sewer lines, pipes or conduits, whether street mains, collectors or major trunk outfalls, which carry sewage.

**Sewer surcharge:** An additional charge placed on a sewer user to recover costs incurred in treating wastewater which exceeds strength concentrations as outlines elsewhere in this chapter.

**Significant industrial user:** Any individual user of the wastewater disposal system who:

- (1) Has an average daily process wastewater flow of twenty-five thousand (25,000) gallons or more, or
- (2) Contributes more than five (5) percent of any design or treatment capacity (i.e. allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge, or
- (3) Is required to meet a national categorical pretreatment standard, or
- (4) Is found by the City of Salisbury, the Division of Environmental Management, or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in



combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.

**Significant noncompliance or reportable non-compliance:** A status of noncompliance defined as any of the following:

- (1) *Chronic violations.* Violations of wastewater discharge limits, in which sixty-six (66) percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.
- (2) *Technical review criteria (TRC) violations.* Those violations in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC. There are two (2) groups of TRCs:

For conventional pollutants:

BOD, TSS, fats, oil and grease  
TRC = 1.4

For all other pollutants, except pH:

TRC = 1.2

- (3) Any other violation(s) of an effluent limit (daily maximum or longer-term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of the sewage treatment plant personnel or the general public.
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge.
- (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
- (6) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
- (7) Failure to accurately report non-compliance.
- (8) Any other violation or group of violations which the director determines will adversely affect the operation or implementation of the City of Salisbury's pretreatment program.

**Slug load:** Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 17-187 of this chapter.

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

**Storm sewer or storm drain:** A sewer which carries storm-water or surface water and drainage, but excludes sewage and industrial wastes.

**Stormwater:** Any water flow occurring during or immediately following any form of natural precipitation and resulting therefrom.

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

**Technical review criteria (TRC) violations:** That thirty-three (33) percent or more of the measurements are more than the TRC times the maximum or average limit in a six-month period.

**TKN, denoting total Kjeldahl nitrogen:** The sum of the ammonia nitrogen and organic nitrogen as measured by using standard laboratory methods, as set out in this chapter, expressed in milligrams per liter.

**Total toxic organics or TTO:** Those substances as defined in the Federal Register, 40 CFR part 122, appendix D.

**Townhouse:** An attached single-family residence intended for owner occupancy, with individual residences located on their own individual lots, with the possibility of common ownership of open spaces, parking bays and the like.

**Toxicity:** A relative measure of adverse impact on biological organisms in an environment as defined by bioassay test procedures approved and required by the state division of environmental management. Toxicity means that the organisms experience abnormal lethality, impaired growth or impaired reproduction.

**Unpolluted water:** Water not containing any pollutants limited or prohibited by the effluent standards in effect, or water whose discharge will not cause any violation of receiving water quality standards.

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

**Urban growth area boundary:** The urban growth area shall include that portion of the city's planning area which can be expected to develop at an urban level of density over the course of the planning period. In general this area reflects the city's long-range strategy for future annexation. The urban growth area boundary is delineated and shown on the growth strategies map of the Salisbury 2000 land development plan.

**User:** Any person who utilizes water services or who discharges or causes or permits the discharge of wastewater into the city's wastewater treatment system.

**User charge:** Those user charges levied when a water or a sewer connection is made with the water or sewer distribution and collection system of the city for either immediate or future use. User charges shall be charges levied on all users that either consume city water and discharge, cause or permit the discharge of sewage into the public sewage facilities, or both.

**User classification:** A classification of users based on the Standard Industrial Classification (SIC) Manual prepared by the office of Management and Budget.

**Utility systems:** Water and sewer pipe lines, either or both as determined by the context, and shall include all pipes, valves, manholes, valve boxes, hydrants and other fixtures, equipment and apparatus connected to and forming a part of the main water or sewer pipe lines and systems, or both, and all appliances necessary and convenient thereto. The utility lines dedicated to the city shall include only main distribution lines, valves, hydrants, manholes and other apparatus, fixtures and equipment forming a part of the liens laid in public streets, roads, highways and alleys, or across city utility easements on private property, and shall not include lines leading from mains to building connections on private property and shall not include water or sewer lines within any residence or other privately owned building. The utility systems shall also include all water and sewer treatment facilities, pump stations, elevated tanks and reservoirs.

**Violation:** Any measurement of the industrial user's waste stream which meets the criteria for a chronic violation for pretreatment standards.

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

**Wastewater permit:** A permit as set forth in section 17-186 of this chapter.

**Wastewater treatment system:** Any devices, facilities, structures, equipment or works owned or used by the city for the purpose of the transmission, storage, treatment, recycling and reclamation of industrial and domestic wastes, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including intercepting sewers, outfall sewers; sewage collection systems; pumping, power and other equipment and its appurtenances; extensions, improvements, remodeling, additions and alterations thereof, elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and the wastewater treatment plant site or land which is used for ultimate disposal of residues resulting from such treatment.

**Water emergency:** Any condition or situation which threatens the safety or supply of either untreated or potable water contained within the water supply, treatment, and distribution system of the city or within the systems of the municipal, commercial and industrial customers. Determination of whether specific situations are considered to be water emergencies shall be made by the city manager or his designee. Water emergency situations shall include but not be limited to drought or periods of insufficient raw water supply, and fires of magnitude such that system integrity is threatened.

**Water, potable:** Water from any source which has been investigated by the state board of health and which has been approved for human consumption.

**Water resources manager:** The person designated by the City of Salisbury to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

**Water system, public potable:** Any publicly or privately owned water system operated as a public utility under a valid health permit to supply water for domestic purposes. This system will include all sources, facilities and appurtenances between the sources and the point of delivery such as valves, pumps, pipes, conduits, tanks, receptacles, fixtures, equipment and appurtenances used to produce, convey, treat or store potable water for public consumption.

**Waters of the state:** All streams, lakes, ponds, marshes, watercourse, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or

underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

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

The following abbreviations when used in this chapter, shall have the designated meanings:

- (1) BOD – Biochemical Oxygen Demand
- (2) CRF – Code of Federal Regulations
- (3) COD – Chemical Oxygen Demand
- (4) EPA – Environmental Protection Agency
- (5) gpd – Gallons per day
- (6) l – liter
- (7) mg – Milligrams
- (8) mg/l – Milligrams per liter
- (9) NCGS – North Carolina General Statutes
- (10) NPDES – National Pollutant Discharge Elimination System
- (11) O&M – Operation and Maintenance
- (12) POTW – Publicly-Owned Treatment Works
- (13) RCRA – Resource Conservation and Recovery Act
- (14) SIC – Standard Industrial Classification
- (15) SWDA – Solid Waste Disposal Act
- (16) TSS – Total Suspended Solids
- (17) TKN – Total Kjeldahl Nitrogen
- (18) USC – United States Code

**Cross reference** – Building codes, § 7-21 et seq.

## **Sec. 17-2. Disclaimer of liability.**

The city shall not be liable for:

- (1) Any damage that may result to consumers from shutting off a water main or service for any purpose whatever, even in a case where no notice is given, and no deduction from water bills will be made in consequence thereof.
  - (2) Any claim or offset for damage or injury caused by or resulting from the performance of any act or the failure to perform any act or duty authorized in this chapter or required for the conduct, operation and maintenance of services and facilities relating to the furnishing of water, collection of sewage and enforcement of penalties for nonpayment of charges thereof.
  - (3) Any damage or injury resulting from the failure of any pipe connection, fixture, appliance or installation in any plumbing system on the outlet side of the water meter at any premises connected with the water supply system of the city.
  - (4) Any other act or thing required for the proper administration of the provisions of this chapter.
  - (5) Any claims of damages caused by failure of the city to supply water in any quantity or at any pressure or for damages to any of such consumers caused by too high or low pressure of water supplied. This subsection applies to the utility systems and connections both inside and outside the corporate limits of the city.
- (Ordinance No. 1995-25, § 3, 5-16-95)

### **Section 17-3. Right of entry.**

The director or his designated representatives may enter the premises of any water or sewer user at any time to examine the pipes and fixtures, the quantity of water being used, and the manner of its use and the amount of sewage being discharged, to take meter readings, and to make meter repairs.

(Ordinance No 1995-25, § 3, 5-1695)

### **Sec. 17-4. Water and sewer connections.**

- (a) Each residence or other building or structure shall have a separate water and a separate sewer connection, provided that this requirement shall not be construed to apply to a building customarily incidental to and located upon the same lot occupied by the principal building.
- (b) Each consumer of city water shall be supplied through a separate and independent water service pipe and each service pipe shall have a meter and meter box at the property line in front of the premises supplied.
- (c) When two (2) or more consumers are supplied through one (1) water service pipe and one (1) or more of the consumers refused to pay water service charges when due, the city may turn the water off until the water service charges are paid and the provisions of this chapter complied with.
- (d) In addition to individual water connections and meters, a master meter connection will be required for private water distribution systems serving more than one (1) building of the following categories. A sewer meter connection may also be required for private sewage collection systems serving more than one (1) building in the following categories:
  - (1) Group apartment housing, that is, projects consisting of more than one (1) structure situated on one (1) tract under common ownership and not intended to be capable of subdivision into individual lots or tracts for sale purposes.
  - (2) Motels and hotels.
  - (3) Hospitals.
  - (4) Warehouses and industrial buildings under one (1) ownership and engaged in one (1) business only.
  - (5) Schools.
  - (6) Mobile home park or manufactured housing park.
  - (7) Shopping centers.
  - (8) Condominium developments, that is, developments designated for individual ownership of single units in a multi-unit structure with common elements such as hallways, parking bays and open spaces.
  - (9) Townhouse developments, that is, developments consisting of one (1) or more residential structures comprised of two (2) or more attached single-family residences intended for owner occupancy with individual residences located on their own individual lots, with the possibility of common ownership of open spaces, parking bays and the like.
  - (10) Churches.
  - (11) Homes for the ill or aged, including retirement centers and rest and convalescent homes.
- (e) A master meter connection, for a private water distribution or sewage collection system, will be required to serve the categories of buildings listed in subsection (d) of this section meeting the following minimum criteria:
  - (1) The building to be served shall be in compliance with the North Carolina State Building Code and the city zoning ordinance if located within the jurisdiction of the city.
  - (2) The building permit and plat shall show and shall indicate the complex of buildings to be constructed on a single lot.
  - (3) The master meter shall be located within the street right-of-way or an easement adjacent to the street right-of-way at such locations as approved by the director. In addition, the individual meters must be located on private property at the category of building to be served. Specific approved categories are listed in section 17-5.

- (4) The applicant shall be required to submit to the director a site plan showing the proposed, water or sewer construction. Such a plan shall be prepared by a registered professional architect or engineer. Such plan shall be approved by the director and is to include size of water and sewer lines and the materials to be used for construction manhole location, valve locations and hydrant locations. All construction from the property line to the water meter shall be in accordance with city standards and specifications. Construction beyond the water meter may be with materials permitted in the North Carolina State Plumbing Code. All sewer connections shall be constructed to city standards and specifications from the sewer line to the property line. All sewer mains eight (8) inches or larger shall be constructed in accordance with city standards and specifications. From the property line to the building all sewer mains or laterals smaller than eight (8) inches shall be constructed in accordance with the North Carolina State Plumbing Code. All construction shall be performed by either a licensed master plumber or a licensed utility contractor. All construction between the water meter and the fire hydrant or other fire protection device shall be in accordance with city standards and specifications.
- (5) Should a building within such multiple constructed area be conveyed to a new owner, the city shall require a separate water or sewer connection from that building to the main in the street, except in the case of condominium and townhouse development.  
(Ordinance No. 1995-25, 3, 5-16-9)

#### **Sec. 17-5. Metering of water connections.**

- (a) A connection made to the public water supply shall be metered with metering devices selected by the city at the owner's expense. The consumer of water shall be charged for all water that passes through the metering devices, whether used or wasted. Meters shall be located on the public right-of-way, except the meters may be located on private property to serve buildings in the following categories
  - (1) Group apartment housing, that is, projects consisting of more than one (1) structure situated on one (1) tract under common ownership and not intended to be capable of subdivision into individual lots or tracts for sale purposes.
  - (2) Motels and hotels.
  - (3) Hospitals.
  - (4) Industrial buildings under one (1) ownership and engaged in one (1) business only.
  - (5) Schools.
  - (6) Mobile home parks or manufactured housing parks.
  - (7) Shopping centers.
  - (8) Condominium developments, that is, developments designated for individual ownership of single units in a multi-unit structure with common elements such as hallways, parking bays and open spaces.
  - (9) Townhouse developments, that is, developments consisting of one (1) or more residential structures comprised of two (2) or more attached single-family residences intended for owner occupancy with individual residences located on their own individual lots, with the possibility of common ownership of open spaces, parking bays and the like.
  - (10) Churches.
  - (11) Homes for the ill or aged, including retirement centers and rest and convalescent homes.
- (b) The location of meters on private property shall be approved by the director. Master meters shall be installed at the property line and individual meters shall be installed to each building to serve the categories of buildings listed in subsections (a)(1) through (11) of this section.
- (c) The city shall have an easement for ingress and egress to allow the city to construct, repair, rest, read and maintain its meter installation.  
(Ordinance No. 1995-25, § 3, 5-16-95)

#### **Sec. 17-6. Tampering with meters.**

Tampering with utility meters is prohibited by G.S. 14-159.1 and section 15-5 of this Code. It shall be unlawful for any unauthorized person to alter, tamper with or bypass a meter which has been installed for the purpose of measuring the use of water. Bypassing a meter provided by the city for the purpose of measuring and registering the quantity of water consumed shall be considered tampering with a meter. An offender shall be charged with a misdemeanor and if convicted fined not more than five hundred dollars (\$500) or imprisoned no longer than two (2) years or both fined and imprisoned in the discretion of the court. Whoever is found in a civil action by the city to have violated any provision of this section shall be liable to the city for losses and damages and a civil penalty not to exceed one thousand dollars (\$1,000) per day for each violation. The penalties may be imposed by a court in accordance with G.S. 162A-9.1. Nothing in this section shall apply to licensed plumbers or utility contractors while performing usual and ordinary services in accordance with recognized customs and standards.

#### **Sec. 17-7. Interference with hydrants, valves, etc.**

- (a) It shall be unlawful for any unauthorized person to open, close, turn on, operate or otherwise tamper with any valves or hydrants which are part of the water system of the city without first notifying and receiving the prior approval of the director or, in his absence, his designated representative. The director's approval shall be conditioned upon any opening or operation of valves or hydrants being performed solely by authorized city personnel; provided, however, that licenses plumbers may turn water on and off at cutoff valves solely for the purpose of testing their work or for effecting repairs to private pipes or fixtures. Those fire departments which enter into a contract with the city for the use of the city's water system for fire fighting purposes shall be exempt from the provisions of this section.
- (b) It shall be unlawful for any person to obstruct or cover the manholes of the utility system of the city.
- (c) It shall be unlawful for any person to remove, damage or interfere with any water or sewer pipes belonging to the city, or to remove, break or injure any portion of any manhole; valve box, flush tank or any part of the utilities system.
- (d) Any violation of this section shall be considered a general misdemeanor punishable by fine of up to five hundred dollars (\$500) or imprisonment up to two (2) years or both in the discretion of the court.  
(Ordinance No. 1995-25, § 3, 5-16-95)

#### **Sec. 17-8. Water consumers not to supply other persons.**

No consumer of water supplied by the city other than designated governmental customers shall supply water to other persons through a connection to the consumer's system. If it is ascertained that a consumer is doing so, his water supply will be stopped and any cash advance authorized in section 25-32, as listed on schedule A referred to in that section, forfeited.  
(Ordinance No. 1995-25, § 3, 5-16-95)

#### **Sec. 17-9. Use of private fire hydrants.**

Private fire hydrants located on private premises to secure lower fire insurance rates and fire protection shall not be used except in case of fire.  
(Ordinance No. 1995-25, § 3, 5-16-95)  
Cross references: Fire prevention and protection, Ch. 9.

#### **Sec. 17-10. Use of water for private fire protection systems.**

- (a) When a fire protection sprinkler system is installed and connected to the city water system, the fire protection system shall be kept separate from all other water uses at all times. The fire protection system shall include a bypass or detector meter to monitor water used for other than fire protection purposes. The detector or bypass meter shall indicate, when water is used for other purposes.
  - (b) A set of detailed plans for all new fire protection systems or any changes to an existing system shall be submitted to the utilities department for city review and approval prior to beginning any construction work.
  - (c) The fire protection line shall include, as part of the connection made by the city, an approved backflow prevention device on the main line and a metered bypass line which will indicate when water is used for other than fire protection services.
  - (d) A vault approved by the city shall be constructed at the property owner's expense either by the city or by a private contractor which will enclose the approved backflow prevention device and metered bypass. Where possible, the vault shall be constructed on a street right-of-way. However, where this is not possible or is undesirable as determined by the utilities department, an easement shall be granted by the property owner to the city providing for ingress and egress by the city to construct, repair, test and maintain the vault and its contents.
  - (e) The charges for all work done by the city shall be based on labor, material, equipment and overhead costs at then-prevailing or established rates in accordance with section 54-2.
  - (f) It shall be unlawful to tap any portion of the fire protection system for any other use. Such a tap shall be considered an illegal cross-connection as regulated under sections 54-136 through 54-138 pertaining to backflow prevention and cross-connection control.
  - (g) There shall be a monthly charge as provided by schedule B referred to in article II of this chapter, if water is used, as indicated by the meter on the bypass, for other than heat intensity purposes which activate the system. This charge shall be levied for all usage unless the city is notified of insurance testing and has a representative present to verify that usage is for testing purposes only. Testing charges shall be as provided in subsection (i) of this section.
  - (h) If, in any two (2) subsequent meter reading periods, water has been used from the fire protection system for unauthorized purposes as reflected by the meter, the city is authorized to enter any and all parts of the building to investigate the manner in which the water is being consumed. The bypass meter shall be read on the same schedule as the one which records daily use.
  - (i) For purposes of testing the system where a municipal employee has to respond, a minimum charge, as provided by schedule B referred to in article II of this chapter, shall be charged to the property owner for every test.
  - (j) All fire protection systems connected to the city water system shall be subject to city inspection to determine if there is any unauthorized use of city water from these connections. If violations are detected, they shall be corrected in the manner expressed in this section or by another means approved by city council.
- (Ordinance No. 1995-25, § 3, 5-15-95)

**Secs. 17-11 through 17-30. Reserved.**

## **ARTICLE II. RATES AND CHARGES\***

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\*Editor's note--Ordinance No. 1999-46, § 8, adopted June 15, 1999, provided for various fees and schedules for city services. Upon request of the City of Salisbury, this material has been included as Appendix F, Fees in this Code. See the Code Comparative Table.

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### **Sec. 17-31. Revision of rates and estimates.**

Rates or charges established by this article are subject to revision from time to time by the city council. Estimates of charges to connect to city water or sewer lines are subject to change and the prevailing rates under this article shall apply at the time of payment.

(Ordinance No. 1995-25, § 3, 5-16-95; Ordinance No. 1999-29, 5-18-99)

Cross reference(s)--Fees, Appendix F.

### **Sec. 17-32. Deposit for utility service (schedule A).**

- (a) The following deposits are required for water and sewer service:
- (1) Domestic consumers of water or dischargers of sewage, opening accounts after the effective date of this section, shall make a deposit of the amount set by the city council from time to time. Schedule A, listing current amounts, shall be available at the development services center. Residential owner-occupants, including single-family townhouse and condominium owners, shall be exempt from the deposit requirements of this subsection. Landlords shall be exempt from paying an advance deposit for each change of tenant. The landlord must submit in writing a statement taking full responsibility for payment of all his accounts until such time as new tenants assume the responsibility. This statement will be kept on file in the utility billing office. The customer service office must be informed within twenty-four (24) hours of any change in tenants that results in a temporary vacancy so that the account can be placed in the landlord's name. The landlord must have and maintain a good payment history to qualify for this exemption.
  - (2) The commercial, industrial and institutional recipient of such services shall be required to make a deposit in the amount set by the city council. Schedule A, listing current amounts, shall be available at the development services center. Local, state and federal governments or agencies thereof shall be exempt from the deposit requirement of this subsection.
  - (3) If the same recipient or customer has multiple accounts only one (1) deposit shall be required if the customer has a good payment history. In the case of a management company or conglomerate which operates several separate companies under one (1) corporate management, a separate deposit shall be required for each account.
  - (4) Any customer who is exempted from the deposit requirements of this section must have and maintain a good payment history. If service is discontinued for reason of nonpayment, a deposit may be required at the discretion of the finance director.
- (b) The deposits made shall be used for the purpose of ensuring the payment of utility bills and to secure the city against any loss that might be incurred.
- (c) The deposits required by this section to be paid to the city shall be without liability on the part of the city for profit or interest.
- (d) Unless forfeited as provided in section 25-8, such deposits shall be returned at the termination of service, less any unpaid rates and charges.

(Ordinance No. 1995-25, § 3, 5-16-95; Ordinance No. 1999-29, 5-18-99)

### **Sec. 17-33. Water meter and sewer installation charges, meter testing charges, inspection charges (schedule B).**

The schedule of charges, designated schedule B, established for water meter and sewer lateral installations performed by city forces or approved licensed bonded utility contractors or plumbers, shall be approved by the city council from time to time. Schedule B shall also contain charges for turning water connections on and off, testing meters, inspecting water and sewer connections, and any other fees that the city council establishes.

from time to time. Schedule B is available at the development services office. Provided however, if the customer is connecting an additional water meter for the purposes of irrigation only, the installation charges shall be one-half (1/2) of the current charges set forth in schedules B and I (or any equivalent successor schedules) to this chapter and as they may be amended from time to time.

(Ordinance No. 1995-25, § 3, 5-16-95; Ordinance No. 1999-29, 5-18-99)

#### **Sec. 17-34. Utility user charges.**

- (a) For purposes of this article, water and sewer user charges shall be defined as those charges levied for connection to or use of the water or sewer system of the city for either immediate or future use, as determined by the director. User charges shall be the charges levied on all users, including but not limited to persons that either consume city water and discharge, cause or permit the discharge of sewage into the public sewerage facilities, or both.
  - (1) Demand/commodity rate-setting methodology. Water and sewer rates shall consist of two (2) components:
    - a. A minimum or demand charge; and
    - b. A commodity or volume charge for actual usage.
  - (2) The director will review not less often than every two (2) years the water usage and sewage contributions of users, the total costs of operation and maintenance, including replacement, of the water and sewerage facilities, and the user charge system and rate-setting methodology. The director will make any recommendations for rate adjustments to the city council. The council will determine the necessity of any rate changes and will set rates to accomplish the following:
    - a. To maintain the proportionate distribution of operation and maintenance costs among all users as provided in this section.
    - b. To generate sufficient revenue to pay at least the total operation and maintenance costs necessary to the proper operation and maintenance, including replacement, of the water and sewerage facilities.
- (b) For the purposes of this article, county landfill charges are defined as those charges levied for the disposal of refuse in the county landfill which is collected by the city. Recycling charges are defined as those charges levied for the costs providing a recycling program within the city. County landfill and recycling charges will be established by the city council and amended as needed. These rates will be available in the utility billing office and are applicable to all residential, commercial, industrial and institutional users where these services are provided.
- (c) User charges, surcharges, water charges, sewer charges, county landfill charges, recycling charges and any other necessary charges will be billed according to the following schedule:
  - (1) All customers will be billed on a monthly basis according to the following schedule:
    - a. The city will bill each account monthly.
    - b. Payment for the bill is past due ten (10) days after the date of the bill for all customers.
    - c. If payment is not received within twenty-four (24) days of the bill date, the bill becomes delinquent and a delinquent fee of ten (10) percent (not to exceed ten dollars (\$10.00)) will become due and payable.
    - d. After twenty-four (24) days have expired from the bill date, utility service will be severed

to all unpaid commercial and residential accounts. In the case of a municipality, the city may seek injunctive relief for nonpayment.

- e. Service to the customer will be reconnected only after the city has received payment for the delinquent bill, all nonpayment fees, and a reconnection fee. If service is restored after normal working hours, there will be an additional fee added to the total amount due. The fees shall be as approved in schedule B.
- f. Any applicable surcharges as contained in schedule F referred to in section 17-88 will be billed separately from regular monthly charges. Surcharges will be billed on a monthly basis.

- (2) Bills will be sent through the United States mail notifying all users of the amount and date due. Failure to receive a bill is not an excuse for nonpayment of bills.
- (3) In case a user discharging water into the city's sanitary sewer system does not procure his water supply from the city and becomes delinquent in his payment of the charges provided for in this section, his connection with the city sewer system will be severed. Service to the customer shall be reconnected only after the city has received payment for the delinquent bill and for any costs which the city may incur for the reconnection of sewer service to the customer. Procedure for payment of the bill is the same as in subsection (c)(1) of this section.
- (4) The city's charge for returned checks shall be as approved by the city council in schedule B from time to time.
- (5) Payments made to the city and utility deposits will be applied to utility accounts in the following order: delinquent fees, recycling poor receivable, recycling current receivables, county landfill prior receivable, county landfill current receivables, sewers charges prior receivables, sewer charges current, water charges prior and water charges current.
- (6) A credit as approved in schedule B will be provided monthly to customers who participate in direct debit. Direct debit allows utility customers the option of having their utility accounts drafted by the city monthly for their payment.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1997-80, § 1, 12-2-97; Ord. No. 1999-29, 5-18-99)

**Cross References:** General charge for dishonored checks, § 2-2.

#### **Sec. 17-35. Water service charges generally (schedule C).**

- (a) Schedule C, fixed and designated as the official water service charges of the city for water connections made with the water distribution system of the city for either immediate or future use, shall be available at the development services center.
- (b) Schedule C shall be subject to the following proviso: that the rate for all governmental customers who purchase water through master meters for resale shall be the same as inside rates set forth in the water rates delineated in schedule C.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-36. Water service charges for bulk sales (schedule D).**

- (a) Nongovernmental customers may receive water in bulk lots at the central fire station. Such purchases shall be conditioned upon an advance payment as outlined in schedule D, which shall be available at the development services center and business office.

- (b) Subject to the provisions of sections 17-7 and 17-8, nongovernmental customers may purchase water directly from fire hydrants or other water outlets. Meters will be placed on hydrants at locations to allow accurate measurement of usage for billing purposes. In addition to being subject to applicable provisions of schedules C and D, such purchase shall be conditioned upon an advance payment as outlined in schedule D.
  - (c) When water is obtained through a fire hydrant only city employees may turn the fire hydrant on or off.
  - (d) The fire hydrant shall have a hydrant meter properly attached to regulate the amount of water being purchased. Only authorized city employees shall attach or detach the hydrant meter.
  - (e) The utility department shall establish rules for the use of hydrant meters and accessory equipment, hours of operation and the like, as may be necessary.
- (Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

**Sec. 17-37. Sewer service charges (schedule E).**

- (a) Sewer service shall be assessed to customers of the system in accordance with schedule E, which is available at the development services center. Except as otherwise provided for in this section, the sewer service charge shall be based on the number of cubic feet of water supplied to the premises.
  - (b) When the premises of an individual or business concern are connected with the city's sewage system and are not supplied with water by the city, the amount of water used by such individual or business concern from sources other than the city shall be measured in a manner approved by the utilities department, and such individual or business concern shall pay to the city, as a sewer service charge, the same rates as set forth in schedule E.
  - (c) Governmental customers who purchase sewer service for resale shall meter their sewage at each connection to the city's sewer system. The sewer service charge to such governmental customers, based on inside rates, shall be composed of a minimum charge based on their actual meter size, not to exceed eight (8) inches, and a volume component based on the actual metered sewage flows.
- (Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

**Sec. 17-38. Sewer service surcharge for industrial users (schedule F).**

- (a) A sewer service surcharge (schedule F), in addition to the sewer service charge as provided in schedule E, shall be made to industrial users for excess COD (chemical oxygen demand), TSS (total suspended solids) and TKN (total Kjeldahl nitrogen).

Contract haulers of wastewater, such as septic tank maintenance companies, who are granted permission by the director to discharge at city facilities shall be assessed a per-load charge as set forth in schedule F of this chapter. For purposes of this paragraph a "load" is defined as two thousand (2,000) gallons or any portion thereof. Contract wastewater haulers are also subject to the provisions of section 17-187 of this chapter "Prohibited use and prohibited discharge standards."

Concentrations of COD, TSS, and TKN shall be regularly determined by the city through representative sampling of the wastes at intervals determined by the director and by applicable industrial pretreatment requirements. At the discretion of the director, individual self-monitoring results for COD, TSS, and TKN submitted during each calendar month may be used in conjunction with city monitoring results to determine the surcharge assessment, provided that the self-monitoring results meet all other requirements of the city's pretreatment program.

- (b) Any additional analytical costs to the city related to surcharge assessment, or to compliance monitoring shall be as set forth in the city's laboratory fee schedule, schedule G, as adopted by the city council.
  - (c) Analytical procedures for wastewater discharges shall conform to recognized laboratory methods as described in the latest edition of Standard Methods for the Examination of Water and Wastewater as published by the American Public Health Association, and to analytical methods approved by the Environmental Protection Agency.
  - (d) Surcharge for excess COD, TSS, and TKN shall be as listed on schedule F, which is available at the development services center and the director's office.
- (Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

**Sec. 17-39. Water and sewer flat rate customers.**

- (a) All flat rate water and sewer customers shall be charged based on the rates in schedules C, D and E.
  - (b) Flat rate water customers without meters shall be required to install meters at their expense.
  - (c) If water service is not available to a flat rate sewer customer, a meter must be installed at the customer's expense on his water supply in order to comply with subsection (a) of this section. Existing flat rate sewer customers shall be charged based on the flat rate charge in schedule E.
- (Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

**Sec. 17-40. Acreage charge.**

- (a) An acreage charge is a charge that applies to water and/or sewer connections beyond the corporate limits, in addition to those charges required under all the appropriate schedules to this chapter and shall be set forth in a separate schedule H to this chapter attached to Ordinance No. 1990-34 as a part of such ordinance and as amended by the city council from time to time and available in the development services center.
  - (b) The minimum acreage charge required shall be as outlined in schedule H which is available at the development services center.
  - (c) The acreage charge shall apply to residential, commercial and/or industrial developments, and the basis of charges shall be on the total acreage within the tract or development. The city council may, at its discretion, waive the acreage charge for those parcels of land which have petitioned for annexation.
  - (d) The acreage charge shall be in addition to any capital facilities service charge required under section 17-41 and such acreage charge is required to offset the impact to the general fund of utility customers not paying city ad valorem taxes on the improvements utilizing the city utility system.
- (Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

**Sec. 17-41. Reserved.**

**Editors Note:** Ord. No. 1993-53, adopted June 15, 1993, repealed § 25-41 which pertained to capital facilities fee (schedule I). See the Code Comparative Table.

**Secs. 17-42--17-60. Reserved.**

### **ARTICLE III. CUSTOMER SERVICES; BILLING ADJUSTMENTS**

#### **Sec. 17-61. Procedure upon complaint of excessive bill.**

Consumers having a grievance or complaint that a bill for water and sewer service is excessive shall pay the bill before the complaint is filed. Upon filing of such a complaint, it will be entertained and investigated and, if the bill is found in error, proper discount will be allowed.

(Ordinance No. 1995-25, § 3, 5-16-95; Ordinance No. 1999-29, 5-18-99)

#### **Sec. 17-62. Cutting off water.**

- (a) The fact that the water to premises has been cut off at the property line shall not be construed to relieve the customer responsible for the payment of the bill for water supplied by the city to the premises in question from paying service charges under this article. Bills will be imposed until a request in writing or in person is received to cut the water off.
- (b) Depending upon the circumstances of the cut-off, charges may be levied as outlined in schedule B referred to in article II of this chapter.

(Ordinance No. 1995-25, § 3, 5-16-95; Ordinance No. 1999-29, 5-18-99)

#### **Sec. 17-63. Procedure, when water used without knowledge of water department.**

Should any person use city water without the knowledge of the city, and afterwards should it come in any way to the knowledge of the city that the water has been used, a bill will be made against the premises for the time the water was used or the quantity shown to have been used by the meter, and the water shall be cut off and not turned on until the bill is settled.

(Ordinance No. 1995-25, § 3, 5-16-95; Ordinance No. 1999-29, 5-18-99)

#### **Sec. 17-64. Water leakage.**

- (a) If a consumer has an underground or hidden water leak which he could not reasonably be expected to discover and which is evidenced by an unusually high utility bill, upon notification by a licensed plumber and subject to verification by a city representative as to the existence and timely repair of such an underground leak, the following corrective measures shall be taken. The consumer's average water bill will be computed on the basis of the previous six (6) billing periods immediately preceding the present bill. This average bill will be compared to the present bill and one-half (1/2) of the excess of the present amount over the average amount will be abated. For the purposes of this section, a hidden water leak is a leak in a water line which is not necessarily underground but is obscured by being underneath a structure or within the walls of a structure. It is not the intent of this section to abate any portion of a water bill for any facility leaks such as air conditioners, commodes, faucets, and those facilities subject to normal maintenance inspection.
- (b) The consumer will have the burden of proving to the satisfaction of the director or his authorized representative that the water from the leakage did not enter the city sewer system. Upon sustaining that burden, the consumer's average sewer bill will be compared to the present bill, and the entire excess of the present amount over the average amount will be abated. The consumer's average sewer bill will be computed on the basis of the previous six (6) billing periods immediately preceding the present bill.
- (c) Occasionally, an unusually high water bill is received by a user and upon investigation no explainable reason can be determined for the cause of the extra water and sewer use. When this situation exists, the following procedure shall be used:
  - (1) The city shall pull the water meter and check the calibration to see if the meter is accurate.

- (2) If the meter is determined to be inaccurate, an adjustment as determined in subsection (c)(6) of this section may be made.
- (3) If the meter is accurate, the water and sewer maintenance and construction division shall be responsible for contacting the customer to obtain all pertinent information available during the period of the high bill and also to check for possible underground leaks that might go undetected.
- (4) If an underground leak is found, an adjustment as determined in subsections (a) and (c)(6) of this section shall be made.
- (5) If no underground leaks are detected, the finance department shall perform an audit of the account to provide a billing history for at least the previous twelve (12) months. It may also be necessary to wait until the next month's bill is calculated to see if the bill is back within the normal range.
- (6) If all investigations provide no reasonable, explainable reason for the high bill and if the billing history clearly shows a normal bill to be substantially less than the high bill, the director of finance or another designated person shall be authorized to review the matter and determine if an adjustment should be made. If an adjustment is approved, the adjusted bill shall be calculated on the basis of an average water and sewer bill for the six (6) months immediately preceding the high bill. This average bill will be compared to the high bill and one-half (1/2) of the excess of the high bill over the average amount will be abated.
- (7) Only one (1) adjustment of this type shall be permitted during a twelve-month period.
- (8) A decision by the director of finance to deny an adjustment may be appealed to the city council by the user.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

**Sec. 17-65. Correction of failures in customer's pipes or fixtures; authority to discontinue service or make repairs.**

The responsibility for maintaining and repairing sewer and water service connections shall be in accord with this section and article IV of this chapter. The repair of all pipes and fixtures on private property shall be the responsibility of the property owner or consumer. When a minor failure occurs in a pipe or fixture on private property, and such failure is not corrected within twelve (12) hours of notification by the director or his designated representative to the owner or person in charge, the city, for the purpose of conserving water and protecting the public, may discontinue service until the failure is corrected or, at its discretion, may enter the property and make necessary repairs. When a major failure occurs in a line or fixture and creates the possibility of an immediate danger to the public health or safety, the city may make the necessary repairs. The work done by the city shall be limited to the necessary line repair and such backfilling as needed to protect the pipe. The cost of any repairs performed by the city shall be charged to the property owner and included in his next regular periodic water and sewer bill. Failure to pay the repair bill shall be considered as a regular water and sewer bill delinquency and service may be discontinued until such amount is paid.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

**Secs. 17-66 - 17-85. Reserved.**

**ARTICLE IV. WATER AND SEWER CONNECTIONS**

**Sec. 17-86. Prerequisites.**

- (a) It shall be the duty of all persons desiring to make a connection to any city-owned or city-maintained water or sewer main, whether located inside or outside of the corporate limits of the city, to make due inquiry at the development services center as to whether or not they shall be required to pay for any part of the cost of constructing such water or sewer mains before connecting thereto. An application for service shall be required and can be obtained at the development services center.
  - (b) It shall be unlawful for any person to connect with any water or sewer main constructed under the provisions of Article V of this chapter without first paying to the city the amounts required to be paid to the city under applicable sections and schedules for the privilege of making such connection.
- (Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

**Sec. 17-87. Mandatory connection; use of private systems.**

- (a) Every person owning or occupying a house, apartment, restaurant or building used for sleeping quarters or any building where any person is employed, inside the primary corporate limits of the city, which house, apartment, restaurant or building used for sleeping quarters or building where any person is employed is located a distance of two hundred (200) feet or less from a public sewer main, shall connect the house, apartment, restaurant or building in question to the public sewer main within one (1) year of notification of availability of service. **UNLESS A WAIVER IS OBTAINED FROM THE TOWN BOARD OF ALDERMEN**
- (b) Every person owning a house, apartment, restaurant or building used for sleeping quarters or any building where any person is employed, inside the primary corporate limits of the city, which house, apartment, restaurant or building used for sleeping quarters or building where any person is employed is located a distance of three hundred (300) feet or less from a public water main, shall connect the house, apartment, restaurant or building in question to the public water main within one (1) year of notification of availability of service.
- (c) Provided the service is available, no property owner shall be allowed to make a connection to a public sewer main unless a connection also is made to a public water main.
- (d) Where existing individual well water supply systems which have been approved by the county health department or the state division of health services are located within the city, connection to public water mains shall not be required as long as the privately owned individual well facilities are operating properly and pose no public health threat. The individual well water supply must remain in an approved condition and continuously supply water that is safe for drinking and other purposes as determined by inspection of the water supply system and analysis of the water by the director or his designee, in conjunction with representatives of the county health department. A private well water supply system which fails or requires major repairs or other work of a nonmaintenance nature shall be considered to be operating improperly and the mandatory connection in subsection (b) of this section shall apply. Subsection (c) of this section shall take precedence over this subsection (d) and when mandatory sewer connection is required mandatory water connection shall also be required.
- (e) Privies, cesspools and septic tanks are prohibited within the corporate limits of the city. Where public sewer service is not available as described in subsection (a) of this section, or as noted in subsection (i) of this section, septic tanks may be allowed by the county health department. No septic tank shall be permitted to discharge to any natural outlet. The property owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the local government.
- (f) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining written approval from the director. All costs and expenses incidental to the installation and connection to a sewer main shall be borne by the owner. All sewer connections must comply with city standards and the North Carolina State Building Code, Volume II, Plumbing.



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Connections made where the fixtures are below the level of the first upstream manhole shall be protected at the owner's expense by an approved backwater valve as required in the North Carolina Building Code, Volume II, Plumbing, Chapter VIII, Section 814. Connections shall be made by the city or an approved licensed bonded plumber or utility contractor.

- (g) Discharge of sanitary wastewater into storm sewers is prohibited without exception. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers or to a natural outlet approved by the director and the division of environmental management. Unpolluted industrial cooling water or process waters may be discharged on approval of the director and division of environmental management to a storm sewer or natural outlet and sanitary wastewater should be prohibited from discharge into the storm sewer system.
- (h) Where existing septic tanks or package treatment plants that have been approved by the county health department or the state department of environment, health, and natural resources are located within the city, connection to the public sewer shall not be required as long as the privately owned facilities are operating properly and pose no public health threat. In addition to being an approved system, the private sewage disposal system must function at all times in a safe and satisfactory manner. The system must remain in an approved condition and not discharge sewage or effluent to the surface of the ground or contaminate any groundwater or surface water supplies. Determination of whether privately owned facilities are operating properly shall be at the discretion of the director or his designee in conjunction with representatives of the county health department. Private systems requiring major repairs such as replacement of drainfields or other work of a nonmaintenance nature shall be considered to be operating improperly and the mandatory connection provided for in subsection (a) of this section shall apply.
- (i) Where a public sewer main is not available, a building sewer shall be connected to a private wastewater disposal system complying with all applicable state and local regulations concerning use of such systems. The city, in conjunction with the county health department, shall have the authority to approve or reject package plants or usage of private wastewater facilities presently located within or proposed for location within the corporate limits of the city. The minimum lot area that shall be approved for a private wastewater disposal system shall be as regulated by North Carolina General Statutes and the county health department. Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written valid permit from the county health department. The application for such permit shall be made on a form furnished by the county health department which the applicant shall supplement with any plans, specifications and other information as are deemed necessary. Approval for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the county health department. The local sanitarian shall be allowed to inspect the work at any stage of construction. The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations of the division of health services and division of environmental management of the state. Whenever city sewer service becomes available, the provisions of subsections (a), (c) and (h) of this section shall apply.
- (j) If a person does not connect to the city water and sewer system within twelve (12) months after receiving notification, the city will undertake action to require connection to the city water and sewer system. Such action may include but is not limited to seeking a mandatory injunction requiring connection from the state general court of justice, superior or district court division.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

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### **Sec. 17-88. Connections outside city.**

- (a) Any person desiring to tap into or connect with any water or sewer mains owned or maintained by the city and located beyond the corporate limits of the city as designated in sections 17-32 and 17-33, shall comply with all the provisions of this Code, the subdivision ordinance, other ordinances or policies and standards and specifications of the city relating to subdivision planning and standards, plumbing permits, connection fees and plumbing system requirements applicable to the inhabitants of the city; provided, however, that it is not the intention of this section to prohibit septic tanks outside of the corporate limits of the city.
  - (b) Whenever any person desires to connect to any water or sewer main located beyond the corporate limits of the city which was constructed by the city and paid for in whole or in part by the city, he shall make application to the city council and, after receiving council approval for such connection, shall pay to the city for the privilege of making such connection the cost of such construction at the per front foot rate authorized in section 17-106 and set forth in schedule J.
- (Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

### **Sec. 17-89. Installation.**

- (a) Water connections shall be made by the city at the expense of the property owner or developer at whose request the water connection was made. Water connections shall be effected by using a standard connection approved by the city. The water connection may be made, at the option of the city, by an approved licensed bonded utility contractor or plumber selected by the owner or developer, using a standard connection approved by the city and under the supervision of the city. The property owner or developer in question shall pay all costs, including inspection fees and the cost of compacted backfilling and replacing pavement. Water connections shall be subject to those installation charges designated in sections 17-32 and 17-33 and schedules A and B.
  - (b) Sewer connections shall be made by the city, at the expense of the property owner or developer at whose request the sewer connection was made. Sewer connections shall be effected by using a connection approved by the city. The sewer connection may be made, at the option of the city, by an approved licensed bonded utility contractor or plumber selected by the owner or developer using a standard connection approved by the city and under the supervision of the city. The property owner in question shall pay all costs, including inspection fees and the cost of compacted backfilling and replacing all pavement. Sewer connections shall be subject to those installation charges designated in sections 17-32 and 17-33 and schedules A and B.
  - (c) Whenever new water and sewer lines are extended in street rights-of-way, water and sewer connections shall be stubbed out to every property owner abutting the lines. Stub-outs may be required on sanitary sewer outfall lines on a case by case basis.
  - (d) In the event of the paving or widening of streets or the raising or lowering of the grade of a street, or in the installation of curbs or gutters or sidewalks, or in the case of the installation of new water or sewer lines initiated by the city, all water and sewer service stubs shall be replaced to meet city standards. There shall be no charge for such replacements if initiated by the city as part of its maintenance or construction program.
  - (e) No sewer connection shall be made to the city system unless a sewer cleanout is installed at the property line or right-of-way line. The sewer cleanout shall be installed according to city standards and specifications.
  - (f) No water or sewer connection shall be approved and accepted unless inspected by an authorized representative of the city for compliance with city standards.
- (Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

**Secs. 17-90 - 17-104. Reserved.**

## **ARTICLE V. EXTENSIONS OF WATER AND SEWER MAINS**

### **Sec. 17-105. Construction at city's expense--Generally.**

The cost of all water or sewer main extensions which are constructed by the city, at its own expense, in order to close any gap between existing mains, or preparatory to the paving of any street, or to extend water or sewer mains to territory contiguous to the corporate limits of the city to be annexed to the corporate limits of the city, or for any other purpose, shall be assessed in the manner provided for in section 17-106, to any persons connecting to such mains, for the privilege of making such connections.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

### **Sec. 17-106. Same--Assessment for costs.**

- (a) Assessment of costs of water and sewer main extensions and replacements will be made by assessment of the cost thereof per front foot against property owners to be benefited thereby in conformity with G.S. Chapter 160A, Article 10 (G.S. 160A-216 et seq.).
- (b) Lots at the intersection of streets, except lots in a subdivision which are assessed on a per lot basis as authorized by G.S. Chapter 160A, Article 10 (G.S. 160A-216 et seq.), as amended by special legislation, shall be assessed as follows: If water or sewer mains or both are installed on both streets on which a corner lot abuts, assessment of the cost of the installation shall be based upon one-half (1/2) of the entire frontage on both streets. The frontage charge will be that designated in schedule J as amended by the city council from time to time and available at the development services center.
- (c) Lots other than corner lots with a mean depth of three hundred (300) feet or less fronting on two (2) streets shall be assessed as follows:
  - (1) If water or sewer mains or both are installed in one (1) street only, assessment of the costs of the installation shall be based upon the entire frontage on that street.
  - (2) If water or sewer mains or both have previously been installed in one (1) street, and subsequently water and sewer mains or both are installed on the other street on which the lot fronts, the frontage on such street will be exempt from assessment; provided, however, that if a connection is made from such lot to the mains in both streets, a tap-on frontage charge shall be made at the time of the second tap-on equal to the entire costs per front foot of installation of water or sewer mains or both based on the entire frontage on the street that was exempt from assessment. If water or sewer mains or both are installed on both streets, assessment of the cost of the installation shall be based upon fifty (50) percent of the entire frontage on both streets; provided, however, that if a connection is made from such lot to the mains in both streets, an additional tap-on frontage charge shall be made equal to fifty (50) percent of the costs of installation of water or sewer mains or both based on the entire frontage on both streets.
- (d) Frontage shall be measured along the property line abutting the water or sewer extension. Actual road frontage of the property shall not be the determining factor.
- (e) The city shall collect frontage charges for both water and sewer connections as outlined in schedule J, which is available at the development services center.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-107. Reimbursement of assessments.**

No person who enters into an agreement with the city for water or sewer extensions and participates in the cost of construction shall be entitled to any reimbursement of assessments collected from any other property owners connecting to such main.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-108. Construction in primary and secondary growth areas.**

- (a) All extensions of water or sewer mains constructed inside the primary and secondary growth areas as delineated on the Salisbury 2000 land development plan growth strategy map shall be constructed under written agreements between the city and the person requesting such extension. Such agreements shall be approved by the city council.
- (b) The city may, at its discretion, based on availability of funds, participate in up to fifty (50) percent of the total cost of extending water and sewer lines and laterals to serve developments within the primary growth area. All water and sewer mains so extended shall be the property of the city.
- (c) Approved residential subdivisions of twenty-five (25) total units or more within the primary growth area may be eligible for up to fifty (50) percent participation in the cost of constructing water and sewer lines and laterals within dedicated street rights-of-way and easements within the subdivision.
- (d) The city may, at its discretion, based upon availability of funds, participate in up to twenty-five (25) percent of the total cost of extending water and sewer lines and laterals to serve developments within the secondary growth area. All water and sewer mains so extended shall be the property of the city.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-109. Construction in rural area.**

- (a) All extensions of water or sewer mains constructed in the rural area outside of the urban growth area boundary of the city and financed by a developer shall be constructed under written agreements between the city and the person requesting such extension. Such agreements shall be approved by the city council.
- (b) The city may not participate in the costs of extending water and sewer lines to serve developments located in the rural area. The city council may, at its discretion, based upon availability of funds, make exceptions to this rule for major economic development projects and to serve other local governments. All water and sewer mains so extended shall be the property of the city.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-110. Construction in areas outside of extraterritorial planning jurisdiction.**

Those areas outside of the extraterritorial jurisdiction of the city desiring water and sewer service must enter into an agreement with the city for those services, at which time they will be required to comply with the city requirements for those areas within the extraterritorial jurisdiction such as the city's subdivision ordinance.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-111. Design approval.**

- (a) After approval of a utility extension authorized under this article by the council, signed prints of tracings of the utility extension including pipes, stubs, valves, valve boxes, hydrants, manholes and other

fixtures, equipment and apparatus, shall be submitted to the development services center for review and approval. The signed prints shall be accompanied by all necessary state permit applications.

- (b) After issuing of any necessary state permits, the tracings shall be resubmitted to the development services center together with the required state permits. The tracings will then be signed and approved for construction by the director.

(Ord. No. 1995-25, § 3, 5-16-95)

#### **Sec. 17-112. Authority to require oversized mains.**

If it is necessary or desirable, in the opinion of the city, to lay a water or sewer main larger than desired by the developer to service an area, the city may require the installation of the larger main.

(Ord. No. 1995-25, § 3, 5-16-95)

#### **Sec. 17-113. Easements and rights-of-way.**

If the utility lines authorized under this article are to be constructed and laid in and along any public highway or the right-of-way thereof, or in and across lands not owned and possessed by the developers or in and across lands owned and possessed by the developers but not within the current phase of development, the developers without cost or expense to the city shall procure the necessary and proper easement or right-of-way deeds from the proper officials and agencies having control of such public highways and from the owners of such lands granting the right and authority to construct, improve, install, remove, replace, maintain, inspect and repair and use such utility lines, together with all appurtenant facilities and equipment necessary and convenient thereto, with appropriate rights of ingress and egress over private lands, when necessary, with the right to remove and keep removed therefrom all trees, shrubs, underbrush or parts thereof and other obstructions as necessary to maintain, repair or protect the utility system. The city will join in the execution of such documents, when required, subject to the approval of the legal instrument by the city attorney.

(Ord. No. 1995-25, § 3, 5-1-95)

#### **Sec. 17-114. Connection with city system.**

Upon the completion of the construction and laying of the utility lines as authorized by this article for connection and upon inspection and approval thereof by the city, the developers shall be permitted to connect such private utility lines with the utility lines and systems of the city upon the terms and conditions prescribed by this Code.

(Ord. No. 1995-25, § 3, 5-16-95)

#### **Sec. 17-115. Special arrangements.**

Circumstances not covered by this article shall be negotiated with the city council on a case by case basis.

(Ord. No. 1995-25, § 3, 5-16-95)

#### **Secs. 17-116 – 17-135. Reserved.**

### **ARTICLE VI. BACKFLOW PREVENTION AND CROSS-CONNECTION CONTROL**

### **Sec. 17-136. Backflow prevention.**

- (a) The city shall require all new water connections to have an approved backflow prevention device installed. As older connections are repaired or replaced, backflow prevention devices shall be installed. These devices will protect the city's potable water supply from the possibility of contamination by isolating within its customers' private water systems contaminants or pollutants which could, under adverse conditions, backflow through uncontrolled cross-connections into the public water system.
  - (b) All city water connection charges shall include the cost of installation of an approved backflow prevention device in accordance with schedule B referred to in article II of this chapter.
- (Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

### **Sec. 17-137. Right of entry.**

City forces shall have the right of access to private property to inspect the backflow device and to investigate suspected cross-connections.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

### **Sec. 17-138. Cross-connections.**

Cross-connections are expressly prohibited, and may result in removal of the meter supplying such connection as well as other penalties, civil or criminal, provided by law. Upon discovery of a cross-connection upon any property being furnished water through the city system, the owner of the property will be notified that the cross-connection must be valved off immediately and physically discontinued within ten (10) days, and that a failure to remove or correct the cross-connection within ten (10) days will result in the removal of his meter. Once the cross-connection is corrected, the meter will be reinstalled upon receipt of the charges outlined in sections 17-32 and 17-33.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

### **Secs. 17-139 - 17-155. Reserved.**

## **ARTICLE VII. WATER EMERGENCY MANAGEMENT**

### **Sec. 17-156. Declaration of water emergency.**

The city manager or his designee, after consultation with the city council, is authorized to declare that a water emergency exists. Depending on the severity of the emergency, voluntary (level I), mandatory (level II), mandatory (level III) or mandatory (level IV) staged water use restrictions as described in this article shall be imposed upon water customers.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

### **Sec. 17-157. Staged water use restrictions.**

- (a) *Level I.* During a declared level I water emergency, the following voluntary water conservation practices shall be encouraged:
  - (1) Watering of lawns and ornamental plants should be limited to that necessary for plant survival only. Irrigation uses should be limited to between the hours of 9:00 p.m. and 4:00 a.m.

- (2) Planting of new ornamental trees or plants or seeding of lawns should be deferred until the water emergency situation no longer exists.
  - (3) Household water should be reutilized to the greatest extent possible for watering.
  - (4) Use of water for washdown of outside areas such as driveways or parking lots should be curtailed.
  - (5) Faucets should not be left running while shaving, brushing teeth or washing dishes.
  - (6) The use of washing machines and dishwashers should be limited, if possible, and these units should be operated with full loads when used.
  - (7) Noncommercial washing of cars and other vehicles should be curtailed or limited to Saturdays and Sundays. Hoses should not be left running while washing vehicles.
  - (8) The use of flow restrictors and other water saving devices is encouraged.
  - (9) Showers used for bathing should be limited to four (4) minutes or less.
  - (10) Filling of pools should be deferred or limited to the hours between 9:00 p.m. and 4:00 a.m.
  - (11) Commercial and industrial operations shall eliminate all possible wastage of water.
- (b) *Level I mandatory.* During a declared level I mandatory water emergency, the following mandatory water restrictions shall be in effect:
- (1) Irrigation of lawns and ornamental trees or plants shall not be done except during the hours between 9:00 p.m. and 4:00 a.m. Variances for commercial irrigation may be issued and revoked by the utilities management, depending on the severity of the situation.
  - (2) All other restrictions shall remain voluntary.
- (c) *Level II.* During a declared level II water emergency, the following mandatory water restrictions shall be in effect:
- (1) Household water shall be reutilized to the greatest extent possible for watering.
  - (2) Faucets shall not be left running while shaving, brushing teeth or washing dishes.
  - (3) The use of washing machines and dishwashers shall be limited. These units should be operated with full loads when used.
  - (4) Irrigation of lawns and ornamental trees or plants shall not be done except during the hours between 9:00 p.m. and 4:00 a.m. Variances for commercial irrigation may be issued and revoked by the utilities management depending on the severity of the situation.
  - (5) Planting of new ornamental plants or trees or seeding of lawns shall be deferred until after the water emergency no longer exists.
  - (6) Use of water for washdown of outside areas is prohibited.
  - (7) Noncommercial washing of cars and other vehicles shall be prohibited except on Saturdays and Sundays. Commercial washing facilities, including those providing handheld washing nozzles, may continue normal operation. However, commercial operations shall ensure that water is not wasted.
  - (8) Commercial and industrial operations shall eliminate all possible wasting of water.
  - (9) Newly constructed or drained pools shall be filled by permit only. Fill permits shall be issued by the utility business office and issuance of permits may be curtailed depending on the severity of the situation.
- (d) *Level III.* During a declared level III water emergency, the following mandatory water use restrictions shall be in effect:
- (1) Irrigation of lawns and other plants is prohibited.
  - (2) Washing of cars, vehicles and equipment is prohibited.
  - (3) Restaurants and food serving establishments shall utilize disposable service utensils and plates in all cases.
  - (4) Recreational use of potable water, including filling of pools, is prohibited.
  - (5) Large-scale commercial and industrial water customers utilizing five thousand (5,000) or more

gallons of water per day shall achieve mandatory reductions in daily water usage through whatever means are available. A target reduction percentage shall be determined by the severity of the water emergency, and shall be publicly announced as part of the emergency declaration. Compliance with daily usage reduction targets shall be determined by utilities management. Variances to this restriction may be granted by the director or his designee to designated public health facilities.

- (e) *Level IV.* During a declared level IV water emergency, the following mandatory water use restrictions shall be in effect:
- (1) All use of water for purposes other than maintenance of public health and safety are prohibited.
  - (2) Where the city system is still functional, daily residential water use shall be limited to the amount necessary to sustain life through drinking, food preparation and personal hygiene.
  - (3) Where the city system is not functional, National Guard and emergency service vehicles shall be utilized to distribute water for household use at prearranged locations within the affected area. Usage by individuals shall be limited to those amounts necessary to sustain life through drinking, food preparation and personal hygiene.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99; Ord. No. 2002-60, § 1, 8-20-02)

#### **Sec. 17-158. Compliance plan for industries during level III emergencies.**

Commercial and industrial water customers utilizing five thousand (5,000) or more gallons per day shall prepare plans detailing measures to be taken by them to achieve mandatory reductions in daily water usage during level III emergencies. Such plans shall be completed within sixty (60) calendar days after receipt of notice to prepare them.

(Ord. No. 1995-25, § 3, 5-16-95)

#### **Sec. 17-159. Penalties for violation of mandatory restrictions.**

It shall be unlawful for any person to use or to permit the use of city water in violation of any mandatory restriction set forth in this article. Any violation of the mandatory provisions of this article shall be considered a general misdemeanor punishable by a fine of up to five hundred dollars (\$500) or imprisonment up to two (2) years or both in the discretion of the court. Each day in which a violation occurs shall be considered to be a separate violation.

(Ord. No. 1995-25, § 3, 5-16-95)

#### **Sec. 17-160. Authority to discontinue service.**

Pursuant to the provisions of G.S. 160A-314 and this chapter, water service may be temporarily discontinued for willful disregard of this article. All applicable penalty fees may be applied in the event of such service suspensions. In the event of continued gross noncompliance with this article, removal of meter and service will be deemed proper and service will be discontinued and tap fees and deposits will be forfeited.

(Ord. No. 1995-25, § 3, 5-16-95)

#### **Sec. 17-161. Adoption and enforcement of article by municipal customers.**



Municipalities purchasing water from the city shall adopt and enforce this entire article within thirty (30) days of its adoption as a condition of continuing existing water sales agreements. Upon declaration of a water emergency, the municipalities shall enforce the appropriate water use restrictions for the level of declared emergency.

(Ord. No. 1995-25, § 3, 5-16-95)

**Sec. 17-162. Termination of restrictions.**

(a) A water emergency declaration will expire when the city manager, after consultation with the city council and upon recommendation of the director or his designee, deems that the condition which caused the emergency has abated.

(b) The expiration or cancellation of a water emergency declaration shall be promptly and extensively publicized.

(Ord. No. 1995-25, § 3, 5-16-95)

**Secs. 17-163 – 17-179. Reserved.**

**ARTICLE VIII. SEWER USE REGULATIONS**

**Sec. 17-180. Powers of the director.**

The director of utilities and his designees are hereby jointly and severally empowered to take any enforcement action indicated or referenced in this chapter. Such enforcement action shall include, but shall not be limited to, entering into consent orders, issuing administrative orders and other similar documents; conducting show-cause hearings; and assessment of penalties and fines associated with enforcement of this chapter.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

**Sec. 17-181. Severability.**

If any provision, paragraph, word or section of this article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words and sections shall not be affected and shall continue in full force and effect.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

**Sec. 17-182. Conflicting provisions.**

The terms of this article shall take precedence over any other provision of this Code or other ordinance.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

**Sec. 17-183. Federal categorical standards and applicability of federal standards.**

(a) The effluent standards and limitations contained in this article shall be no less restrictive than the most nearly applicable federal effluent standards and limitations. If the effluent standards and limitations

adopted in this article are more restrictive than the more nearly applicable federal effluent standards and limitations, then the local standards and limitations shall apply.

- (b) Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.
- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director of utilities may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c) .
  - (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director of utilities shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
  - (3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
  - (4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-184. Enforcement of article.**

*Remedies nonexclusive.* The remedies provided for in this chapter are not exclusive. The director may take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the director may take other action against any user when the circumstances warrant. Further, the director is empowered to take more than one (1) enforcement action against any noncompliant user.

If noncompliance with this article or with a permit issued under this article occurs, the director of utilities will take the following actions as appropriate:

- (1) *Emergency suspensions.* The director of utilities may suspend the potable water supply service, the wastewater treatment service, and/or the wastewater permit when such suspension is necessary in order to stop a user's actual or threatened discharge which presents, or may present, an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or non-discharge permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within fifteen (15) days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the director of utilities shall take such steps as deemed necessary including, but not limited to, immediate severance of the sewer connection, to Prevent or minimize damage to the POTW system or endangerment to any individuals.

The director of utilities shall reinstate the wastewater permit and the wastewater treatment service upon proof that is satisfactory to the director of the elimination of the noncompliant discharge. The industrial user shall submit to the director of utilities prior to the date of the above-described hearing, a detailed written statement describing the causes of the harmful contribution and the measures taken by the user to prevent any future occurrence of the conditions causing the discharge.

- (2) *Notice of violation.* In the event of a discharge which violates this article or a permit issued under this article and which is not significant, the director or his designee shall issue a notice of violation (NOV) to the user within ten (10) days after the violation is noted. Such NOV must consist of an NOV form transmitted to the user by fax or U.S. Mail. A response from the user shall be required within fifteen (15) days after receipt of the completed NOV form. The user's response shall explain the cause of the violation and must explain how the user will correct the violation within forty-five (45) days of receipt of the NOV.

Submission of this response does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation. If the city does not receive a timely response, or if the response is inadequate, a notice of significant violation (NOSV) shall be issued.

- (3) *Notice of significant violation.* In the event of a discharge violation which is deemed by the director to be significant, the director shall issue a notice of significant violation (NOSV) by certified mail within five (5) days after the significant violation is noted. A response from the user shall be required within ten (10) days from receipt of the NOSV. The user shall respond with a ninety-day compliance schedule whereby the user will attain compliance. If the user cannot attain compliance within ninety (90) days, the user shall request a consent order.

An NOSV may also be issued solely to document a significant violation, particularly if the user has already taken corrective action following the violation. In such cases, the user must respond as directed in the text of the NOSV. If a required response to an NOSV is not received within ten (10) days, or if the response is inadequate a second NOSV shall be issued.

- (4) *Second notice of significant violation and compliance schedule.* A second NOSV shall be issued by certified mail if the discharger's response to the first NOSV is late or inadequate. The second notice shall be issued within five (5) days of the deadline for responding, or the receipt of an inadequate response. Receipt of the user's written response to the second NOSV is required within ten (10) days (G.S. 162A-9.1) of the user's receipt of the completed NOSV form. The second NOSV shall be accompanied by a fine of up to ten thousand dollars (\$10,000.00) per day that the violation continues, or for each day past the deadline that no response has been received.

The only acceptable user responses to a second NOSV is payment of the fine and a request for a consent order, within the stated ten-day period. Such orders will include specific actions to be taken by the discharger to correct the noncompliance within a time period, which must also be specified by the order. Consent orders shall have the same force and effect as an administrative order issued by the director.

- (5) *Administrative order with compliance schedule.* The director shall issue an administrative order containing an enforcement compliance schedule to any user who has failed to respond to a second NOSV in the manner detailed in (4), above. The administrative order may compel the discharger to immediately comply with all requirements according to a time schedule set forth in the order, to take appropriate remedial or preventive action in the event of an continuing or threatened violation, and to disconnect unless adequate treatment facilities, devices, or other related appurtenances are installed and operated within the specified time period.

An administrative order may be issued as an initial enforcement step if, in the opinion of the director, the user's violation of this article or violation of a permit prepared under the terms of this article have been serious enough to warrant such action.

- (6) *Show cause hearing.*

- a. If violation is not corrected by timely compliance, the director may order any person, or user who causes or allows an unauthorized discharge to show cause before the hearing authority why a proposed enforcement action should not be taken. A notice shall be served on the offending party, specifying the time and place of a hearing to be held by the hearing authority regarding the violation, and directing the offending party to show cause before the authority why an order should not be made directing the termination of service.

The notice of hearing shall be served personally or by registered or certified mail, return receipt requested, at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation. The director may designate any of his agents or any officers or employees of the legal department to issue the notice in the name of the director. Such notice of a hearing shall include, but shall not be limited to, requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearing.

A show-cause hearing as described above shall not be a prerequisite to the assessment of a civil penalty under the provisions of this chapter, nor is any action or inaction taken by the director subject to appeal.

- b. The director may himself conduct the hearing and take the evidence, or may designate any of his agents or any officer or employee of the legal department to:
    - 1. Take the evidence.
    - 2. Transmit a report of evidence, including transcripts and other evidence, together with recommendations, to the director, for hearing action thereon.
  - c. Testimony taken before the hearing authority or any person designated by him must be under oath. The findings will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefore.
  - d. After the director has presented the evidence, the hearing authority may issue an order to the party 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 have been installed or existing treatment facilities, devices or other related appurtenances are properly operated, and such further orders and directives as are necessary and appropriate.
- (7) *Legal action.* If any person discharges sewage, industrial wastes, or other wastes into the city treatment system contrary to the substantive provisions of this article or any order of the hearing authority, the city attorney may commence an action for appropriate relief.
- (8) *Injunctive relief.* Whenever a user is in violation of the provisions of this chapter or an order or permit issued hereunder, the director of utilities, through the city attorney, may petition the superior court of justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the user's activities in question.
- (9) *Termination of permit.* Any user who violates the conditions set forth in this chapter, or applicable state and federal regulations, is subject to having its permit terminated by the director. Such conditions may include, but are not limited to:
- a. Failure to accurately report the wastewater constituents and characteristics of the discharge;
  - b. Failure to report significant changes in operations, or wastewater constituents and

- characteristics;
- c. Refusal of reasonable access to the user's premises for the purposes of inspection or monitoring; or,
- d. Violation of conditions of the permit.

- (10) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this chapter or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as ordered by the director of utilities.

Any person(s) creating a public nuisance shall be both jointly and severally subject to the provisions of the City of Salisbury Utilities Ordinance; applicable administrative provisions, ordinances, and codes set forth and approved by Rowan County; and state and federal laws and regulations governing public nuisances.  
(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

### **Sec. 17-185. Penalties.**

- (a) *Civil penalties.* Any user who is found to have failed to comply with any provision of this article or the orders, rules, regulations and permits issued under this article may be assessed a fine of up to ten thousand dollars (\$10,000.00) per day per violation, and each day on which a violation occurs or continues shall be deemed a separate and distinct offense. Such assessments may be added to the user's next scheduled sewer service charges and the POTW shall have such remedies for the collection of such assessments as it has for collection of other service charges.
- (b) *Determining civil penalties.* In determining the amount of the civil penalty, the director shall consider the following:
- (1) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
  - (2) The duration and gravity of the violation;
  - (3) The effect on ground or surface water quantity or quality, or on air quality;
  - (4) The cost of rectifying the damage;
  - (5) The amount of money saved by noncompliance;
  - (6) Whether the violation was committed willfully or intentionally;
  - (7) The prior record of the violator in complying or failing to comply with the pretreatment program;
  - (8) The costs of enforcement of the City of Salisbury.
- (c) *Criminal violations.* The district attorney for the Nineteenth (19th) Judicial District may, at the request of the City of Salisbury, prosecute noncompliant users who violate the provisions of NCGS 143-215.B.

(Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit issued by local governments (NCGS 143-215.B(f) & NCGS 143-215.B(g)). It is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury (NCGS 143-215.B(h)) and to falsify information required under Article 21 of Chapter 143 of the General Statutes (NCGS 143-215.B(i)).\*

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\* **Note:** Source: N.C. Model Sewer Use Ordinance text; January, 93 revision; North Carolina Division of Environmental Management.

- (d) *Penalties for falsifying information.* Any person who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this article or a wastewater permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than ten thousand dollars (\$10,000.00) or by imprisonment for up to one year, or both.
- (Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

**Sec. 17-186. Local limits development and wastewater discharge permits.**

- (a) *Local limits development.*
- (1) To implement the general and specific discharge prohibitions listed in this chapter, industrial user-specific local limits will be developed ensuring that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern for each industrial user. Where specific local limits are not contained for a given parameter or pollutant in an industrial user permit, the following limits will apply to all users:

TABLE OF LIMITS		
Pollutant	Chemical Symbol	Maximum Concentration, mg/l
Total Cyanide	CN-	<0.005
Total Cadmium	Cd	0.002
Hexavalent Chromium	Cr+6	0.010
Total Chromium	Cr	0.060
Total Copper	Cu	0.130
Total Lead	Pb	0.060
Total Mercury	Hg	<0.0002
Total Nickel	Ni	0.010
Total Silver	Ag	0.002
Total Zinc	Zn	0.270

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

- (2) State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter.
- (b) *Wastewater discharge permits.* All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the director to be significant industrial users shall obtain a significant industrial user permit within one hundred eighty (180) days of receiving notification of the director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the director of utilities, or his designee, be required to obtain a wastewater discharge permit for non-significant industrial users.
- (1) *Significant industrial user determination:* All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the director of utilities, or his designee, a significant industrial user determination. If the director of utilities, or his designee, determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.
- (2) *Significant industrial user permit application:* Users required to obtain a significant industrial user permit shall complete and file with the City of Salisbury, an application in the form prescribed by the director of utilities, or his designee, and accompanied by an application fee in

the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within ninety (90) days after notification of the director's determination in section 17-186(b)(1), above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- a. Name, address, and location, (if different from the address);
- b. Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;
- c. Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in section 17-186 and 17-187 of this chapter, any of the priority pollutants (section 307(a) of the Act) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;
- d. Time and duration of the indirect discharge;
- e. Average daily and thirty-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- f. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation;
- g. Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;
- h. Where known, the nature and concentration of any pollutants in the discharge which are limited by any municipal, 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;
- i. 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 longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:
  1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine (9) months.
  2. No later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the director of utilities, or his designee.
- j. Each product produced by type, amount, process or processes and rate of production;
- k. Type and amount of raw materials processed (average and maximum per day);
- l. Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- m. If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and 15A NCAC 2H .0908(a), as outlined in this chapter.

- n. Any other information as may be deemed by the director of utilities, or his designee, to be necessary to evaluate the permit application.
- (3) *Application signatories and certification:* All wastewater discharge permit applications, user reports, and other periodic reports to the City of Salisbury must be signed by an authorized representative of the user and contain the following certification statement:
- "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- (4) *Application review and evaluation:* The director of utilities, or his designee, will evaluate the data furnished by the user and may require additional information.
- a. The director of utilities, or his designee, is authorized to accept applications for the city and shall refer all applications to the POTW staff for review and evaluation.
  - b. Within thirty (30) days of receipt the director of utilities, or his designee, shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.
- (5) *Tentative determination and draft permit:*
- a. The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
  - b. If the staff's tentative determination in subsection a. above is to issue the permit, the following additional determinations shall be made in writing:
    - 1. A proposed discharge limitations for those pollutants proposed to be limited;
    - 2. A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
    - 3. A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
    - 4. The staff shall organize the determinations made pursuant to subsections (1) and (2) above and the City of Salisbury's general permit conditions into a significant industrial user permit.
  - c. *Permit synopsis:* A fact sheet providing a brief synopsis of the application shall be prepared by the POTW staff for submission to the applicant and the approval authority and shall be made available to the public upon request. The contents of such fact sheets shall include at least the following information:
    - 1. A sketch and detailed description of the industrial facilities and pretreatment facilities including the location of all points of discharge to the POTW and all established compliance monitoring points.
    - 2. A quantitative description of the discharge described in the application which includes at least the following:
      - a. The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;
      - b. The actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present; and,
      - c. The basis for the pretreatment limitations including the documentation of any calculations in applying categorical pretreatment standards.



- (6) *Final action on significant industrial user permit applications:*
- a. The director of utilities, or his designee, shall take final action on all applications not later than ninety (90) days following receipt of a complete application.
  - b. The director of utilities, or his designee, is authorized to:
    1. Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this chapter and NCGS 143-215.1;
    2. Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
    3. Modify any permit upon not less than sixty (60) days notice and pursuant to the provisions of this chapter;
    4. Revoke any permit pursuant to the provisions of this chapter;
    5. Suspend a permit pursuant to the provisions of this chapter;
    6. Deny a permit application when in the opinion of the director of utilities, or his designee, such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.
- (7) *Hearings:*
- a. *Initial adjudicatory hearing.* An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty, or one issued an administrative order under the provisions of this chapter, shall have the right to an adjudicatory hearing before a hearing officer designated by the director upon making written demand, identifying the specific issues to be contested to the POTW director within thirty (30) days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding. The hearing officer shall make a final decision on the contested permit, penalty, or order within forty-five (45) days of the receipt of the written demand for a hearing. The POTW director shall transmit a copy of the hearing officer's decision by registered or certified mail.
    1. *New permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
    2. *Renewed permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
  - b. *Final appeal hearing.* Any decision of a hearing officer made as a result of an adjudicatory hearing held under the provisions of this ordinance may be appealed, to the City of Salisbury upon filing a written demand within ten (10) days of receipt of notice of the decision. Hearings held under this subdivision shall be conducted in accordance with applicable federal, state, and local laws. Failure to make written demand within the time specified herein shall bar further appeal. The City of Salisbury shall make a final decision on the appeal within ninety (90) days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.
  - c. *Official record.* When a final decision is issued under the provisions of this chapter, the City of Salisbury shall prepare an official record of the case that includes:
    1. All notices, motions, and other like pleadings;
    2. A copy of all documentary evidence introduced;
    3. A certified transcript of all testimony taken, if testimony is transcribed. If

testimony is taken and not transcribed, then a narrative summary of any testimony taken.

4. A copy of the final decision of the City of Salisbury.

- d. *Judicial review.* Any person against whom a final order or decision of the City of Salisbury is entered, pursuant to the hearing conducted under the provisions of this chapter, may seek judicial review of the order or decision by filing a written petition within thirty (30) days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of Rowan County along with a copy to the City of Salisbury. Within thirty (30) days after receipt of the copy of the petition of judicial review, the Salisbury City Council shall transmit to the reviewing court the original or a certified copy of the official record.

(8) *Permit modification:*

- a. Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as follows:
1. Changes in the ownership of the discharge when no other change in the permit is indicated,
  2. A single modification of any compliance schedule not in excess of four (4) months,
  3. Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
- b. Within nine (9) months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by this chapter, the user shall apply for a wastewater discharge permit within one hundred eighty (180) days after the promulgation of the applicable national categorical pretreatment standard.
- c. A request for a modification by the permittee shall constitute a waiver of the sixty-day notice required by G.S. 143-215.1(b) for modifications.

(9) *Permit conditions:*

- a. The director of utilities, or his designee, shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this chapter and NCGS 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
1. A statement of duration (in no case more than five (5) years);
  2. A statement of non-transferability;
  3. Applicable effluent limits based on categorical standards or local limits or both;
  4. Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law;
  5. Notification requirements for slug loads; and,
  6. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
- b. In addition, permits may contain, but are not limited to, the following:
1. Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
  2. Limits on the instantaneous, daily and monthly average and/or maximum

concentration, mass, or other measure of identified wastewater pollutants or properties.

3. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
  4. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.
  5. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
  6. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
  7. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
  8. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
  9. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
  10. Compliance schedules for meeting pretreatment standards and requirements.
  11. Requirements for submission of periodic self-monitoring or special notification reports.
  12. Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in this chapter and affording the director of utilities, or his representatives, access thereto.
  13. Requirements for prior notification and approval by the director of utilities, or his designee, of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
  14. Requirements for the prior notification and approval by the director of utilities, or his designee, of any change in the manufacturing and/or pretreatment process used by the permittee.
  15. Requirements for immediate notification of excessive, accidental, or slug discharges, or any discharge which could cause any problems to the system.
  16. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the terms of the permit.
  17. Other conditions as deemed appropriate by the director of utilities, or his designee's to ensure compliance with this chapter, and state and federal laws, rules, and regulations.
- (10) *Permits duration:* Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
- (11) *Permit transfer:* Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
- (12) *Permit reissuance:* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with this chapter a minimum of one hundred eighty (180) days prior to the expiration of the existing permit.

- (13) *Monitoring facilities:* The City of Salisbury requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the City of Salisbury may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City of Salisbury requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the City of Salisbury.

- (14) *Inspection and sampling:* The City of Salisbury will inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City of Salisbury, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The City of Salisbury, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force 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 City of Salisbury, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the director of utilities's, approval authority's, or EPA's access to the user's premises shall be a violation of this chapter. Unreasonable delays may constitute denial of access.
- (15) *Search warrants:* If the director of utilities, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City of Salisbury designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the director of utilities, approval authority, or EPA may seek issuance of a search warrant from the District Court of Rowan County, North Carolina.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-187. Prohibited use and prohibited discharge standards.**

- (a) *General prohibitions.* These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.

Limitations on wastewater discharges. No person or user shall discharge or convey or permit or allow to be discharged or conveyed to a public sewer any wastewater containing pollutants of such character or

quantity that:

- (1) Causes interference or pass through.
  - (2) Are not susceptible to treatment or interferes with the process or efficiency of the treatment system.
  - (3) Constitutes a hazard to human or animal life, or to the stream or watercourse receiving the treatment plant effluent.
  - (4) Violates pretreatment standards, as promulgated by the United States Environmental Protection Agency or the state of North Carolina.
- (b) *Specific prohibitions on wastewater discharges.* No person shall discharge or deposit or cause or allow to be discharged or deposited into the wastewater treatment system any wastewater which contains the following, except as provided under section 17-188:
- (1) Any clothing, rags, textile remnants or waste, cloth or scraps, except fibers or scrap that will pass through a one-fourth-inch mesh screen or its equivalent in screening ability.
  - (2) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees centigrade), or which causes the temperature of the POTW's influent wastestream to exceed one hundred four (104) degrees Fahrenheit (forty (40) degrees centigrade).
  - (3) Any waters or wastes which may contain a total fat, wax, grease or oil concentration of more than one hundred (100) milligrams per liter, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (zero degrees and sixty-five and one-half (65.5) degrees centigrade) at the point of discharge into the system.
  - (4) 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, explosion, or interference, pass-through, or be injurious in any other way to the sewerage facilities or to the operation of the system. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the sewer system, be more than five (5) percent nor any single reading over ten (10) percent of the lower explosive limit (LEL) of the meter. Prohibited materials include but are not limited to petroleum oil, non-biodegradable cutting oil, products of mineral oil origin, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.
  - (5) Any garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in public sewers, with no particle greater than one-half ( 1/2) inch in any dimension.
  - (6) Any solid or viscous wastes which will or may cause obstruction to the flow in a sewer, or otherwise interfere with the proper operation of the wastewater treatment system. Prohibited materials include but are not limited to grease, uncomminuted garbage, animal guts and tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straws, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, and similar substances.
  - (7) Any waters or wastes in which the suspended solids exceed three hundred (300) milligrams per liter.
  - (8) Any waters or wastes in which the total fixed solids exceed one thousand five hundred (1,500) milligrams per liter.
  - (9) Any waters or wastes in which the BOD exceeds three hundred (300) milligrams per liter.
  - (10) Any waters or wastes in which the COD exceeds six hundred (600) milligrams per liter.
  - (11) Any waters or wastes in which the TKN exceeds forty (40) milligrams per liter.
  - (12) Any waters or wastes in which the IOD exceeds five (5.0) milligrams per liter.
  - (13) Any waste which will cause corrosion or deterioration of the treatment system. All wastes discharged to the public sewer system must have a pH value in the range of six (6) to nine (9)

standard units. Prohibited materials include but are not limited to acids, sulfides, concentrated chloride and fluoride compounds and substances which will react with water to form acid products.

- (14) Dilution: No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the City of Salisbury or the State of North Carolina.
- (15) Any waters or wastes containing total cyanide or cyanide compounds in excess of 0.01 milligrams per liter.
- (16) Any priority pollutants or other toxic substances in amounts exceeding standards promulgated by the administrator of the United States Environmental Protection Agency pursuant to section 307(a) of the Clean Water Act, and chemical elements or compounds, phenols or other taste- or odor-producing substances, or any other substances which are not susceptible to treatment or which may interfere with the biological processes or efficiency of the treatment system, or which may pass through the system and harm persons, livestock or aquatic life utilizing the receiving system.
- (17) Any pollutant which, either singly or by interaction with other wastes, is capable of creating a public nuisance, hazard to life, or is, or may be, sufficient to prevent entry into a sewer for its maintenance and repair, or which may result in the presence of toxic gases, vapors, or fumes within the sewer or the POTW in a quantity that may cause acute worker health and safety problems.
- (18) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
- (19) Any radioactive wastes or isotopes of such half-life or concentration that they do not comply with regulations or orders issued by the appropriate authority having control over their use, or which will or may cause damage or hazards to the sewerage facilities or personnel operating the system.
- (20) Any solid radioactive materials or radioactive materials in solution which can be removed by chemical means and disposed of in solid form.
- (21) Any materials which form excessive amounts of scum or foam that may interfere with the operation of the waste treatment works or cause undue additional labor in connection with its operation. Excessive amounts shall be determined by the director.
- (22) Any waters or wastes containing suspended solids of such character and quality that unusual attention or expense is required to handle such materials at the waste treatment plant.
- (23) Any waters or wastes containing dyes or other color of such character and in such quantity as to prevent removal by biological processes and which require special chemical treatment to pass receiving stream standards.
- (24) Any wastewater at a flow rate or containing such concentrations or quantities of pollutants that exceed for any period of time longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration, quantities or flow during normal operation and that would cause a treatment process upset and subsequent loss of treatment efficiency.
- (25) Any stormwater or other unpolluted water, including but not limited to, water from cooling systems or of stormwater origin, which will increase the hydraulic load on the treatment system.
- (26) Any waters or wastes in which the ammonia exceeds fifteen (15) milligrams per liter.
- (27) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
- (28) Trucked or hauled, industrial process wastewater, commercial process wastewater, or mixtures thereof.

- (29) Trucked or hauled process wastewaters described in preceding paragraph (27) when such mixtures contain any additional substance or substances.
  - (30) Trucked or hauled domestic wastewater, except at POTW discharge points approved by the director of utilities.
  - (31) The discharge to the sewer of any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Upon the potential or actual discharge of such a substance, the person who recognizes that discharge of the hazardous waste is imminent, or that discharge has occurred, shall immediately notify the POTW and the Salisbury Fire Department. If discharge has already occurred, such notification must include the amount discharged, the time and duration of the discharge, the name of the hazardous waste as set forth in 40 CFR Part 261, and the EPA hazardous waste number.
- (c) *Prohibitions on inflow.* No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial or commercial process water into any sanitary sewer. No person shall connect or cause to be connected to the sanitary sewer system any pipe or conduit which will allow the discharge of the inflow sources listed in this subsection into the sanitary sewer system.
- (d) *Wastewater dischargers.* It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the City of Salisbury. When requested by the director of utilities, or his designee, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The director of utilities, or his designee, is authorized to prepare a form for this purpose and may periodically require users to update this information.
- (Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1997-60, § 1, 7-15-97; Ord. No. 1999-29, 5-18-99)

**Sec. 17-188. Permissive use; pretreatment and holding facilities; excessive waste surcharge.**

- (a) *Equalization of flow.* In order to promote equalization of flows over a twenty-four-hour period, each person discharging a waste into the city's sanitary sewers having the following average daily volumes over a period of his normal processing period in any one (1) week shall construct and maintain at his own expense a suitable storage facility of the corresponding minimum volume:

TABLE OF FLOW EQUALIZATION REQUIREMENTS	
Volume of Wastewater Discharge, Average Gallons per Day	Minimum Volume of Storage Tank in Percentage of Daily Volume of Wastewater Discharged (percent)
0--20,000	0
20,001--30,000	50
30,001--40,000	60
40,001--50,000	70
50,001--60,000	80
60,001--70,000	90
70,000 and above	100

Such storage facility shall have its outlet to the sewer controlled by an approved device, the setting of flow rates being determined by the director. When the processing period is less than seven (7) days in any week, the person discharging the waste shall arrange the discharge rate so that his storage facility shall be substantially full at the end of his processing period. The storage facility shall be discharged during the period of shutdown unless otherwise ordered by the director. Storage facility requirements may be waived by the director in cases where a constant rate of flow is discharged, provided that:

- (1) The normal operating day extends over a twenty-four-hour period and the rate of waste flow and load discharged is such that in the opinion of the director the installation of a storage tank would not improve sewer and treatment plant loading conditions.
- (2) All other requirements of this article are fulfilled.
- (b) *Control manhole.*
  - (1) Any person discharging industrial wastes into the city sanitary sewer shall, if required by the director, construct and maintain a suitable control manhole to facilitate observation, measurements and sampling of all wastes, including domestic sewage, from the industry.
  - (2) The control manhole shall be constructed downstream from any treatment, storage or other approved works at a suitable and satisfactory location and built in a manner approved by the director.
- (c) *Volume measuring device.* Where a storage tank is not required, the control manhole shall be equipped with a permanent type volume measuring device such as a nozzle or other device approved by the director. The manhole shall be installed by the persons discharging wastes at their own expense and shall be maintained by them so as to be safe, accessible and in proper operating condition at all times.
- (d) *Approval of plans.* Plans for the construction of the storage tanks, control manholes and controlling devices shall be approved by the director prior to the beginning of construction.
- (e) *Preliminary treatment facilities.* Persons shall provide at their own expense such preliminary handling as may be necessary to control the quantities and rates of discharge of such waters or wastes over a twenty-four-hour period. Signed drawings, specifications and other pertinent information relating to proposed preliminary treatment or handling facilities shall be submitted for the approval of the director and no construction of such facilities shall be commenced until such approval is obtained in writing.
- (f) *Permitted discharge levels.* Any waters or wastes discharged by any person which have the following characteristics may be admitted into the sanitary sewers when such discharge is approved in writing by the director:
  - (1) Containing a BOD greater than three hundred (300) milligrams per liter;
  - (2) Containing a COD of more than six hundred (600) milligrams per liter;
  - (3) Containing a TKN of more than forty (40) milligrams per liter;
  - (4) Containing suspended solids of more than three hundred (300) milligrams per liter;
  - (5) Containing ammonia of more than fifteen (15) milligrams per liter; or
- (g) *Excessive waste surcharge.* All sewer users shall participate in the user charge as described in sections 17-34 and 17-37. For the purposes of this article, normal domestic wastewater is considered to have the following characteristics:
  - (1) BOD of three hundred (300) milligrams per liter.
  - (2) COD of six hundred (600) milligrams per liter.
  - (3) TKN of forty (40) milligrams per liter.
  - (4) TSS of three hundred (300) milligrams per liter.

When the concentration of BOD, COD, TKN or suspended solids in the industrial or municipal waste discharge to the city's sanitary sewers exceeds the normal characteristics prescribed in this subsection, a monthly surcharge for treatment of the excess loading shall be imposed based upon the industrial or municipal user's sewage flow and the excess loading calculated using the purchased water flow or metered wastewater flow as specified in this section and the unit poundage charge for the actual COD, TKN and suspended solids loadings being received from the discharger.

This surcharge shall be invoked as provided in this section, and shall be assessed in addition to, and separately from the existing sewer service charge. The sewer surcharge rates shall be established by the city council on a regular basis at least once every five (5) years. When approved by city council, surcharge rates shall become effective at a time determined by the director, but in no case shall the effective date be more than one hundred eighty (180) days after final city council approval of revised rates.



The surcharge shall reflect the total cost of treating the excess pounds of industrial or municipal waste including necessary cost of administration of the sewage plants and administration of this chapter.

- (1) The surcharges shall be billed and payable monthly on a separate bill rendered to the proper users by the city.
  - (2) Industrial and major commercial users, including municipalities, will be billed for any applicable surcharges according to the monthly billing procedures as described in article II, section 17-34 of this chapter, "Water and sewer user charges."
- (h) *Application for discharge.* All applications for the discharge of industrial wastes into the public sewers shall be made to the director. Approval will be granted such applications when evidence is submitted by the applicant that the discharge of wastes into the public sewer will comply with this article.
- (i) *Grease, oil and sand interceptors.* Grease, oil and sand interceptors shall be provided when, in the opinion of the director, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be maintained by the owner at his expense in continuously efficient operation at all times. Any existing facilities that do not have a grease, oil and sand interceptor installed may be required to install such an interceptor if their discharge is determined to contain excessive amounts of grease, oil or sand (see subsections 17-187(a)(3) and (a)(6)).
- (j) *Notice of interruption of normal operations.* Notice shall be given to the director when normal operations of the industry will be interrupted for seventy-two (72) hours or longer and water will not be available for discharge, or when a change of process is contemplated which will alter demands on the municipal treatment facilities. Normal operations shall include allowance for legal holidays and other announced plant shutdowns.
- (k) *Maintenance of facilities.* Where preliminary treatment or holding facilities are provided for any purpose, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense, and there shall be no discharge of wastes requiring pretreatment either directly or indirectly to the city's sanitary sewer system without first notifying and obtaining approval from the director.
- (l) *Additional pretreatment requirements.* All industrial users that are discharging incompatible or toxic pollutants shall meet pretreatment requirements of best practicable technology as promulgated by the environmental protection agency.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-189. Inspections and sampling; methods for tests and analyses.**

- (a) The director or duly authorized employees of the utilities department shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter.
- (b) All tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be made in accordance with the procedure given in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and applicable Environmental Protection Agency publications. Such tests and analyses shall be determined from samples taken at the control manhole provided for in subsection 17-188(b) or at the point of discharge of any waters or wastes at the site of their origin on the premises of any person discharging such waste into the sanitary sewers.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-190. Measurement of flow.**

The volume of flow used in determining the total discharge of industrial wastes for payment of the regular sewer charge and the sewer surcharge shall be based upon:

- (1) Metered water consumption as shown in the records of meter readings maintained by the city water department; or
- (2) At the individual discharger's option, other flow measuring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessibly and safely located, and the measuring system as specified by the city shall be installed in accordance with plans approved by the director. The metering system shall be installed and maintained at the owner's expense according to arrangements that may be made with the city.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-191. Determination of character and concentration of wastes.**

- (a) *Generally.* The industrial waste and the facilities of each person discharging such wastes into the public sewers shall be subject to periodic inspection and a determination of character and concentration of such wastes shall be made annually for all industrial users or more often as may be deemed necessary by the director or his authorized assistants. Such inspection and tests shall also be made immediately after any process change which may affect the quantity or quality of the wastes discharged.
- (b) *Sampling.* Samples shall be collected in such manner as to be representative of the actual quality of the waste. Laboratory methods used in the examination of such waste shall be those set forth in Standard Methods or applicable Environmental Protection Agency methods as described in this article, copies of which are on file with the city clerk for inspection by any interested party.
- (c) *Authority of director.* The determination of the character and concentration of the industrial wastes by the director or his duly appointed representatives shall be binding as a basis for charges.
- (d) *Payment of costs.* Total costs incident to the supervision, inspection and sampling of wastes shall be included in the charge made to industries or businesses discharging wastes into the city's sanitary sewers. Industries subject to the pretreatment program shall pay applicable permit application fees and annual permit fees as approved by city council. Industries subject to the pretreatment program shall pay for any and all pretreatment analyses performed by the city utilizing a current fee schedule adopted by the city council and available from the utilities department. Analyses which are performed by private laboratories shall be paid for by the applicable industrial user.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-192. Tampering with or damaging equipment.**

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-193. Authority of director in control of prohibited wastes.**

- (a) *Regulatory actions.* If wastewater containing any substance described in section 17-187 is discharged or proposed to be discharged into the sewer system of the city or to any sewer system tributary thereto, the director may take any action necessary to:
  - (1) Prohibit the discharge of such wastewater.
  - (2) Require a discharger to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances in conformity with this article.

- (3) Obtain flow equalization necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate this article.
  - (4) Require the person making, causing or allowing the discharge to pay any additional cost or expense incurred by the city for handling and treating excess loads imposed on the treatment system.
  - (5) Take such other remedial action as may be deemed to be desirable or necessary to achieve the purpose of this chapter.
- (b) *Approval of facilities.* Where pretreatment or equalization of wastewater flows prior to discharge into any part of the wastewater treatment system is required, signed and dated drawings and specifications and other pertinent data or information relating to such pretreatment of flow-control facilities shall first be submitted to the director for review and approval. Such approval shall not exempt the discharge of such facilities from compliance with any applicable code, ordinance, rule, regulation or order of any governmental authority. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to and prior approval of the director.
- (c) *Operation of facilities.* If pretreatment or control of waste flow is required, such facilities shall be maintained in good working order and operated as efficiently as possible by the owner or operator at his own cost and expense, subject to and complying with the requirements of this article and all other applicable codes, ordinances and laws.
- (d) *Admission to property.* Whenever it shall be necessary for the purposes of this article, the director or his designated representative, upon presentation of credentials, may enter upon any property or premises at reasonable times for the purpose of:
- (1) Copying the records required to be kept under the provisions of this article;
  - (2) Inspecting any monitoring equipment or method; and
  - (3) Sampling any discharge of wastewater to the treatment works.

The director may enter upon the property at any hour under emergency circumstances.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-194. Accidental discharges.**

- (a) *Protection from accidental discharge.* Each industrial user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or operator's own cost and expense. Detailed signed and dated drawings and specifications showing facilities at scale and operating procedures to provide this protection shall be submitted to the director for review, and shall be approved by him before construction of the facility. Review and approval of such documents and operating procedures shall not relieve the industrial user from the responsibility to modify his facility as necessary to meet the requirements of this article.
- (b) *Report of accidental discharge.* If, for any reason, a facility does not comply with or will be unable to comply with any prohibition or limitations in this article, the facility responsible for such discharge shall immediately notify the director so that corrective action may be taken to protect the treatment system. In addition, a written report addressed to the director detailing the date, time and cause of the accidental discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future discharges shall be filed by the responsible industrial facility within five (5) days of the occurrence of the noncomplying discharge.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-195. Accidental spill prevention program.**

Each significant industrial user and other industrial users of sewer systems as designated by director must

prepare an accidental spill prevention program using guidelines as provided by the utilities department.  
(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

**Sec. 17-196. Monitoring and reporting requirements.**

(a) *Discharge reports.*

- (1) Every industrial user shall file a periodic discharge report at such intervals as are designated by the director. The director may require any industrial users discharging or proposing to discharge into the treatment system to file such periodic reports.
- (2) The discharge report shall include, but in the discretion of the director shall not be limited to, nature of process, volume, rates of flow, mass emission rate, production quantities, hours of operation, concentrations of controlled pollutants or other information which relates to the generation of waste. In addition to discharge reports, the director may require information in the form of industrial discharge permit applications and self-monitoring reports.

(b) *Records and monitoring.*

- (1) All industrial users who discharge or propose to discharge wastewater to the wastewater treatment system shall maintain such records of production and related factors, effluent flows, and pollutant amounts or concentrations as are necessary to demonstrate compliance with the requirements of this article and any applicable state or federal pretreatment standards or requirements. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.

These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City of Salisbury, or where the user has been specifically notified of a longer retention period by the City of Salisbury.

- (2) Such records shall be made available upon request by the director. All such records relating to compliance with pretreatment standards shall be made available to officials of the U.S. Environmental Protection Agency upon demand. A summary of such data indicating the industrial user's compliance with this article shall be prepared quarterly and submitted to the director.
- (3) The owner or operator of any premises or facility discharging industrial wastes into the system shall install at his own cost and expense suitable monitoring equipment to facilitate the accurate observation, sampling and measurement of wastes. Such equipment shall be maintained in proper working order and kept safe and accessible at all times.
- (4) The monitoring equipment shall be located and maintained on the industrial user's premises outside of the building. When such a location would be impractical or cause undue hardship on the user, the director may allow such facility to be constructed in the public right-of-way, with the approval of the public agency having jurisdiction over such right-of-way, and located so that it will not be obstructed by public utilities, landscaping or parked vehicles.
- (5) When more than one (1) user can discharge into a common sewer, the director may require installation of separate monitoring equipment for each user. When there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the director may require that separate monitoring facilities be installed for each separate discharge.

- (6) Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the director's requirements and all applicable construction standards and specifications.
- (c) *Inspection, sampling and analysis.*
  - (1) *Compliance determination.* Compliance determinations with respect to the prohibitions and limitations set out in section 17-187 may be made on the basis of either instantaneous grab samples or composite samples of wastewater. Composite samples may be taken over a twenty-four-hour period, or over a longer or shorter time span, as determined necessary by the director to meet the needs of specific circumstances.
  - (2) *Analysis of industrial wastewater.* Laboratory analysis of industrial wastewater samples shall be performed in accordance with the current edition of Standard Methods for the Examination of Water and Wastewater, published by the U.S. Environmental Protection Agency, or the Annual Book of Standards, part 23, Water, Atmospheric Analysis, published by the American Society for Testing and Materials. Analysis of those pollutants not covered by these publications shall be performed in accordance with procedures established by the state department of environment, health and natural resources. Analytical reports submitted by certified wastewater laboratories must be verified for accuracy by, and signed by, both the laboratory's manager or director and by the authorized representative of the SIU.
  - (3) *Sampling frequency.* Sampling of industrial wastewater for the purpose of compliance determination with respect to the prohibitions and limitations set out in section 17-187 will be done at such intervals as the director may designate. However, it is the intention of the director to conduct compliance sampling or to cause such sampling to be conducted for all major contributing industries at least once in every three (3) months.
- (d) *Baseline monitoring reports.* Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director of utilities a report which contains the information listed in paragraph (e), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director of utilities a report which contains the information listed in paragraph (e), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (e) Users described above shall submit the information set forth below.
  - (1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.
  - (2) *Environmental permits.* A list of any environmental control permits held by or for the facility.
  - (3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
  - (4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
  - (5) *Measurement of pollutants.*
    - a. The categorical pretreatment standards applicable to each regulated process.
    - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with

procedures set out in this chapter.

- c. Sampling must be performed in accordance with procedures set out in this chapter.
- (6) *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in this chapter.
- (8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with this chapter.
- (9) *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by this chapter:
  - a. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
  - b. No increment referred to above shall exceed nine (9) months;
  - c. The user shall submit a progress report to the director of utilities no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
  - d. In no event shall more than nine (9) months elapse between such progress reports to the director of utilities.
- (10) *Reports on compliance with categorical pretreatment standard deadline.* Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director of utilities a report containing the information described in this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with this chapter.
- (11) *Periodic compliance reports*
  - a. All significant industrial users, including significant industrial users subject to federal categorical standards, shall, at a frequency determined by the director of utilities but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with the provisions of this chapter.
  - b. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and

maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

- c. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director of utilities, using the procedures prescribed in this chapter, the results of this monitoring shall be included in the report.

(12) *Reports of changed conditions.* Each user must notify the director of utilities of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least forty-five (45) days before the change.

- a. The director of utilities may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application described in this chapter.
- b. The director of utilities may issue a wastewater discharge permit as described under other sections of this chapter or may modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.
- c. For purposes of this requirement, significant changes include, but are not limited to, flow increases of ten (10) percent or greater, and the discharge of any previously unreported pollutants

(13) *Reports of potential problems.*

- a. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the director of utilities of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- b. Within five (5) days following such discharge, the user shall, unless waived by the director of utilities, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. 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, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.
- c. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection a., above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(14) *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the water resources division as the director of utilities may require.

(15) *Notice of violation/repeat sampling and reporting.* If sampling performed by a user indicates a violation, the user must notify the director of utilities within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director of utilities within thirty (30) days after becoming aware of the violation. The user is not required to resample if the director of utilities monitors at the user's facility at least once a month, or if the director of utilities samples between the user's initial sampling and when the user receives the results of this sampling.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-197. New sewer construction.**

New sewers and new connections shall be properly designed and constructed in accordance with such guidelines as published by the Environmental Protection Agency (reference 40 CFR section 35.927-4) and applicable city and state standards, whichever standard is more restrictive.  
(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-198. Municipal users.**

- (a) Any municipality having or desiring to install a sewer system for the purpose of discharging industrial or domestic waste into the sanitary sewers of the city, or into a sewer system which ultimately discharges into the sanitary sewer system of the city, may do so after approval by the city council and by complying with and adopting this article as its own, securing a permit as described in section 17-186, and paying any applicable tap-on fees as required by the city.
  - (b) Any municipal user as described in subsection (a) of this section shall:
    - (1) Require all new industries desiring to discharge industrial or domestic wastes into that municipality's sewer system, which ultimately discharges into the city system, to obtain written permission from the city before connecting to the sanitary sewers of that municipality. The city shall be provided with a copy of the permit issued and any subsequent permit renewals issued by the municipality to the industry. The city shall have access to the property permitted to discharge by that municipality in accordance with the provisions of subsection 17-193(d).
    - (2) Make a monthly report to the city no later than the fifth day of each month, stating the number of additional customers added to the sanitary sewer system during the preceding month. The report will contain information on the type of customer added and the type of wastewater and volume each customer discharged.
    - (3) Adopt and enforce the entire plumbing code of the state.
    - (4) Show evidence, as may be required by the city, that the municipality is enforcing this article and the plumbing code to the satisfaction of the city.
    - (5) Construct and maintain, as may be required by the city, at its own expense, a metering station with necessary pipes, valves and appurtenances in accordance with the city's specifications and standards at each point of discharge of wastewater into the city's sanitary sewer system. Representatives of the city shall have access to the stations and control of actual meter readings. The sewer charges invoiced by the city to the municipality shall be based on these meter readings.
  - (c) Rates charged by the city to municipalities shall be the same as those charged to sewer users inside the city. Municipalities will be billed for sewer use as described in subsection 17-37(c).
  - (d) Technical services may be rendered by the city to the municipality under a special contractual arrangement.
- (Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)

#### **Sec. 17-199. Public participation; annual publication of significant noncompliance.**

At least annually, the director of utilities shall publish in the largest daily newspaper circulated in the service area, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance in 15A NCAC 2H .0903(b)(10), with applicable pretreatment standards and requirements, during the previous twelve (12) months.  
(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)



**Sec. 17-200. Confidential information.**

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 director of utilities that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

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 agencies for uses related to this chapter, the National pollutant discharge elimination system (NPDES) permit, non-discharge permit and/or the pretreatment programs; provided, however, that 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.

All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request.

(Ord. No. 1995-25, § 3, 5-16-95; Ord. No. 1999-29, 5-18-99)