

Sec. 1-13. - General penalty for violation of Code; continuing violations.

Whenever in this Code or in any ordinance of the county any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do such act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or other ordinance shall be punishable pursuant to G.S. 153A-123. Each day that any violation of this Code or of any ordinance shall continue shall constitute a separate offense.

(Code 1992, § 1-13)

State Law reference— Unless otherwise provided in the ordinance, violation of county ordinances declared a misdemeanor punishable by fine not exceeding \$50.00 or imprisonment not exceeding 30 days, G.S. 14-4; enforcement of ordinances, G.S. 153A-123.

Chapter 6 - ANIMALS

ARTICLE I. - IN GENERAL

Sec. 6-1. - Purpose.

The purpose of this chapter is to:

- (1) Protect the public health, safety and welfare of the residents of the county from dangerous animals under authority of G.S. 153A-131;
- (2) Prevent cruelty to animals pursuant to G.S. 153A-127;
- (3) Provide for sheltering animals under authority of G.S. 153A-442 and G.S. 130A, Art. 6, Part 6 (G.S. 130A-184 et seq.), Rabies; and
- (4) Protect animals and the public from the threat of rabies (hydrophobia) under authority of general statutes relating to rabies contained in public health law and G.S. ch. 67.

(Code 1992, § 3-1; Ord. of 5-16-1994)

Sec. 6-2. - 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:

Animal shelter means any premises operated or designated by the county, by contract or otherwise, as the repository for impounded dogs, cats and other domestic animals impounded pursuant to this chapter.

At large. Any animal shall be deemed "at large" when it is off the property of its owner, off of leased property of its owner, or off of property for which the owner has permission for the animal to be on, and is not under the restraint of the owner or his designee.

Dangerous animal means any animal that has demonstrated a fierce or dangerous propensity or tendency to threaten, attack or endanger any person.

Dangerous dog.

- (1) The term "dangerous dog" means a dog that:
 - a. Without provocation, has killed or inflicted severe injury on a person;
 - b. Is determined by the person or board designated by the county or municipal authority responsible for animal control to be potentially dangerous because the dog has engaged in one or more of the behaviors listed in the potentially dangerous dog definition of this section; or

- c. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting;
- (2) Exceptions. No dog shall be considered dangerous under this definition if, at the time of the threat, injury, attack or damage:
 - a. The person attacked was committing a willful trespass upon the premises of the animal's owner;
 - b. The person attacked was teasing, tormenting, abusing or assaulting the dog, or has in the past teased, tormented, abused or assaulted the dog;
 - c. The person attacked was committing or attempting to commit a crime;
 - d. The dog attacked or injured a pet or domesticated animal in defense of an attack by another animal, or if the dog was protecting or defending its young;
 - e. The dog was being used by a law enforcement officer to carry out the law enforcement officer's official duties, or security company personnel to carry out duties of the security company; or
 - f. The dog was being used in a lawful hunt.

Exposed to rabies. An animal has been exposed to rabies (hydrophobia) within the meaning of this chapter if it has been exposed to any animal known or suspected to have been infected with rabies. For the purpose of this definition, an exposure can be both a bite and a non-bite.

- (1) The term "bite" means any penetration of the skin by the teeth of a rabid or potentially rabid animal.
- (2) The term "non-bite exposures" includes:
 - a. Open wound exposure: introduction of saliva or nerve tissue (i.e., cerebrospinal fluid, brain or spinal cord) from a rabid or potentially rabid animal into an open wound or open break in the skin; this includes scratches where introduction of saliva or nervous tissue cannot be ruled out.
 - b. Mucous membrane exposure: introduction of saliva or nerve tissue (i.e., cerebrospinal fluid, brain or spinal cord) from a rabid or potentially rabid animal onto any mucous membrane (eyes, nose, mouth).
 - c. Bats and other exposures: any interaction with a rabid or potentially rabid animal where a bite, open wound or mucous membrane exposure cannot be definitively ruled out and for which there is a reasonable suspicion or probability of exposure including:
 - 1. Direct physical contact with a bat when a bite or scratch cannot be ruled out;
 - 2. A bat found in the room with a sleeping person;
 - 3. A bat found in a room with an unattended child;
 - 4. A bat found in a room with an intoxicated or mentally compromised person; or
 - 5. A bat found in close proximity to an unattended child outdoors.

Inherently dangerous wild animals.

- (1) The term "inherently dangerous wild animals" applies to the following animals which are inherently dangerous to persons or property and which include, but are not limited to: all felines, other than the domestic house cats (including, but not limited to lions, tigers and leopards), nonhuman primates, bears, wolves, reptiles that are venomous or weigh 25 pounds or more (excluding all turtles), and other non-domesticated carnivores. Not included in this definition are: emus, llamas, ostriches, alpacas and pack animals (as defined in this chapter).
- (2) In order to properly administer the provisions of this chapter, the board may add to or remove from the classification of inherently dangerous wild animal any bird, mammal, reptile, aquatic and amphibious forms, or other members of the animal kingdom. Additions to or deletions from the animals regulated herein may be made only if the board determines, after receiving evidence, that such animals because of habit, mode of life or natural instinct are either capable or incapable of being domesticated, require the exercise of art, force or skill to keep them safely in subjection, and would or would not create a reasonable likelihood of hazard to the public.

Kennel means any facility which houses, for compensation, domestic animals, including, but not limited to, dealers, breeders, veterinarians or pet shops.

Neutered or spayed animal means any male or female animal that has been permanently rendered incapable of reproduction, regardless of method.

Nuisance means an animal or group of animals considered to be a nuisance if it:

- (1) Interferes with, molests, or attacks persons or other animals;
- (2) Chases, snaps at, harasses, or impedes pedestrians, bicyclists, or vehicles;
- (3) Due to its actions, it has been demonstrated to be dangerous to the public health, safety or welfare;
- (4) Is diseased and dangerous to the public health; or
- (5) Does not have a valid rabies vaccination tag.

Owner means any person, group of persons, firm, partnership or corporation having a controlling property interest in any animal, or persons responsible for the care, custody and control of any animal. In the event that the owner or keeper of an animal is a minor, the parent or guardian of such minor shall be held accountable for noncompliance with this chapter. Keeping or feeding an animal for more than 48 hours shall constitute prima facie evidence that a person has the care, custody and control of such animal.

Pack animal means a working animal used by humans as means of transporting materials by attaching them so their weight bears on the animal's back. The term "pack animal" includes but is not limited to elephants, camels, yak, reindeer, goats, llama, and domesticated Equidae (horse family).

Potentially dangerous dog means a dog that the person or board designated by the county or municipal authority responsible for animal control determines to have:

- (1) Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization;
- (2) Killed or inflicted severe injury upon a domestic animal or livestock when not on the owner's real property; or
- (3) Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

Restraint. Any animal is under restraint within the meaning of this chapter if it:

- (1) Is controlled by means of a chain, leash, electronic device, or other tether;
- (2) Is within or on a vehicle driven or under the control of the owner or his agent;
- (3) Is locked within a secure enclosure and cannot exit without assistance;
- (4) Is locked within the dwelling or outbuildings of the owner and cannot exit without assistance; or
- (5) Is under voice control.

(Code 1992, § 3-2; Ord. of 5-16-1994; Ord. of 12-15-1997; Ord. of 6-7-2010; Ord. of 5-6-2013; Ord. of 1-4-2016)

Sec. 6-3. - Establishment of the animal control program.

The county animal control program is hereby created and shall be housed in the county sheriff's office. The county sheriff shall be responsible for the administration of the program and shall utilize such employees as are funded by the county board of commissioners as necessary and feasible to administer the program.

(Code 1992, § 3-3; Ord. of 5-16-1994)

Sec. 6-4. - Sheriff.

The sheriff shall direct such employees as are assigned to the animal control program in its administration. In the performance of their animal control duties, employees shall have all the powers, authority and immunity granted under this chapter and the laws of the state in enforcing this chapter and state animal control laws, including, but not limited to, rabies, and other laws regulating the care, treatment, control and impoundment of animals. The sheriff shall collaborate with the county health director in administering the provisions of this chapter and state laws governing rabies control and the responsibilities of the health director for such as provided therein.

(Code 1992, § 3-4; Ord. of 5-16-1994)

Sec. 6-5. - Employees' duties.

- (a) The employees of the animal control program shall:
- (1) Have the responsibility, along with law enforcement officers, to enforce all laws of the state and all ordinances of the county pertaining to animals and shall cooperate with all law enforcement officers within the county in fulfilling that duty.
 - (2) Enforce and carry out all laws of the state and all ordinances of the county pertaining to rabies control in collaboration with the health director.
 - (3) Be responsible for the investigation of all reported animal bites, for the quarantine of any dog, cat or ferret involved and suspected of having rabies for a period of not less than ten days, and for reporting to the health director as soon as practicable the occurrence of any such animal bite. Employees shall monitor the condition of any quarantined animal on a daily basis. Any animal, other than a dog, cat or ferret, determined to have symptoms of rabies shall be destroyed and tested.
 - (4) Be responsible for the seizure and impoundment, where deemed necessary, of any dog or other animal in the county subject to seizure or impoundment under this chapter or state law.
 - (5) Investigate cruelty or abuse with regard to animals; animals must have adequate food, water and shelter as observed by the investigating animal control officer or local law enforcement officer.
 - (6) Keep or cause to be kept accurate and detailed records of:
 - a. Seizure, impoundment, and disposition of all animals coming into the animal control program;
 - b. Bite cases, violations and complaints, and investigation of same; and
 - c. All monies belonging to the sheriff's department or county which were derived from fees, penalties, sales of animals, or other sources.
- (b) Animal control officers shall be empowered to issue criminal citations and civil notices of violation of this chapter, or state animal control laws.

(Code 1992, § 3-5; Ord. of 5-16-1994; Ord. of 1-4-2016)

Sec. 6-6. - At large; exemption for hunting, training.

It shall be unlawful for any owner or keeper of a dog or cat to allow it to run at large in the county. Hunting dogs shall be exempt from the provisions of this section, while engaged in hunting or training, as long as they are under the supervision of the owner or keeper.

(Code 1992, § 3-6; Ord. of 12-15-1997; Ord. of 1-4-2016)

Sec. 6-7. - Identification tag.

It shall be unlawful for a dog owner to own a dog that is not fitted with an ID tag displaying the owner's name and phone number on the collar of the dog. The ID tag shall be worn at all times and shall serve as prima facie evidence of ownership of a dog. Violation of this section shall be a Class 3 misdemeanor punishable by a fine of no less than \$50.00 and not more than \$500.00.

(Code 1992, § 3-7; Ord. of 6-7-2010)

Sec. 6-8. - Unlawful removal or destruction of identification articles.

It shall be unlawful to remove or destroy any identifying articles including collars, tattoos, tags, microchips or any other article used to prove ownership of a dog. Violation of this section shall be a Class 3 misdemeanor punishable by a fine of no less than \$50.00 and not more than \$500.00.

(Code 1992, § 3-8; Ord. of 6-7-2010)

Secs. 6-9—6-34. - Reserved.

ARTICLE II. - DANGEROUS DOGS

Sec. 6-35. - Determination of dangerous dogs; exception; violation.

- (a) It shall be unlawful for any owner or other person to possess or harbor a dangerous dog, as defined in this chapter, within the county.
- (b) Determination of potentially dangerous dog.
 - (1) The sheriff shall be responsible for determining a dog to be a potentially dangerous dog.
 - (2) The county animal shelter board shall serve as the appellate board to the determination of a potentially dangerous dog by the sheriff.
 - (3) The potentially dangerous dog determination process and appeals will be followed pursuant to G.S. 67-4.1(c).
 - (4) All dogs determined to be potentially dangerous dogs are considered dangerous dogs for the purpose of this section (G.S. 67-4.1(a)).
- (c) Exception. A dog determined to be a dangerous dog may be kept within the county subject to each of the following requirements:
 - (1) Such dogs shall be kept, secured and restrained while on the real property of the person owning, keeping or harboring it in the following ways:
 - a. In a building with doors, windows and other exits securely fastened shut;
 - b. While outside the residence/building, the dog will be securely kept in a locked enclosure which has secured sides, top and bottom and is constructed out of materials and in a manner which will preclude escape by the dog and prevent entry of small children; or
 - c. While outside the building or enclosure described above, securely leashed with a leash no longer than four feet in length in the hands of and under the control of a responsible and competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
 - (2) No person owning, keeping or harboring such a dog shall remove such a dog from the real property of such person except to bring such dog to a veterinarian or to the animal shelter, to remove such dog permanently from the territorial jurisdiction of this chapter, or to provide bona fide exercise necessary for the dog's continued good health. In the event of such removal, such dog shall be securely restrained or enclosed as set forth above for dogs being maintained outside buildings.
 - (3) Such dog shall be sterilized within 30 days of the date the dog was declared dangerous by the sheriff or if the declaration by the sheriff is timely appealed, then such sterilization shall occur within 30 days of the date the appeals board determines the dog is dangerous.
 - (4) Signage. Any owner of a dangerous dog shall erect a sign (two feet by two feet) on the enclosure housing of said dog or posted in a conspicuous location in the front yard if the dog is being housed inside a residence which shall read:

BEWARE OF DOG
THIS DOG IS DANGEROUS
STAY AWAY!

- (5) If the owner of a dangerous dog transfers ownership or possession of the dangerous dog to another person (as defined in G.S. 12-3(6)), the owner shall provide written notice to the authority that made the determination under this article, stating the name and address of the new owner or possessor of the dog; and the person taking ownership or possession of the dog. Such notice shall specify the dog's dangerous behavior and the authority's determination.

- (d) Violation of this section is a Class 3 misdemeanor.

(Code 1992, § 3-9; Ord. of 1-4-2016)

Secs. 6-36—6-58. - Reserved.

ARTICLE III. - RABIES CONTROL

Sec. 6-59. - Compliance with state rabies laws; supplemental to state rabies laws.

- (a) It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.
- (b) It is the purpose of this article 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.

(Code 1992, § 3-10; Ord. of 5-16-1994)

Sec. 6-60. - Vaccination of dogs, cats and other pets.

- (a) It shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies (hydrophobia) for any dog, cat or ferret four months of age or older. Should it be deemed necessary by the health director or the board of health that other pets be vaccinated in order to prevent a threatened epidemic or to control an existing epidemic, it shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies for that pet.
- (b) A rabies vaccination shall be deemed "current" if the vaccination has been given which was appropriate for the species and the vaccination has not expired according to guidelines of the commission for health services of the state.
- (c) All rabies vaccines administered by certified rabies vaccinators employed by the county shall be paid for at a rate set by the county board of commissioners unless it is part of a free rabies clinic sponsored by the county or another outside entity.

(Code 1992, § 3-11; Ord. of 5-16-1994; Ord. of 6-7-2010; Ord. of 1-4-2016)

Sec. 6-61. - Vaccination tag and certificate.

- (a) There shall be issued to the owner or keeper of the dog, cat or ferret vaccinated a rabies tag, stamped with a number and the year for which issued, and a rabies vaccination certificate.
- (b) It shall be unlawful for any dog owner or keeper to fail to provide the dog with a collar or harness to which a current rabies tag issued under this section is securely attached. Cats and ferrets shall be exempt from wearing rabies vaccination tags.
- (c) In addition to all other penalties as prescribed by law, a dog, cat or ferret is subject to impoundment in accordance with the provisions of this chapter if the dog, cat or ferret 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 an animal other than the one

using the tag.

- (e) All dogs, cats or ferrets shipped or otherwise brought into this county, except for exhibition purposes where the dogs, cats or ferrets are confined and not permitted to run at large, shall be securely confined and vaccinated within one week after entry, and shall remain confined for two additional weeks after vaccination unless accompanied by a certificate issued by a licensed veterinarian showing that such dog, cat or ferret is apparently free from rabies and has not been exposed to rabies or that such dog, cat or ferret has received a proper dose of rabies vaccine as evidenced by a current rabies vaccination tag or certificate.

(Code 1992, § 3-12; Ord. of 5-16-1994; Ord. of 1-4-2016)

Sec. 6-62. - 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 parent or guardian if such person is a minor, and the person owning such animal or having the same in his possession or under his control, to notify the health director, or person duly authorized by the health director, immediately, and give their names and addresses; and the owner or person having a dog or cat in his possession or under his control shall immediately securely confine it for ten days at the expense of the owner in such place as may be designated by the health director. Animals other than dogs or cats having rabies or suspected of having rabies shall be euthanized and tested, unless the health director authorizes the animal to be kept indoors in an enclosed pen, or outside in an enclosed pen with one-half-inch mesh hardware cloth, in such a way as to preclude all animal contact for a period of six months from the date of exposure. It shall be the duty of every physician, after his first 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 24 hours after first having knowledge that the person was bitten. If the owner of, or a person who has in his possession or under his control, an animal having rabies or suspected of having rabies refuses to confine the animal as required by this chapter or by G.S. 130A-184 et seq., the health director may order seizure of the animal.
- (b) Law enforcement agencies investigating animal bites shall report such bites immediately to the health director or person duly authorized by the health director and give the names and addresses of persons bitten and the owner of the animal. Animals confined per subsection (a) of this section shall not be released from confinement except by permission from the health director prior to the ten-day mandatory confinement.
- (c) Animals confined per subsection (a) of this section shall be confined at the expense of the owner or keeper.
- (d) In cases of bites by an animal whose owner or keeper is not known, the animal shall be kept for the supervised confinement period required by this chapter at the animal shelter, or euthanized and tested at the discretion of the health director.
- (e) Badly wounded, diseased, or suffering animals which are suspected of having rabies may be humanely destroyed immediately and the head forwarded to the laboratory section of the state division of public health for examination.

(Code 1992, § 3-13; Ord. of 5-16-1994)

Sec. 6-63. - Destruction or confinement of animal bitten by a known rabid animal.

Animals not vaccinated against rabies which are bitten by a known rabid animal shall be immediately destroyed, unless the owner or keeper agrees to strict isolation of the animal at a facility approved by the local health director for a period up to six months, and under reasonable conditions imposed by the local health director.

(Code 1992, § 3-14; Ord. of 5-16-1994; Ord. of 1-4-2016)

Sec. 6-64. - Area-wide emergency quarantine.

- (a) When reports indicate a positive diagnosis of rabies to the extent that lives of persons are endangered, the health director may declare an area-wide quarantine for such period as deemed necessary. Upon the 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 sheriff, law enforcement officers, or persons duly authorized by the sheriff may seize and impound any dog or cat found running at large in the county. During the quarantine period, the health director shall be empowered to collaborate with the sheriff to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination facilities strategically located throughout the county.

- (b) In the event there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended at the discretion of the health director.

(Code 1992, § 3-15; Ord. of 5-16-1994)

Sec. 6-65. - Postmortem diagnosis.

- (a) If an animal dies while under observation for rabies, the head of such animal shall be submitted to the laboratory section of the state division of health services for rabies diagnosis.
- (b) The carcass of any animal suspected of dying of rabies shall be surrendered to the sheriff's department. The head of such animal shall be shipped to the laboratory section of the state division of public health for rabies diagnosis.

(Code 1992, § 3-16; Ord. of 5-16-1994)

Sec. 6-66. - Unlawful killing or releasing of certain animals.

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 to remove such animal from the county without written permission from the health director, provided that a licensed veterinarian or the health director, or persons duly authorized by the health director, may authorize any such animal to be killed for rabies diagnosis.

(Code 1992, § 3-17; Ord. of 5-16-1994)

Sec. 6-67. - Failure to surrender animal for confinement or destruction.

It shall be unlawful for any person to fail or refuse to surrender any animal for confinement or destruction as required in this chapter, when demand is made therefor by the health director or sheriff.

(Code 1992, § 3-18; Ord. of 5-16-1994)

Secs. 6-68—6-92. - Reserved.

ARTICLE IV. - IMPOUNDMENT

Sec. 6-93. - Conditions for impoundment.

- (a) Any animal which constitutes a nuisance as defined by this chapter, or is not wearing a currently valid rabies vaccination tag, or is alleged to be in violation of this chapter or subject to seizure or impoundment under state law or this chapter, may, in the discretion of the sheriff or his designee, be seized, impounded, and confined in a humane manner in an animal shelter.
- (b) Impoundment of such an animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this chapter.

(Code 1992, § 3-19; Ord. of 5-16-1994)

Sec. 6-94. - Notice to owner or keeper.

- (a) Upon impounding an animal, notice of such impoundment shall be posted for a minimum of 72 hours on a site

designated by the health department, beginning with the time the animal enters the animal shelter, or until the animal is disposed of. Reasonable effort shall be made to identify the owner or keeper and inform such owner or keeper of the conditions whereby the animal may be redeemed. Shelter staff will scan each animal for a microchip as soon as the animal is impounded or within 24 hours of impoundment.

- (b) The owner of any animal seized pursuant to a search warrant will have 14 days to claim the animal or the animal's ownership will be forfeited to animal control.

(Code 1992, § 3-20; Ord. of 5-16-1994; Ord. of 1-4-2016)

Sec. 6-95. - Redemption by owner or keeper generally.

- (a) The owner or keeper of an animal impounded under this chapter may redeem the animal and regain possession thereof within 72 hours after notice of impoundment is posted as required by this chapter and complying with all applicable provisions of this chapter by paying any applicable fees as determined by the board of county commissioners.
- (b) No animal owner or keeper may be permitted to adopt his own animal under the provisions of this chapter, but he must comply with the provisions of this chapter in order to reclaim an animal that has been impounded pursuant to state law or this chapter.
- (c) A hunting dog wearing a valid rabies vaccination tag may not be impounded under this chapter for being at large while training or engaged in a hunt. Provided, however, that the dog and the owner or keeper of such hunting dog are otherwise in compliance with the provisions of this chapter and that the impoundment occurred during a lawful wildlife hunting season or training of the dog out of season and the use of hunting dogs is permitted for such season or training. No such animal may be released if it is impounded under the rabies provisions of this chapter or state law, or has been found to be a dangerous dog under this chapter.

(Code 1992, § 3-21; Ord. of 5-16-1994)

Sec. 6-96. - Adoption or disposition of unredeemed animal.

- (a) If an impounded animal is not redeemed by the owner or keeper within a period of not less than 72 hours of impoundment, as established by general statute, it shall become the property of the animal shelter and offered for adoption to a responsible adult who is willing to comply with this chapter and with policies promulgated by the board of county commissioners, or such animal may be humanely euthanized.
- (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 invoked pursuant to this chapter, except by special authorization of the health director.

(Code 1992, § 3-22; Ord. of 5-16-1994; Ord. of 1-4-2016)

Sec. 6-97. - Vaccination of sheltered animals.

All animals adopted or redeemed will be vaccinated prior to release if over 12 weeks of age unless proof of rabies is provided.

(Code 1992, § 3-23; Ord. of 1-4-2016)

Sec. 6-98. - Immediate placement for adoption or destruction of owner-surrendered animals.

- (a) Any animal surrendered by its owner to the animal shelter division of the health department or animal control division of the sheriff's office may be immediately placed for adoption or humanely destroyed when:
 - (1) The owner affirmatively represents in writing that he is in fact the legal owner of such animal;
 - (2) The owner directs in writing that the animal be placed for adoption or humanely destroyed;
 - (3) The owner agrees that he will indemnify and hold the health department and sheriff's office harmless from any loss or damage it may sustain, including attorneys' fees, by reason of the destruction or placement for adoption of such

animal; and

(4) The owner transfers ownership of such animal to the health department and sheriff's office and releases the health department and sheriff's office from any and all future claims with respect to the animal.

(b) Upon receiving such assurances, the health department and sheriff's office may rely on the same and place such animal for adoption, or destroy such animal, as it sees fit.

(Code 1992, § 3-24; Ord. of 5-16-1994; Ord. of 1-4-2016)

Sec. 6-99. - Handling of stray animals by the public.

It shall be unlawful for any person, without the consent of the owner or keeper, knowingly and intentionally to harbor, keep in possession by confinement or otherwise, any animal that does not belong to him. Any person in possession of a stray animal shall contact the county animal control within 24 hours to arrange for impoundment. If the person possessing or harboring does not want the animal taken to the shelter, he must provide a clear photo and description of the animal, along with the location the animal is being held, to the county animal shelter within 24 hours. They are required to hold the animal for seven consecutive days and must provide proof they have made reasonable attempts to locate the owner.

(Code 1992, § 3-25; Ord. of 1-4-2016)

Sec. 6-100. - Destruction of wounded, diseased, or unweaned animals.

Notwithstanding any other provision of this chapter, any animal seized and impounded which is badly wounded, diseased (not a rabies suspect), or not weaned and has no identification shall be destroyed immediately in a humane manner. If the animal has identification, the sheriff's office and/or health department shall attempt to notify the owner or keeper before disposing of such animal. If the owner or keeper cannot be reached readily, and the animal is suffering, the sheriff's office and/or health department may destroy the animal at its discretion in a humane manner.

(Code 1992, § 3-26; Ord. of 5-16-1994; Ord. of 1-4-2016)

Sec. 6-101. - Destruction of animals which cannot be seized by reasonable means.

Notwithstanding any other provision of this chapter, an animal which cannot be seized by reasonable means may be humanely destroyed by order of the sheriff or person duly authorized by the sheriff.

(Code 1992, § 3-27; Ord. of 5-16-1994)

Secs. 6-102—6-130. - Reserved.

ARTICLE V. - INHERENTLY DANGEROUS WILD ANIMALS

Sec. 6-131. - Prohibited.

(a) It shall be unlawful for any owner or other person to possess or harbor an inherently dangerous wild animal, as defined in this chapter, within the county.

(b) Exemptions. The following exemptions shall apply:

- (1) Zoos (as defined by NAICS 712130) shall be exempt from this section but must comply with other applicable county ordinances and policies.
- (2) Circuses, fairs, and other temporary events (as defined in the UDO, appendix 1 of this Code) that include the use of inherently dangerous wild animals exempt from this section but must comply with other applicable county ordinances and policies.

(Code 1992, § 3-28; Ord. of 5-6-2013; Ord. of 1-4-2016)

Secs. 6-132—6-160. - Reserved.

ARTICLE VI. - ENFORCEMENT

Sec. 6-161. - Interference with enforcement.

It shall be unlawful for any person to interfere with, hinder or molest the employees of the health department or animal control officers or persons duly authorized by this chapter, or seek to release any animal in the custody of such persons, except as otherwise specifically provided.

(Code 1992, § 3-29; Ord. of 5-16-1994; Ord. of 1-4-2016)

Sec. 6-162. - Penalty for violation.

- (a) The violation of any provision of this chapter shall be a Class 3 misdemeanor punishable by a fine of no less than \$50.00 and no more than \$500.00, and any person convicted of such violation shall be punished as provided in G.S. 14-4. Each day's violation of this chapter is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of his liability for taxes or fees imposed by this chapter.
- (b) In addition, enforcement of this chapter may be by appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to G.S. 153A-123(d) and (e).
- (c) In addition to and not in lieu of the criminal penalties and other sanctions provided in this chapter, a violation of this chapter may also subject the offender to the civil penalties hereinafter set forth:
 - (1) Upon observing a violation, the animal control officer may issue a warning notice for first violation or may issue a civil citation.
 - (2) Such citation shall:
 - a. State upon its face that a civil penalty in the amount of \$50.00 has been imposed and shall specify the specific violation charged.
 - b. Inform the alleged offender that failure to pay civil penalty may result in issuance of a criminal citation for misdemeanor for violation of this article.
 - c. Inform the alleged offender that they may answer the notice by mailing such notice and stated penalty to the sheriff at the mailing address provided, or may request a hearing before the sheriff to contest the civil penalty.
 - (3) The sheriff is authorized to accept such payments in full and final settlement of the claim or rights of action which the county may have to enforce such penalty by civil action in the nature of debt. Acceptance of such penalty shall be deemed a full and final release of any and all such claims, or rights of action arising out of such contended violation.
 - (4) The notice of violation referred to herein may be delivered to the person violating the provisions of this chapter in person, or may be mailed to such person at his last known address.
 - (5) All penalties paid to the sheriff or as may be recovered on a civil action in the nature of debt as herein provided shall be paid into the general fund of the county.

(Code 1992, § 3-30; Ord. of 5-16-1994; Ord. of 12-15-1997; Ord. of 6-7-2010; Ord. of 1-4-2016)

ARTICLE III. - ALARM SYSTEMS

Sec. 10-42. - 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:

Alarm system means any electronic or mechanical device transmitting an alarm signal outside the premises where the alarm is installed, which is intended to alert law enforcement personnel to an actual or attempted unauthorized entry into a building or to the commission or attempted commission of a crime; or to alert the fire department of a fire. The definition shall include, but not be limited to, "silent," audible and direct telephone direct dialer alarms.

Communications center means the county central dispatch located within the county law enforcement center.

County shall mean Pender County, North Carolina, a political subdivision of the State of North Carolina.

False alarm means an alarm signal communicated to the county sheriff's department indicating that an unlawful entry or other crime is being committed or attempted, when it is subsequently determined, after response to the alarm, that no such unlawful entry or crime was committed or attempted and the alarm was activated in error due to the subscriber's negligence or equipment malfunction. Such alarm shall be considered a false alarm if it could have been prevented by the ordinary care of a competent subscriber or alarm business operator. An alarm transmitted during testing procedures approved in advance by the sheriff's department shall not be deemed a false alarm.

Person means any individual or association of individuals, or any firm, corporation or other business entity.

Sheriff means the sheriff of the county or his designee.

Subscriber means any person, corporation, partnership or other entity owning or leasing an alarm system.

(Code 1992, § 9-1; Ord. of 7-18-1994, § 1)

Sec. 10-43. - Applicability.

The provisions of this article shall apply to the unincorporated portions of the county and those incorporated municipalities which have entered into an agreement with the county for the sheriff to respond to alarms within that municipality pursuant to G.S. 153A-122.

(Code 1992, § 9-2; Ord. of 7-18-1994, § 1)

Sec. 10-44. - Communications center monitored alarms; fees.

Any subscriber who wishes to have their alarm system directly wired and monitored at the communications center shall be assessed a \$100.00 annual user fee. This fee shall be paid on or before January 1 of the year in which alarm monitoring is sought, before any monitoring occurs. At the time monitoring is requested, the subscriber shall fill out an application providing the name, address of the alarm company involved and the telephone numbers of a contact person, and the subscriber's name, address and the telephone numbers of a contact person.

(Code 1992, § 9-3; Ord. of 7-18-1994, § 1)

Sec. 10-45. - Enforcement; penalties.

- (a) All duly sworn law enforcement officers of the county shall be charged with enforcement of this article.
- (b) Violation of this article shall constitute a misdemeanor and subject the offender to a \$50.00 fine and imprisonment for up to 30 days for each violation pursuant to G.S. 14-4.
- (c) In addition to any other penalty, violators shall be subject to a civil penalty of \$50.00 for each violation. Failure to pay such penalty within ten days of written notification of the civil penalty shall result in one or more of the following:
 - (1) An additional penalty of \$25.00 for each day the original civil penalty remains delinquent and unpaid.
 - (2) The county may file a civil action in the nature of an action for debt to recover any unpaid civil penalty imposed.

(Code 1992, § 9-4; Ord. of 7-18-1994, § 1)

Sec. 10-46. - Regulations and duties of alarm subscribers.

- (a) The subscriber shall provide the sheriff's department communications center with an up-to-date emergency listing that will include at least three telephone numbers of individuals to be called in the event the alarm is activated. The subscriber shall notify the sheriff's department communications center whenever there is a change in the individuals responsible or telephone numbers to be called in event of alarm activation.
- (b) The subscriber will respond to periodic inquiries about the alarm system mailed or otherwise delivered to the subscriber by the sheriff's department personnel. Inquiries may include, but shall not be limited to, verification of the alarm's emergency listing, changes in personnel, or any other subject the sheriff's department deems necessary for the safe and efficient operation of alarm systems located within the county.
- (c) The subscriber shall notify the sheriff's department communications center prior to any test alarm that the subscriber or his representative intentionally activates.
- (d) The subscriber, upon being notified that the alarm system has been experiencing an excessive number of false alarms or has in some way become defective, shall have the alarm system inspected and repaired by a qualified individual or company to correct the malfunction, restore the system to proper function, and will notify the communications center when necessary repairs are completed.
- (e) The subscriber or his representative shall respond to an alarm call when there is evidence of an illegal entry or some other alarm indication and, when possible, assist the law enforcement personnel in the performance of their duties.
- (f) The subscriber shall not install, purchase, lease or otherwise maintain any device which dials a telephone number with the communications center, or the sheriff's department, unless the department has executed an agreement and paid the fees set forth in section 10-44, and no such device shall call any telephone number other than those designated for automatic dialing devices.
- (g) No person or subscriber shall install, purchase, lease or otherwise maintain any audible alarm device, when located within close proximity to a residential area, which emits an audible alarm signal for a period in excess of 30 minutes. Such alarms may be permitted if it is demonstrated in writing that a longer period is required by a state or federal regulatory body, or insurance regulations.
- (h) No subscriber shall intentionally activate a false alarm for any purpose other than notification of an emergency, unlawful entry, or the commission or attempted commission of a crime.

(Code 1992, § 9-5; Ord. of 7-18-1994, § 1)

Sec. 10-47. - Regulations and duties of alarm companies.

- (a) Alarm companies or installers shall not install, sell or lease any automatic dialing device which dials a telephone number within the communications center or the sheriff's department other than telephone lines designated for that purpose by the sheriff's department.
- (b) All installed alarms must be provided with a no-fault system to prevent unnecessary false alarms or equipment problems.
- (c) The installer or any other person responsible for the alarm shall remove any alarm from the communications center when directed to do so by the sheriff's department.
- (d) The installer or other person responsible for the installation of an alarm system shall ensure that all audible alarm systems in close proximity to residential areas are designed to discontinue the audible alarm not more than 30 minutes after activation. Such alarms may be permitted if it is demonstrated in writing that a longer period is required by a state or federal regulatory body, or insurance regulations.

(Code 1992, § 9-6; Ord. of 7-18-1994, § 1)

Sec. 10-48. - False alarms.

- (a) False alarms, as defined herein, resulting from an alarm system, whether tied into the communications center or not, constitute a violation of this article and constitute a public nuisance.
- (b) Any person installing, owning, leasing, or otherwise operating or maintaining an alarm system which suffers three or more preventable false alarms of the same alarm system within a six-month period, shall be in violation of this article and shall be subject to the penalties set forth in section 10-45 for each false alarm after the second. Any person dissatisfied with any civil penalty imposed as a result of a false alarm may appeal such civil penalty to the county sheriff within ten days of the written notice of the civil penalty. Provided, however, that no alarm will be considered false if the alarm owner or subscriber calls the sheriff's department and reports an erroneous alarm immediately upon activation.

(Code 1992, § 9-7; Ord. of 7-18-1994, § 1)

Secs. 10-49—10-69. - Reserved.

ARTICLE IV. - SALVAGE YARDS

Sec. 10-70. - Title.

This article is entitled and shall be known as the "Pender County Salvage Yard and Abandoned Vehicle Ordinance."

(Code 1992, § 9-81; Ord. of 11-4-1994, § 1)

Sec. 10-71. - Purpose.

The purpose of this article is:

- (1) To protect the citizens and residents of the county from threats to their health, safety and welfare resulting from automobile salvage yards, abandoned motor vehicles and materials associated with them.
- (2) To preserve the dignity and beauty of the county and its environment.
- (3) To protect property values in the county from diminution as a result of illegal automobile salvage yards and abandoned motor vehicles.

(Code 1992, § 9-82; Ord. of 11-4-1994, § 1)

Sec. 10-72. - 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:

Church means a building used for regular worship and religious services.

Enclosed building means any structure with permanent walls within which a vehicle may be stored without being exposed to public view, except through a glazed window or door capable of being closed.

Garage means an establishment maintained and operated and holding itself as being in the business of making mechanical and body repairs to motor vehicles.

Junk includes, but shall not be limited to, scrapped metal, rope, rags, batteries, appliances, paper, trash, rubber, dismantled or wrecked motor vehicles or motor vehicle parts, or other iron, steel, or other scrap material, and plastics.

Motor vehicles means those vehicles defined in G.S. 20-4.01(23) as that section may be from time to time amended.

Repair shop means an establishment which is maintained and operated for the purpose of repairing, storing, keeping, buying or selling appliances, or equipment other than motor vehicles and which stores or keeps any of such appliances or equipment outside the shop building.

Salvage yard means any real property which is maintained, operated, used or held out to be used in the business of storing, keeping, buying, or selling junk, either independently or in conjunction with any establishment located on the same or another parcel of realty, including any property on which five or more inoperable, or partially dismantled motor vehicles, or motor vehicles without current valid registration are located outside an enclosed building. The term "salvage yard" shall not be construed to apply to county solid waste convenience centers or transfer stations.

Service station means any establishment which is maintained and operated for the purpose of making retail sales of fuel, lubricants, air, water and other items for the operation and routine maintenance of motor vehicles, or for making mechanical repairs, servicing or washing motor vehicles, and which is not used to store more than six motor vehicles outside an enclosed building, which are not capable of being driven under their own power and have not been operable for more than 30 days.

(Code 1992, § 9-83; Ord. of 11-4-1994, § 1)

Sec. 10-73. - Exceptions.

This article shall not apply to vehicles in enclosed buildings, or bona fide farms; provided, however, that this article may be applied to any property maintained, operated, used or held out to be used in the business of storing, keeping, buying, or selling junk, either independently or in conjunction with any establishment located on the same or another parcel of realty, including those uses as bona fide farms.

(Code 1992, § 9-84; Ord. of 11-4-1994, § 1)

Sec. 10-74. - Removal and disposal of abandoned or junked vehicles.

- (a) Pursuant to G.S. 153A-132, the county prohibits the abandonment of motor vehicles on public grounds and private property within the county's jurisdiction. The county may remove and dispose of such junked and abandoned vehicles as set forth in G.S. 153A-132, which is incorporated herein by reference.
- (b) Motor vehicles which are inoperable and which have no current registration or license tag shall not be left on public or private property for more than 90 days unless such vehicle is effectively screened from view from public roads adjoining such property. Such screening may be the topography of the property, vegetation, buildings or any other object which effectively screens such vehicle from view from public roads adjoining the property. Failure to screen or remove such vehicle within 30 days of notice of violation shall constitute a violation of this article.

(Code 1992, § 9-85; Ord. of 11-4-1994, § 1)

Sec. 10-75. - Salvage yard regulations.

All new and existing salvage yards established hereunder shall be operated in accordance with the following conditions:

- (1) Each automobile salvage yard shall be effectively screened from view by topography, or a fence and vegetative buffer as set forth in this section.
- (2) The vegetative buffer shall be planted along the road frontage of the salvage yard. The vegetative buffer shall be of a type that will reach a minimum height of eight feet within eight years from the date planted and shall be planted at evenly spaced intervals and in close proximity to each other in order that a continuous, unbroken hedgerow without gaps or open spaces will be created at least eight feet high along the road frontage of the salvage yard.
- (3) The vegetative buffer shall be maintained as a hedgerow for the period the property is used as a salvage yard, to the effect that the vegetative buffer shall be maintained until the vehicles and parts are removed from the site.
- (4) Each owner or operator of a salvage yard shall utilize good husbandry techniques, including but not limited to,

pruning, mulching, and fertilization to ensure that the vegetative buffer is maintained at eight feet in height.

- (5) Dead or diseased foliage shall be repaired or replaced at the next regular planting season.
- (6) All operations, equipment, junk, appliances and inoperable motor vehicles shall be kept within the confines of the area which is effectively screened from view from the road.

(Code 1992, § 9-86; Ord. of 11-4-1994, § 1)

Sec. 10-76. - Remedies and penalties for violations.

- (a) The county or any person aggrieved by any salvage yard operated in violation of this article, in addition to any other remedy, may institute an action in the general court of justice for injunctive relief, or abatement commanding the defendant to abate the violation. Any court hearing an action to enforce the provisions of this article may as a part of its judgment direct that the business cease operations, that buildings be closed, that improvements or repairs be made, that vehicles and junk be removed and demolished, or any other action the court deems appropriate be taken to bring the defendant into compliance with this article. If any defendant fails or refuses to comply with any injunction, order of abatement or other appropriate lawful order within the time allowed, the court may cite the defendant for contempt or make any other sanctions it deems appropriate to remedy the violation. In the event an abatement is ordered, and the county is required to execute it, it shall have a lien on the property in the nature of a mechanic's and materialman's lien, for the costs of executing the order. The defendant may cancel the abatement by paying all costs of the proceedings, including without limitation, attorney fees, and by posting bond to ensure compliance with the court's orders. The bond shall be given with sureties approved by the county clerk of superior court in an amount approved by the court, and shall be conditioned upon the defendant's full compliance with the court's order.
- (b) Any person, firm, corporation or other legal entity maintaining or controlling the ownership or operation of a salvage yard in violation of this article shall be guilty of a misdemeanor and subject to prosecution, and if convicted, shall be punished in accordance with the provisions of G.S. 153A-123 and 14-4. Each day of operation of a salvage yard in violation of this article shall constitute a separate violation for which a new conviction may be imposed.
- (c) In addition to any other remedies set forth herein, any violation of this article subjects the offender to civil penalty in the amount of \$50.00 per day for each day's violation. The civil penalty shall be in the nature of a debt and may be recovered in a civil action if the defendant does not pay the penalty on a timely basis.

(Code 1992, § 9-87; Ord. of 11-4-1994, § 1)

Sec. 12-33. - Regulation to prohibit price gouging.

- (a) The declaration may impose regulations relating to the sales price of goods and the cost of services to prevent "price gouging." The term "price gouging," as it relates to the sales price of goods, is defined as the sale of goods at a price above the pre-emergency level, unless the merchant can document purchase of the goods at an increased cost. The term "price gouging," as it relates to the cost of services, is defined as the providing of such services at a cost greater than that customarily charged for such services in a non-emergency situation unless the contractor can document special circumstances or expenses justifying a higher cost. Any restrictions imposed under this subsection shall extend for a period of 90 days following the date of the declaration of the state of emergency unless sooner terminated or extended by subsequent declaration or resolution.
- (b) A violation of this section shall constitute a misdemeanor punishable by a fine not to exceed \$500.00, or imprisonment not exceeding 30 days.

(Ord. of 8-21-2000, att.)

ARTICLE III. - WATERSHED PROTECTION

DIVISION 1. - GENERALLY

Sec. 14-125. - Authority and enactment.

The legislature of the state has, in G.S. ch. 153A, art. 6, section 121, general ordinance authority, and in G.S. ch. 143, art. 21, watershed protection rules, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The governing board of the county does hereby ordain and enact into law the following provisions as the "Watershed Protection Ordinance of Pender County."

(Code 1992, § 6-151; Ord. of 12-20-1993, § 101)

Sec. 14-126. - Jurisdiction.

The provisions of this article shall apply within the areas designated as a public water supply watershed by the state environmental management commission and shall be defined and established on the map entitled, "Watershed Protection Map of Pender County, North Carolina" (the "watershed map"), which is adopted simultaneously herewith. The watershed map and all explanatory matter contained thereon accompanies and is hereby made a part of this article. This article shall be permanently kept on file in the office of the clerk to the county board of commissioners.

(Code 1992, § 6-152; Ord. of 12-20-1993, § 102)

Sec. 14-127. - Exceptions to applicability.

- (a) Nothing contained herein shall repeal, modify, or amend any federal or state law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this article amend, modify, or restrict any provisions of this Code; however, the adoption of this article shall and does amend any and all ordinances, resolutions, and regulations in effect in the county at the time of the adoption of this article that may be construed to impair or reduce the effectiveness of this article or to conflict with any of its provisions.
- (b) It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.
- (c) Existing development, as defined in this article, is not subject to the requirements of this article. Expansions to structures classified as existing development must meet the requirements of this article; however, the built-upon area of the existing development is not required to be included in the density calculations.
- (d) A pre-existing lot owned by an individual prior to January 1, 1994, regardless of whether or not a vested right has been established, may be developed for single-family residential purposes without being subject to the restrictions of this article. However, this exemption is not applicable to multiple contiguous lots under single ownership. See section 14-193(1)b. regarding the recombination of existing lots.

(Code 1992, § 6-153; Ord. of 12-20-1993, § 103)

Sec. 14-128. - General 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:

Agricultural use means the use of waters for stock watering, irrigation, and other farm purposes.

Animal unit means a unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

Best management practices (BMPs) means a structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Buffer means an area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Building means any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

Built-upon area includes that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g., tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

Cluster development means the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. The term "cluster development" includes nonresidential development as well as single-family residential subdivisions and multifamily developments that do not involve the subdivision of land.

Critical area means the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The term "critical area" is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Since WS-I watersheds are essentially undeveloped, establishment of a critical area is not required. Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

Customary home occupations means any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided further that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over 25 percent of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off-site, such as a service repair truck, delivery truck, etc.

Development means any land-disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Discharging landfill means a facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

Dwelling unit means a building, or portion thereof, providing complete and permanent living facilities for one family.

Existing development means those projects that are built or those projects that at a minimum have established a vested right under state zoning law as of January 1, 1994, based on at least one of the following criteria:

- (1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project;
- (2) Having an outstanding valid building permit as authorized by G.S. 153A-344.1 and G.S. 160A-385.1; or
- (3) Having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by G.S. 153A-344.1 and 160A-385.1.

Existing lot (lot of record) means a lot which is part of a subdivision, a plat of which has been recorded in the office of the register of deeds prior to December 20, 1993, or a lot described by metes and bounds, the description of which has been so recorded prior to December 20, 1993.

Family means one or more persons occupying a single dwelling unit, provided that, unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a family.

Hazardous material means any substance listed as such in: SARA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

Industrial development means any nonresidential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

Landfill means a facility for the disposal of solid waste on land in a sanitary manner in accordance with G.S. ch. 130A, art. 9. For the purpose of this article, the term "landfill" does not include composting facilities.

Lot means a parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

Major variance means a variance that results in any one or more of the following:

- (1) The complete waiver of a management requirement;
- (2) The relaxation, by a factor of more than ten percent, of any management requirement that takes the form of a numerical standard;
- (3) The relaxation of any management requirement that applies to a development proposal intended to qualify under the high density option; or
- (4) All requests for increased density or built-upon area.

Minor variance means a variance that does not qualify as a major variance.

Nonresidential development means all development other than residential development, agriculture and silviculture.

Plat means a map or plan of a parcel of land which is to be or has been subdivided.

Residential development means buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc., and their associated outbuildings such as garages, storage buildings, gazebos, etc., and customary home occupations.

Single-family residential means any development where:

- (1) No building contains more than one dwelling unit;
- (2) Every dwelling unit is on a separate lot; and
- (3) Where no lot contains more than one dwelling unit.

Sired facility means a facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

Street (road) means a right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Structure means anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

Subdivider means any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision.

- (1) The term "subdivision" means any division of a tract or parcel of land into two or more lots, building sites, or other div purpose of sale or building development (whether immediate or future) that requires the dedication of a new road.
- (2) The following are specifically excluded from this definition:
 - a. The combination or recombination of all or any portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county zoning and subdivision ordinances;
 - b. The public acquisition by purchase or gift of strips of land for widening or opening streets;
 - c. The conveyance of land to heirs for the purpose of dividing real estate among such heirs, as described in North Carolina Court of Appeals decision in Claude A. Williamson, Jr. and wife, Angela C. Williamson vs. Dorothy A. Avant, 21 N.C. App. 211.
 - d. The division of land into two or more parcels or lots for the purpose of conveying the resultant parcels or lots to a grantee or grantees who are in any degree of lineal kinship to the grantor, or to a grantee or grantees who are within four degrees of collateral kinship to the grantor. Degrees of kinship shall be computed in accordance with G.S. 104A-1. All parcels or lots so conveyed must meet the size requirements and the access requirements of the county zoning ordinance.
 - e. The division of land into parcels of five acres or more, where the grantor records a right-of-way agreement prior to or simultaneously with the recording of the deed. The agreement must provide for access to the parcel by right-of-way width equal to or exceeding and minimum curve centerline radii equal to or exceeding, the state department of transportation subdivision road requirements. The agreement must provide for construction and maintenance of the road.
 - f. The division of land for cemetery lots or burial plots.
 - g. Any sale, conveyance, or exchange (including by court order), between tenants in common or joint tenants, when such sale, conveyance, or exchange is solely for the purpose of effecting a division of the lands between such tenants in common or joint tenants, and to set off their interest in severalty, and when such purpose is not for building development (whether immediate or future) or for sale to the general public. Tenants in common and joint tenants shall include all persons owning undivided interests in real property by virtue of conveyance by deed, by will, or by inheritance.

Toxic substance means any substance or combination of substances (including disease-causing agents) which, after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

Variance means a permission to develop or use property granted by the watershed review board relaxing or waiving a water supply watershed management requirement adopted by the environmental management commission that is incorporated into this article.

Water-dependent structure means any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water-dependent structures.

Watershed means the entire land area contributing surface drainage to a specific point (e.g., the water supply intake).

Watershed administrator means an official or designated person of county responsible for administration and enforcement of this article.

(Code 1992, § 6-154; Ord. of 12-20-1993, § 601)

For the purpose of this article, certain words shall be interpreted as follows:

- (1) Terms in the present tense include the future tense.
- (2) Terms used in the singular number include the plural, and terms used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
- (3) The term "person" includes a firm, association, corporation, trust, and company as well as an individual.
- (4) The term "structure" includes the word "building."
- (5) The term "lot" includes the words "plot," "parcel," or "tract."
- (6) The term "shall" is always mandatory and not merely directory.
- (7) The term "will" is always mandatory and not merely directory.

(Code 1992, § 6-155; Ord. of 12-20-1993, § 602)

Sec. 14-130. - Criminal penalties.

Any person violating any provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with G.S. 14-4. The maximum fine for each offense shall not exceed \$500.00. Each day that the violation continues shall constitute a separate offense.

(Code 1992, § 6-156; Ord. of 12-20-1993, § 104)

Sec. 14-131. - Remedies.

- (a) If any subdivision, development and/or land use is found to be in violation of this article, the board of commissioners may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$100.00, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the state environmental management commission may assess civil penalties in accordance with G.S. 143-215.6(a). Each day that the violation continues shall constitute a separate offense.
- (b) If the watershed administrator finds that any of the provisions of this article are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this article to ensure compliance with or to prevent violation of its provisions. If a ruling of the watershed administrator is questioned, the aggrieved party or parties may appeal such ruling to the watershed review board.

(Code 1992, § 6-157; Ord. of 12-20-1993, § 105)

Sec. 14-132. - Severability.

Should any section or provision of this article be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this article as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

(Code 1992, § 6-158; Ord. of 12-20-1993, § 106)

Secs. 14-133—14-162. - Reserved.

DIVISION 2. - SUBDIVISION REGULATION

Sec. 14-163. - General provisions.

- (a) No subdivision plat of land within the public water supply watershed shall be filed or recorded by the register of deeds until it has been approved in accordance with the provisions of this division. Likewise, the clerk of superior court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this division.
- (b) The approval of a plat does not constitute or effect the acceptance by the county or the public of the dedication of any street or other ground, easement, right-of-way, public utility line, or other public facility shown on the plat and shall not be construed to do so.
- (c) All subdivisions shall conform with the mapping requirements contained in G.S. 47-30.
- (d) All subdivisions of land within the jurisdiction of the county after January 1, 1994, shall require a plat to be prepared, approved, and recorded pursuant to this article.

(Code 1992, § 6-171; Ord. of 12-20-1993, § 201)

Sec. 14-164. - Subdivision application and review procedures.

- (a) All proposed subdivisions shall be reviewed prior to recording with the register of deeds by submitting a vicinity map to the watershed administrator to determine whether or not the property is located within the designated public water supply watershed. Subdivisions that are not within the designated watershed area shall not be subject to the provisions of this article and may be recorded provided the watershed administrator initials the vicinity map. In addition, subdivisions within a WS-IV watershed are subject to the provisions of this article only when an erosion and sedimentation plan is required under the provisions of state law. Subdivisions within the designated watershed area shall comply with the provisions of this division and all other state and local requirements that may apply.
- (b) Subdivision applications shall be filed with the watershed administrator. The application shall include a completed application form, 12 copies of the plat supporting documentation deemed necessary by the watershed administrator or the watershed review board (see appendix A attached to the ordinance from which this article derives), and a fee based on the adopted fee schedule.
- (c) The watershed administrator shall review the completed application and submit recommendations to the watershed review board for further review and final action. The watershed review board shall either approve, approve conditionally or disapprove each application by a majority vote of the members present and voting. First consideration of the application shall be at the next regularly scheduled meeting of the board after the application is submitted. The board shall take final action within 60 days of its first consideration. The watershed administrator or the board may provide public agencies an opportunity to review and make recommendations. However, failure of the agencies to submit their comments and recommendations shall not delay the board's action within the prescribed time limit. Such public agencies may include, but are not limited to, the following:
 - (1) The district highway engineer with regard to proposed streets and highways.
 - (2) The director of the health department with regard to proposed private water system or sewer systems normally approved by the health department.
 - (3) The state division of environmental management with regard to proposed sewer systems normally approved by the division, engineered stormwater controls or stormwater management in general.
 - (4) Any other agency or official designated by the watershed administrator or watershed review board.
- (d) If the watershed review board approves the application, such approval shall be indicated on all copies of the plat that are to be recorded by the following certificate and signed by the chairman or other authorized member of the board:

Certificate of Approval for Recording

I certify that the plat shown hereon complies with the Watershed Protection Ordinance and is approved by the Watershed Review Board for recording in the Register of Deeds office.

_____ Date	
_____ Chairman, Watershed Review Board	

NOTICE: This property is located within a Public Water Supply Watershed. Development restrictions may apply.

- (e) If the watershed review board disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the applicant and entered in the minutes. The subdivider may make changes and submit a revised plan which shall constitute a separate request for the purpose of review.
- (f) All subdivision plats shall comply with the requirements for recording of the county register of deeds.
- (g) The subdivider shall provide the watershed administrator with evidence the plat has been recorded with the register of deeds within five working days of its being recorded.

(Code 1992, § 6-172; Ord. of 12-20-1993, § 202)

Sec. 14-165. - Subdivision standards and required improvements.

- (a) All lots shall provide adequate building space in accordance with the development standards contained in division 3 of this article. Lots which are smaller than the minimum required for residential lots shall be identified on the plat as: "NOT FOR RESIDENTIAL PURPOSES."
- (b) For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
- (c) Stormwater drainage facilities. The application shall be accompanied by a description of the proposed method of providing stormwater drainage. The subdivider shall provide a drainage system that diverts stormwater runoff away from surface waters and incorporates best management practices to minimize water quality impacts.
- (d) Erosion and sedimentation control. The application shall, where required, be accompanied by a written statement that a sedimentation and erosion control plan has been submitted to and approved by the state division of land quality.
- (e) Roads constructed in critical areas and watershed buffer areas. Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed so as to minimize their impact on water quality.
- (f) Certification of approval for recording. A modification of the certification of approval for recording shall be made so as to reflect whether or not development occurred within the watershed. This modification shall appear prominently and contain phrasing of one or the other:

NOTICE: THIS PROPERTY IS LOCATED WITHIN A PUBLIC WATER SUPPLY WATERSHED - DEVELOPMENT RESTRICTION MAY APPLY.

or

NOTICE: THIS PROPERTY IS LOCATED WITHIN A PUBLIC WATER SUPPLY WATERSHED.

(Code 1992, § 6-173; Ord. of 12-20-1993, § 203)

Sec. 14-166. - Construction procedures.

- (a) No construction or installation of improvements shall commence in a proposed subdivision until a subdivision plat has

been approved by the watershed review board.

- (b) No building or other permits shall be issued for erection of a structure on any lot not of record as of December 20, 1993, until all requirements of this article have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the watershed administrator to provide for adequate inspection.

(Code 1992, § 6-174; Ord. of 12-20-1993, § 204)

Sec. 14-167. - Penalties for transferring lots in unapproved subdivisions.

Any person who, being the owner or agent of the owner of any land located within the jurisdiction of the county, thereafter subdivides his land in violation of this article or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this article and recorded in the office of the register of deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The county may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this article.

(Code 1992, § 6-175; Ord. of 12-20-1993, § 205)

Secs. 14-168—14-187. - Reserved.

DIVISION 3. - DEVELOPMENT REGULATIONS

Sec. 14-188. - Establishment of watershed areas.

The purpose of this division is to list and describe the watershed areas herein adopted. For purposes of this article, the county is hereby divided into the following areas, as appropriate:

- (1) WS-IV-CA critical area.
- (2) WS-IV-PA protected area.

(Code 1992, § 6-201; Ord. of 12-20-1993, § 301)

Sec. 14-189. - Watershed areas described.

- (a) *WS-IV watershed areas; critical area (WS-IV-CA).* Only new development activities that require an erosion/sedimentation control plan under state law are required to meet the provisions of this article when located in the WS-IV watershed. In order to address a moderate to high land use intensity pattern, single-family residential uses are allowed at a maximum of two dwelling units per acre. All other residential and nonresidential development shall be allowed 24 percent built-upon area. New sludge application sites and landfills are specifically prohibited.

- (1) *Allowed uses.* The following uses are allowed in WS-IV-CA:

- a. Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993, shall maintain a minimum 100-foot vegetative watershed buffer, or equivalent control as determined by the soil and water conservation commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ best management practices by July 1, 1994, recommended by the soil and water conservation commission.
- b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).

- c. Residential.
 - (2) *Prohibited uses.* The following uses are prohibited in WS-IV-CA:
 - a. The storage of toxic and hazardous materials unless a spill containment plan is implemented;
 - b. Landfills; and
 - c. Sites for land application of sludge (residuals or petroleum contaminated soils).
 - (3) *Special uses.* Special use permits shall be required for all nonresidential uses not specifically listed in subsections (a) (1) or (2) of this section.
 - (4) *Density and built-upon limits.* The following density and built-upon limits shall apply in WS-IV-CA:
 - a. *Single-family residential.* Development shall not exceed two dwelling units per acre on a project-by-project basis. No residential lot shall be less than one-half acre.
 - b. *All other residential and nonresidential.* Development shall not exceed 24 percent built-upon area on a project-by-project basis. For the purpose of calculating the built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
 - (5) *Other requirements.* All other dimensional, parking and sign requirements shall be met according to the county zoning ordinance.
- (b) *WS-IV watershed areas - protected area (WS-IV-PA).* Only new development activities that require an erosion/sedimentation control plan under state law are required to meet the provisions of this article when located in a WS-IV watershed area. In order to address a moderate to high land use intensity pattern, single-family residential uses shall develop at a maximum of two dwelling units per acre. All other residential and nonresidential development shall be allowed at a maximum of 24 percent built-upon area.
- (1) *Uses allowed.* The following uses are allowed in WS-IV-PA:
 - a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
 - b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).
 - c. Residential.
 - (2) *Prohibited uses.* Storage of toxic and hazardous materials unless a spill containment plan is implemented.
 - (3) *Special uses.* Special use permits shall be required for all nonresidential uses not specifically listed in subsections (b) (1) or (2) of this section.
 - (4) *Density and built-upon limits.* The following density and built-upon limits shall apply in WS-IV-PA:
 - a. *Single-family residential.* Development shall not exceed two dwelling units per acre, as defined in a project-by-project basis. No residential lot shall be less than one-half acre.
 - b. *All other residential and nonresidential.* Development shall not exceed 24 percent built-upon area on a project-by-project basis.

For the purpose of calculating built-upon area, total project area shall include acreage in tract on which the project is to be developed.
 - (5) *Other requirements.* All other dimensional, parking, and signs requirements shall be met according to the county zoning ordinance (appendix 1 of this Code).

(Code 1992, § 6-202; Ord. of 12-20-1993, § 302)

Sec. 14-190. - Watershed buffer areas required.

- (a) A minimum 30-foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted.

- (b) No new development is allowed in the watershed buffer except for water-dependent structures and public projects such as crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct away from the surface waters and maximize the utilization of stormwater best management practices.

(Code 1992, § 6-203; Ord. of 12-20-1993, § 303)

Sec. 14-191. - Rules governing the interpretation of watershed area boundaries.

Where conflict exists as to whether a tract is inside or outside the boundaries of the watershed areas, as shown on the watershed map, it shall be the responsibility of the petitioner to present topographical data supporting his case.

(Code 1992, § 6-204; Ord. of 12-20-1993, § 304)

Sec. 14-192. - Application of regulations.

- (a) No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.
- (b) No area required for the purpose of complying with the provisions of this article shall be included in the area required for another building.
- (c) Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in section 14-194.
- (d) If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

(Code 1992, § 6-205; Ord. of 12-20-1993, § 305)

Sec. 14-193. - Existing development.

Any existing development as defined in this article may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this article; however, the built-upon area of the existing development is not required to be included in the density calculations.

- (1) *Vacant lots.* This category consists of vacant lots for which plats or deeds have been recorded in the office of the register of deeds of the county. Lots may be used for any of the uses allowed in the watershed area in which it is located, provided the following requirements are met:
 - a. Where the lot area is below the minimum specified in this article, the watershed administrator is authorized to issue a watershed protection permit.
 - b. Notwithstanding the foregoing, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after December 20, 1993, and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, such lots shall be combined to create one or more lots that meet the standards of this article, or if this is impossible, reduce to the extent possible the nonconformity of the lots.
- (2) *Occupied lots.* This category consist of lots, occupied for residential purposes as of December 20, 1993. These lots may continue to be used provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after December 20, 1993, and such lots individually or together have less area than the minimum requirements for residential purposes for the watershed area in which they are located, such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.
- (3) *Uses of land.* This category consists of uses existing as of December 20, 1993, where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:

- a. When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
 - b. Such use of land shall be changed only to an allowed use.
 - c. When such use ceases for a period of at least one year, it shall not be reestablished.
- (4) *Reconstruction of buildings or built-upon areas.* Any existing building or built-upon area not in conformance with the restrictions of this article that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single-family residential development, provided:
- a. Repair or reconstruction is initiated within 12 months and completed within two years of such damage.
 - b. The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

(Code 1992, § 6-206; Ord. of 12-20-1993, § 306)

Sec. 14-194. - Watershed protection permit.

- (a) Except where a single-family residence is constructed on a lot deeded prior to January 1, 1994, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a watershed protection permit has been issued by the watershed administrator. No watershed protection permit shall be issued except in conformity with the provisions of this article.
- (b) Watershed protection permit applications shall be filed with the watershed administrator. The application shall include a completed application form and supporting documentation deemed necessary by the watershed administrator.
- (c) Prior to issuance of a watershed protection permit, the watershed administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this article.
- (d) A watershed protection permit shall expire if a building permit or watershed occupancy permit for such use is not obtained by the applicant within 12 months from the date of issuance.

(Code 1992, § 6-207; Ord. of 12-20-1993, § 307)

Sec. 14-195. - Building permit required.

Except for single-family residence constructed on a lot deeded prior to January 1, 1994, no permit required under the state building code shall be issued for any activity for which a watershed protection permit is required until that permit has been issued.

(Code 1992, § 6-208; Ord. of 12-20-1993, § 308)

Sec. 14-196. - Watershed protection occupancy permit.

- (a) The watershed administrator shall issue a watershed protection occupancy permit certifying that all requirements of this article have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.
- (b) A watershed protection occupancy permit, either for the whole or part of a building, shall be applied for coincident with the application for a watershed protection permit and shall be issued or denied within ten days after the erection or structural alterations of the building.
- (c) When only a change in use of land or existing building occurs, the watershed administrator shall issue a watershed protection occupancy permit certifying that all requirements of this article have been met coincident with the watershed protection permit.
- (d) If the watershed protection occupancy permit is denied, the watershed administrator shall notify the applicant in writing stating the reasons for the denial.
- (e) No building or structure which has been erected, moved, or structurally altered may be occupied until the watershed administrator has approved and issued a watershed protection occupancy permit.

(Code 1992, § 6-209; Ord. of 12-20-1993, § 309)

Secs. 14-197—14-215. - Reserved.

DIVISION 4. - PUBLIC HEALTH REGULATIONS

Sec. 14-216. - Public health in general.

No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from:

- (1) Inadequate on-site sewage systems which utilize ground absorption;
- (2) Inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a watershed buffer area;
- (3) The absence or improper implementation of a spill containment plan for toxic and hazardous materials;
- (4) The improper management of stormwater runoff; or
- (5) Any other situation found to pose a threat to water quality.

(Code 1992, § 6-231; Ord. of 12-20-1993, § 401)

Sec. 14-217. - Abatement.

- (a) The watershed administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
- (b) Where the watershed review board finds a threat to water quality and the public health, safety and welfare, the board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

(Code 1992, § 6-232; Ord. of 12-20-1993, § 402)

Secs. 14-218—14-242. - Reserved.

DIVISION 5. - ADMINISTRATION, ENFORCEMENT AND APPEALS

Sec. 14-243. - Watershed administrator and duties thereof.

The county shall appoint a watershed administrator, who shall be duly sworn in. It shall be the duty of the watershed administrator to administer and enforce the provisions of this article as follows:

- (1) The watershed administrator shall issue watershed protection permits and watershed protection occupancy permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the administrator.
- (2) The watershed administrator shall serve as clerk to the watershed review board.
- (3) The watershed administrator shall keep records of all amendments to this article and shall provide copies of all amendments upon adoption to the supervisor of the classification and standards group, water quality section, state division of environmental management.
- (4) Records for each watershed shall include the total acres of noncritical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, acres, site plan, use, stormwater management plan as applicable and inventory of hazardous materials as applicable.

- (5) The watershed administrator is granted the authority to administer and enforce the provisions of this article, exercising fulfillment of his responsibility the full police power of the county. The watershed administrator, or his duly authorized may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this article.
- (6) The watershed administrator shall keep a record of variances to this article. This record shall be submitted to the supervisor of the classification and standards group, water quality section, state division of environmental management on an annual basis and shall provide a description of each project receiving a variance and the reasons for granting the variance.

(Code 1992, § 6-251; Ord. of 12-20-1993, § 501)

Sec. 14-244. - Appeal from the watershed administrator.

- (a) Any order, requirement, decision or determination made by the watershed administrator may be appealed to and decided by the watershed review board.
- (b) An appeal from a decision of the watershed administrator must be submitted to the watershed review board within 30 days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the watershed administrator shall transmit to the board all papers constituting the record upon which the action appealed from was taken.
- (c) An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.
- (d) The board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.

(Code 1992, § 6-252; Ord. of 12-20-1993, § 502)

Sec. 14-245. - Changes and amendments to this article.

- (a) The board of commissioners may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.
- (b) No action shall be taken until the proposal has been submitted to the watershed review board for review and recommendations. If no recommendation has been received from the watershed review board within 45 days after submission of the proposal to the chairperson of the watershed review board, the board of commissioners may proceed as though a favorable report had been received.
- (c) Under no circumstances shall the board of commissioners adopt such amendments, supplements or changes that would cause this article to violate the watershed protection rules as adopted by the state environmental management commission. All amendments must be filed with the state division of environmental management, state division of environmental health, and the state division of community assistance.

(Code 1992, § 6-253; Ord. of 12-20-1993, § 503)

Sec. 14-246. - Public notice and hearing required.

Before adopting or amending this article, the county board of commissioners shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten nor more than 25 days before the date fixed for the hearing.

(Code 1992, § 6-254; Ord. of 12-20-1993, § 504)

Sec. 14-247. - Establishment of watershed review board.

There shall be and hereby is created the watershed review board consisting of the county planning board as appointed by the board of commissioners.

(Code 1992, § 6-255; Ord. of 12-20-1993, § 505)

Sec. 14-248. - Rules of conduct for watershed review board members.

Members of the watershed review board may be removed by the board of commissioners for cause, including violation of the rules stated below:

- (1) Faithful attendance at meetings of the board and conscientious performance of the duties required of members of the board shall be considered a prerequisite to continuing membership on the watershed review board.
- (2) No watershed review board member shall take part in the hearing, consideration, or determination of any case in which he is personally or financially interested. A watershed review board member shall have a financial interest in a case when a decision in the case will:
 - a. Cause him or his spouse to experience a direct financial benefit or loss; or
 - b. Will cause a business in which he or his spouse owns a ten percent or greater interest, or is involved in a decision-making role, to experience a direct financial benefit or loss.

A watershed review board member shall have a personal interest in a case when it involves a member of his immediate family (i.e., parent, spouse, or child).

- (3) No watershed review board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from the watershed administrator or any other member of the board, its secretary or clerk prior to the hearing.
- (4) Members of the watershed review board shall not express individual opinions on the proper judgement of any case prior to its determination on that case.
- (5) Members of the watershed review board shall give notice to the chairman at least 48 hours prior to the hearing of any potential conflict of interest which he has in a particular case before the board.
- (6) No watershed review board member shall vote on any matter that decides an application or appeal unless he had attended the public hearing on that application or appeal.

(Code 1992, § 6-256; Ord. of 12-20-1993, § 506)

Sec. 14-249. - Powers and duties of the watershed review board.

- (a) *Administrative hearing.* The watershed review board shall hear and decide appeals from any decision or determination made by the watershed administrator in the enforcement of this article.
- (b) *Minor variances.* The watershed review board shall have the power to authorize, in specific cases, minor variances from the terms of this article as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this article will result in practical difficulties or unnecessary hardship, so that the spirit of this article shall be observed, public safety and welfare secured, and substantial justice done.
 - (1) Applications for all variances shall be made on the proper form obtainable from the watershed administrator and shall include the following information:
 - a. A site plan, drawn to a scale of at least one inch to 40 feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures, parking areas and other built-upon areas; and surface water drainage. The site plan shall be neatly drawn and indicate the north point, the name and address of person who prepared the plan, the date of the original drawing, and an accurate record of any later revisions.

- b. A complete and detailed description of the proposed variance, together with any other pertinent information which would be helpful to the watershed review board in considering the application.
 - c. The watershed administrator shall notify in writing each local government having jurisdiction in the watershed (if any) and any entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Recipients of the notice of the variance request may submit comments to the watershed administrator prior to a decision by the watershed review board. Such comments shall become a part of the record of proceedings of the watershed review board.
- (2) Before the watershed review board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:
 - a. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this article. In order to determine that there are practical difficulties or unnecessary hardships, the watershed review board must find that the five following conditions exist:
 - 1. If he complies with the provisions of this article, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the watershed review board in granting a variance. Moreover, the watershed review board shall consider whether the variance is the minimum possible deviation from the terms of this article that will make possible the reasonable use of his property. (Refer to definition in section 14-128.)
 - 2. The hardship results from the application of this article to the property rather than from other factors such as deed restrictions or other hardship.
 - 3. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
 - 4. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates this article, or who purchases the property after January 1, 1994, and then comes to the watershed review board for relief.
 - 5. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.
 - b. The variance is in harmony with the general purpose and intent of this article and preserves its spirit.
 - c. In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The watershed review board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.
- (3) In granting the variance, the board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in the furtherance of the purpose of this article. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.
- (4) The watershed review board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
- (5) A variance issued in accordance with this section shall be considered a watershed protection permit and shall expire if a building permit or watershed occupancy permit for such use is not obtained by the applicant within six months from the date of the decision.
- (c) *Major variances.* The following process is used for major variances:
 - (1) If the application calls for the granting of a major variance, and if the watershed review board decides in favor of granting the variance, the board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

- a. The variance application;
 - b. The hearing notices;
 - c. The evidence presented;
 - d. Motions, offers of proof, objections to evidence, and rulings on them;
 - e. Proposed findings and exceptions; and
 - f. The proposed decision, including all conditions proposed to be added to the permit.
- (2) The preliminary record shall be sent to the environmental management commission for its review as follows:
- a. If the environmental management commission concludes from the preliminary record that the variance qualifies as a major variance and that:
 - 1. The property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted; and
 - 2. The variance, if granted, will not result in a serious threat to the water supply;
 then the environmental management commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The environmental management commission shall prepare a decision and send it to the watershed review board. If the environmental management commission approves the variance as proposed, the watershed review board shall prepare a final decision granting the proposed variance. If the environmental management commission approves the variance with conditions and stipulations, the watershed review board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.
 - b. If the environmental management commission concludes from the preliminary record that the variance qualifies as a major variance and that:
 - 1. The property owner can secure a reasonable return or make a practical use of the property without the variance; or
 - 2. The variance, if granted, will result in a serious threat to the water supply;
 then the environmental management commission shall deny approval of the variance as proposed. The environmental management commission shall prepare an environmental management commission decision and send it to the watershed review board. The watershed review board shall prepare a final decision denying the variance as proposed.

(d) *Subdivision approval.* See section 14-163 et seq.

(e) *Public health.* See sections 14-216 and 14-217.

(Code 1992, § 6-257; Ord. of 12-20-1993, § 507)

Sec. 14-250. - Appeals from the watershed review board.

Appeals from the watershed review board must be filed with the superior court within 30 days from the date of the decision. The decisions by the superior court will be in the manner of certiorari.

(Code 1992, § 6-258; Ord. of 12-20-1993, § 508)

Chapter 20 - LIBRARY

Sec. 20-1. - Unlawful not to return items after notice.

It shall be unlawful for anyone to willfully or intentionally fail to return to any public library in the county any book, pamphlet, or any other library item within 30 days after the librarian or his agent has notified by certified mail such person that the time for return of such book, pamphlet, or library item to be returned has expired.

(Ord. of 10-21-1985, § I)

Sec. 20-2. - Removing items without check-out procedure.

It shall be unlawful for any person to willfully or intentionally remove from the premises of any public library in the county any book, pamphlet, or any other library item without having first checked such book, pamphlet, or library item out in accordance with the posted regulations of the library.

(Ord. of 10-21-1985, § II)

Sec. 20-3. - Damaging library materials.

It shall be unlawful for any person to willfully, intentionally, or wantonly damage, deface, mutilate, or otherwise destroy any book, or portion thereof; any pamphlet, or portion thereof; or any other library item, or portion thereof, housed in any library of the county.

(Ord. of 10-21-1985, § III)

Sec. 20-4. - Failure to return items.

It shall be conclusively presumed that the failure to return any book, pamphlet, or other library item immediately after receipt of notice by certified mail that the time for return has elapsed shall constitute willful and intentional failure to return on the part of the person having the duty to return such item as shown in the records of any library in the county.

(Ord. of 10-21-1985, § IV)

Sec. 20-5. - Posting of this chapter in libraries and on notices.

A copy of this chapter, as a condition precedent to its validity, shall be posted in at least one place in all public libraries in the county and shall appear on the face of all notices mailed to persons failing to return items within the requisite period of time as herein provided.

(Ord. of 10-21-1985, § V)

Sec. 20-6. - Library items defined.

For the purposes of this chapter, the term "library items" includes, but is not necessarily limited to: book, picture, engraving, map, magazine, pamphlet, newspaper, manuscript, or object of art or of historical significance, or any audio-visual or other equipment owned or in use by the library.

(Ord. of 10-21-1985, § VI)

Sec. 20-7. - Bookmobile.

The term "public library" within the county shall include the county bookmobile.

(Ord. of 10-21-1985, § VII)

Sec. 20-8. - Violation and penalties.

Those persons violating the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$50.00 and imprisonment of not more than 30 days, or both, in the discretion of the court. A separate offense shall be committed each day during or on which the violation occurs or continues.

(Ord. of 10-21-1985, § VIII)

ARTICLE II. - LITTER

Sec. 24-19. - Use of containers required.

- (a) No person shall deposit trash, garbage or debris of any kind on premises upon which containers therefor are located except in such containers at locations in the county selected by the board of county commissioners. No furniture, appliances, tires or object too large to fit in such containers shall be deposited in or outside of such containers; but such items may be deposited at any landfill site within the county by the depositor thereof.
- (b) Any person who shall violate the provisions of this section shall be guilty of a misdemeanor punishable as provided by section 1-13.

(Code 1992, § 9-26; Ord. of 11-17-1975, §§ 1, 2)

Secs. 24-20—24-41. - Reserved.

ARTICLE IV. - DISCHARGE OF FIREARMS IN CLOSE PROXIMITY TO PLACES OF HUMAN HABITATION

Sec. 24-66. - Title.

This article is entitled and shall be known as the "Pender County Firearm Ordinance."

(Code 1992, § 9-101; Ord. of 5-15-1995(2), § 1)

Sec. 24-67. - Purpose.

Pursuant to the authority set forth in G.S. 153A-129, and subject to the limitations contained in that statute, as amended, the purpose of this article is to protect the inhabitants of the county from threats to their health, safety, and welfare resulting from the discharge of firearms in close proximity to places of human habitation.

(Code 1992, § 9-102; Ord. of 5-15-1995(2), § 1)

Sec. 24-68. - 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:

Discharge means the firing or expelling of a projectile from a firearm.

Firearm means a weapon capable of expelling a projectile by means of an explosive charge. The term "firearm" shall not include any construction equipment which is not designed for use as a weapon.

Place of human habitation means a residence, place of business, office, mobile home, trailer, or other structure routinely occupied by persons, or containing sleeping accommodations.

(Code 1992, § 9-103; Ord. of 5-15-1995(2), § 1)

Sec. 24-69. - Firearm discharge regulations.

It shall be unlawful for any person to discharge a firearm within 200 feet of any place of human habitation, church, or school within the county.

(Code 1992, § 9-104; Ord. of 5-15-1995(2), § 1)

Sec. 24-70. - Exceptions.

This article shall not apply:

- (1) To persons discharging a firearm within 200 feet of their own home, residence or place of human habitation which they occupy lawfully as owner, lessee, or invitee, so long as they have the permission of the owner, or lessee of such structure to discharge the firearm;
- (2) To persons discharging firearms used lawfully in defense of person or property in accordance with the laws of the state;
- (3) To authorized law enforcement officers discharging firearms in the course and scope of their law enforcement duties, or to persons discharging weapons under the lawful directions of a law enforcement officer acting within the course and scope of their official law enforcement duties;
- (4) To indoor firing ranges operating under a permit issued by the county;
- (5) To persons who have obtained the written permission of all owners, and lessees or other owners of possessory interests in places of human habitation within the area set forth in section 24-69; or
- (6) To persons who utilize firearms discharging blank cartridges in the training of animals.

(Code 1992, § 9-105; Ord. of 5-15-1995(2), § 1)

Sec. 24-71. - Penalties.

Violations of this article shall constitute a misdemeanor, and pursuant to G.S. 14-4 shall, upon conviction, be punishable by a fine of not more than \$100.00, imprisonment for not more than 30 days, or both.

(Code 1992, § 9-106; Ord. of 5-15-1995(2), § 1)

Sec. 24-72. - Enforcement.

All sworn law enforcement officers are authorized to arrest persons charged with violations of this article, or to issue citations in lieu of arrest, in their discretion.

(Code 1992, § 9-107; Ord. of 5-15-1995(2), § 1)

Sec. 24-73. - Amendment.

This article shall not be amended following its adoption until a public hearing has been held to allow public comment on the proposed amendment.

(Code 1992, § 9-108; Ord. of 5-15-1995(2), § 1)

ARTICLE II. - PARKS

DIVISION 1. - GENERALLY

Sec. 28-19. - Applicability.

This article shall apply to all parks owned, operated or maintained by the county.

(Ord. of 6-8-2015, § 11-51)

Sec. 28-20. - Hours of operation.

All parks shall be open to the public during posted hours. It shall be unlawful for any person or vehicle to enter or be within a park beyond posted hours of operation unless approved by a permit issued by the director of parks and recreation or his designee, or unless such person is participating in authorized and scheduled programs, classes, special events or meetings.

(Ord. of 6-8-2015, § 11-52)

Sec. 28-21. - Closing when necessary.

Any section or part of any park, recreation area or facility may be temporarily closed to the public by the director of parks and recreation or his designee at any time for maintenance and/or other purposes.

(Ord. of 6-8-2015, § 11-53)

Sec. 28-22. - Reservations.

Unless an area is specifically reserved for a person or group by the director of parks and recreation or his designee, areas such as picnic shelters or ball fields shall be used or occupied on a "first come, first served" basis. No person shall refuse to vacate a reserved area, such as a picnic shelter or a ball field, which has been properly reserved by another person. No person shall continue to occupy a reserved area beyond the time limitation of his reservation if there is another person with a valid reservation waiting to use the area.

(Ord. of 6-8-2015, § 11-54)

Sec. 28-23. - Vehicles in parks.

- (a) It shall be unlawful for any person to operate any motor vehicle, minibike, motorcycle, ATV or other motorized vehicle on any area except the park roads or parking areas. It shall be unlawful for vehicles to be parked in other than the designated parking areas.
- (b) It shall be unlawful to leave a vehicle parked overnight. In such instances, the vehicle may be towed at the owner's expense.
- (c) Law enforcement, emergency services and parks and recreation employees whose duties require them to drive vehicles and/or equipment shall be exempt from the above restrictions.

(Ord. of 6-8-2015, § 11-55)

Sec. 28-24. - Speed limit.

It shall be unlawful to drive at a rate of speed in excess of ten miles per hour in any park.

(Ord. of 6-8-2015, § 11-56)

Sec. 28-25. - Destruction of property.

- (a) It shall be unlawful for any person to remove, destroy, mutilate or deface any structure, monument, statue, planter, fountain, wall, fence, railing, vehicle, bench, picnic table, tree, plants or any other property in any park area.
- (b) It shall be unlawful for any person to dig, cut, bruise, debark or mutilate or cause to be transplanted, cut, bruised, debarked, or mutilated any plant material within any park area.

- (c) The prohibitions above shall not apply to any person acting under authorization or directive of the director of parks and recreation or his designee.

(Ord. of 6-8-2015, § 11-57)

Sec. 28-26. - Disorderly conduct.

- (a) It shall be unlawful for any person to use any profane, boisterous or insulting language or to engage in disorderly conduct in any park area.
- (b) It shall be unlawful for any person to make or cause to be made any loud, disturbing or unnecessary noises in any park area except normal cheering and applauding during the progress of an activity or event sponsored, authorized or approved by the county or director of parks and recreation.

(Ord. of 6-8-2015, § 11-581)

Sec. 28-27. - Inappropriate conduct.

- (a) It shall be unlawful to commit any nuisance; or use threatening, abusing, insulting, obscene or indecent language; or act in an indecent lascivious or improper manner; or do any act which constitutes a breach of the public peace.
- (b) It shall be unlawful to harass any visitor or behave in a reckless manner which would endanger any visitor or the visitor's property.

(Ord. of 6-8-2015, § 11-59)

Sec. 28-28. - Firearms and weapons.

It shall be unlawful for any person, except those exempted under G.S. 14-269(b) to carry, possess or discharge any type of firearm, explosive device, air guns of any description (BB guns, paintball guns, pellet guns etc.), or bowie knife, dirk, dagger, sling shot, leaded cane, switchblade knife, blackjack, metallic knuckles, razor, shuriken, stun gun, bow and arrow or other deadly weapon as defined in Article 35 of Chapter 14 of the North Carolina General Statutes within any park. This prohibition shall not apply to a weapon which is in a motor vehicle so long as the weapon is not brandished. This prohibition shall not apply to an authorized event, such as an archery demonstration/program.

(Ord. of 6-8-2015, § 11-60)

Sec. 28-29. - Pyrotechnics.

It shall be unlawful for any person to possess, display, use, set off or attempt to ignite any firecracker, fireworks, smoke bombs, rockets, black powder guns or other pyrotechnics, without written permission from the director of parks and recreation or his designee and permits from the local fire marshal. Permission will only be granted for community firework events.

(Ord. of 6-8-2015, § 11-61)

Sec. 28-30. - Alcoholic beverages and narcotic drugs.

- (a) It shall be unlawful for any person to possess, consume or display beer, wine, malt or alcoholic beverage or any narcotic drugs in any park area.
- (b) It shall be unlawful for any person under the influence of the above-listed beverages or any narcotic drugs to enter or remain within any park area.

(Ord. of 6-8-2015, § 11-62)

Sec. 28-31. - Smoking.

- (a) It shall be unlawful for any person to smoke, including electronic cigarettes, in any park area except in the parking lot,

which is the designated smoking area.

- (b) Smoking may be prohibited by the director of parks and recreation or his designee in the entire park when it is deemed necessary or advisable due to fire and weather conditions.

(Ord. of 6-8-2015, § 11-63)

Sec. 28-32. - Pets/horses/animals.

- (a) It is unlawful to bring pets/horses/animals in the park except for service animals.
- (b) It shall be unlawful to dispose of or release waterfowl, deer, rabbits, or other pets/animals in the park.

(Ord. of 6-8-2015, § 11-64)

Sec. 28-33. - Mistreatment/hunting of animals.

It shall be unlawful for any person to hunt, shoot, injure or molest any bird or animal, nor shall any person have any wild bird or animal in his possession within any park.

(Ord. of 6-8-2015, § 11-65)

Sec. 28-34. - Games and sports.

- (a) It shall be unlawful for any person to participate in games or athletic contests in any park area except in specifically designated areas.
- (b) It shall be unlawful to strike or otherwise propel a regulation golf ball on any/all portions of park property/boundaries.

(Ord. of 6-8-2015, § 11-66)

Sec. 28-35. - Fires.

- (a) It shall be unlawful for any person to kindle, build, maintain or use a fire other than in park-provided or department-approved grills designated for such purposes. Any fire shall be continuously under care and direction of a competent person over 16 years of age from the time it is kindled until it is extinguished.
- (b) No person within the confines of any park shall throw away or discard any lighted match, cigarette, cigar, or other burning object.

(Ord. of 6-8-2015, § 11-67)

Sec. 28-36. - Leaving refuse in park areas.

- (a) Except in containers provided for that purpose, no person shall leave, deposit, dump, throw, cast, lay or place, or cause to be deposited, dumped, thrown, cast, laid, or placed any ashes, trash, rubbish, soil, earth, paper, garbage, refuse, debris, plant clippings, limbs or leaves in or upon any park areas or in any watercourse, lake, pond or slough within any park areas.
- (b) Dumpsters placed on park areas shall be used for park refuse only. It shall be unlawful for private citizens or businesses to use park dumpsters for their private refuse.

(Ord. of 6-8-2015, § 11-68)

Sec. 28-37. - Advertising.

It shall be unlawful for any person to post or erect any structure, sign, bulletin board, poster or advertising device of any kind at any place within any park without the written permission from the director of parks and recreation or his designee and in conformance with all applicable zoning regulations.

(Ord. of 6-8-2015, § 11-69)

Sec. 28-38. - Charge of admission.

It shall be unlawful for any person and/or organization to charge an admission fee to the park or a facility within the park without written permission from the director of parks and recreation or his designee.

(Ord. of 6-8-2015, § 11-70)

Sec. 28-39. - Meetings and exhibitions.

It shall be unlawful for any person to erect any structure, stand or platform, hold any meeting or exhibition, perform any ceremony, or make any speech or address without written permission from the director of parks and recreation or his designee.

(Ord. of 6-8-2015, § 11-71)

Sec. 28-40. - Selling, peddling, begging.

It shall be unlawful for any person to engage in soliciting, peddling, begging or selling of any kind in any park area. This section shall not apply to fundraising events conducted by private, non-profit entities or organizations. Any such fundraising activities must have prior written approval from the director of parks and recreation or his designee.

(Ord. of 6-8-2015, § 11-72)

Sec. 28-41. - Camping.

- (a) It shall be unlawful for any person to set up tents, shacks or any other temporary shelter for the purpose of overnight camping,
- (b) It shall be unlawful for any person to leave in any park after closing hours any movable structure or special vehicle to be used or that could be used for such purpose, such as a camper/trailer, house trailer or the like.

(Ord. of 6-8-2015, § 11-73)

Sec. 28-42. - Aviation.

It shall be unlawful for any person to voluntarily bring, land or cause to descend or alight within or upon any park any airplane, flying machine, balloon, parachute or other apparatus for aviation. The term "voluntarily," as used in this section, means anything other than a forced landing. Law enforcement, military and emergency services aircraft may land in the park boundaries if necessary in the course of their duties.

(Ord. of 6-8-2015, § 11-74)

Sec. 28-43. - Engine-powered models or toys restricted.

It shall be unlawful for any person to start, fly or use any fuel-powered engine, jet-type or electric-powered model aircraft, boat, car, truck or rocket or like powered toy or model except in areas specifically designated for such use.

(Ord. of 6-8-2015, § 11-75)

Sec. 28-44. - Excavating.

It shall be unlawful for any person to make an excavation in any park area for any purpose, unless authorized or approved by the county or director of parks and recreation or his designee.

(Ord. of 6-8-2015, § 11-76)

Sec. 28-45. - Rules and regulations.

- (a) A copy of the rules and regulations governing the use and maintenance of parks and recreational facilities may be obtained from the parks and recreation department or viewed online.
- (b) All park, municipal, county, state and federal ordinances apply.

(Ord. of 6-8-2015, § 11-77)

Sec. 28-46. - Establishment, enforcement of rules and regulations.

The director of parks and recreation has the authority and responsibility to establish and enforce any rules and regulations governing the use and maintenance of parks and recreational facilities not inconsistent with this article. Such rules and regulations shall not be deemed part of this article and violations shall not be punishable as a misdemeanor or by civil citation.

(Ord. of 6-8-2015, § 11-78)

Sec. 28-47. - Misuse of facilities.

Flagrant misuse of parks and recreational facilities will result in forfeiture of future reservation privileges and/or being banned from parks and recreational facilities within the county.

(Ord. of 6-8-2015, § 11-79)

Sec. 28-48. - Enforcement; penalties.

- (a) This division shall be enforced by park personnel or their designee and any authorized law enforcement officer within their jurisdiction. Violators of this article shall, upon conviction, be guilty of a misdemeanor pursuant to G.S. 14-4 and shall be fined not more than \$50.00, or imprisoned for not more than 30 days.
- (b) Violation of this division also shall subject the offender to a civil penalty of \$100.00 for each offense to be recovered by the county in a civil action in the nature of debts, as provided in G.S. 153A-123(c). The county shall make written demand for payment, delivered by certified mail, return receipt requested, upon the person or persons responsible or their agents and assigns, and shall set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within 30 days after demand for payment is received, the county may refer the matter to the county attorney for the institution of a civil action in the nature of debt in the name of the county in the appropriate division of the general court of justice in the county, for recovery of the penalty and any equitable remedy available to the county.
- (c) In addition to the above-listed criminal and civil penalties, offenders may be liable for paying restitution for repairs and/or replacement of any park property damaged as a result of violations of this article. Each day a violation continues shall constitute a separate and distinct offense, punishable as set forth herein and described above.
- (d) Repeat violations of this division shall subject the offender to a civil penalty not to exceed \$500.00 for each offense to be recovered by the county in a civil action in the nature of debts, as provided in G.S. 153A-123(c). The county shall make written demand for payment, delivered by certified mail, return receipt requested, upon the person or persons responsible or their agents and assigns, and shall set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within 30 days after demand for payment is received, the county may refer the matter to the county attorney for the institution of a civil action in the nature of debt in the name of the county in the appropriate division of the general court of justice in the county, for recovery of the penalty and any equitable remedy available to the county.

(Ord. of 6-8-2015, § 11-80)

Secs. 28-49—28-69. - Reserved.

DIVISION 2. - SEX OFFENDERS IN PARKS

Sec. 28-70. - Purpose.

The purpose of this division is to protect the children of the county from sexual predators by prohibiting registered sexual offenders from the county parks. It is recognized that sexual offenders have a high rate of recidivism and this division is designed to protect children from the risks of such recidivism.

(Ord. of 8-18-2008, art. 1)

Sec. 28-71. - Prohibition of registered sexual offenders in county parks.

It shall be unlawful for any person registered as a sexual offender in the State of North Carolina, in any other state of the United States, or with any federal agency to knowingly enter into or on any park owned, operated or maintained by the county.

(Ord. of 8-18-2008, art. 2)

Sec. 28-72. - Penalties and enforcement.

- (a) *Civil remedies.* Any violation of this division may be subject to civil remedies as set forth in G.S. 153A-123. This division shall be enforceable by citation, injunction and restraining order. Any person violating the provisions of this division shall be subject to a civil penalty for each violation in the amount of \$100.00. Each entry into a park shall constitute a separate and distinct offense.
- (b) *Criminal remedies.* A violation of this division shall constitute a misdemeanor pursuant G.S. 153A-123 and shall be subject to punishment pursuant to G.S. 14-4.
- (c) *Enforcement.* The director of parks and recreation and the county sheriff and his sworn deputies are authorized to written citations in the name of the county for violations. Civil penalties must be paid within three working days after a citation has been issued. The county sheriff and all sworn law enforcement officers shall have the authority to enforce the criminal provisions of this division.

(Ord. of 8-18-2008, art. 3)

Secs. 28-73—28-102. - Reserved.

ARTICLE III. - FIREARMS ON COUNTY PROPERTY

Sec. 28-103. - Firearms prohibited on county property.

Pursuant to G.S. 14-415.11(c), as amended, it shall be unlawful to possess, carry or have upon the person a firearm upon any property owned or leased by the county.

(Code 1992, § 9-15; Ord. of 11-4-1995, § 1)

Sec. 28-104. - Notice.

Pursuant to G.S. 14-415.11, the county shall cause the conspicuous posting of notices at or near the entrance to all county buildings and property that the possession or carrying of firearms on county property is prohibited.

(Code 1992, § 9-152; Ord. of 11-4-1995, § 1)

Sec. 28-105. - Exceptions.

- (a) This article shall not apply to persons such as authorized law enforcement officers who are exempted from concealed weapon prohibitions under G.S. 14-269.
- (b) This article shall not prohibit the possession or placement of unloaded firearms in locked motor vehicles in parking lots on county property.
- (c) This article shall not be construed to apply to authorized hunting activities lawfully conducted on county property with the approval of county officials having jurisdiction over that property.

(Code 1992, § 9-153; Ord. of 11-4-1995, § 1)

Sec. 28-106. - Penalties.

Violations of this article shall be a misdemeanor subject to the penalties set forth in G.S. 14-4 and upon conviction shall be punishable by a fine of not more than \$100.00.

(Code 1992, § 9-154; Ord. of 11-4-1995, § 1)

Secs. 28-107—28-125. - Reserved.