



**City of Asheboro**  
**Office of the City Attorney**

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**MEMORANDUM**


**TO:** The Honorable Jonathan C. Jordan, Member of the North Carolina House of Representatives, Co-Chair of the Joint Legislative Administrative Procedure Oversight Committee

The Honorable Andy Wells, Member of the North Carolina Senate, Co-Chair of the Joint Legislative Administrative Procedure Oversight Committee

The Honorable James L. Boles, Jr., Member of the North Carolina House of Representatives, Co-Chair of the Joint Legislative Oversight Committee on Justice and Public Safety

The Honorable Ted Davis, Jr., Member of the North Carolina House of Representatives, Co-Chair of the Joint Legislative Oversight Committee on Justice and Public Safety

The Honorable Shirley B. Randleman, Member of the North Carolina Senate, Co-Chair of the Joint Legislative Oversight Committee on Justice and Public Safety

**FROM:** Jeffrey C. Sugg, Asheboro City Attorney 

**DATE:** December 1, 2018

**RE:** List Required by Section 3 of North Carolina Session Law 2018-69 (House Bill 379)

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In compliance with the above-referenced session law, I am submitting the following list of applicable ordinances on behalf of the City of Asheboro. Please let me know if I can assist with any error or area of confusion found in this memorandum.

**LIST OF ORDINANCES FOUND IN THE CODE OF ASHEBORO,  
AS OF DECEMBER 1, 2018, THAT FALL WITHIN THE SCOPE  
OF SECTION 3 OF NORTH CAROLINA SESSION LAW 2018-69  
(HOUSE BILL 379)**

**CHAPTER 10 (GENERAL PROVISIONS):**

**§ 10.99      General Penalty**

With the exception of regulations pertaining to the operation or parking of vehicles, wherever any city ordinance, rule, or regulation prohibits any act or declares such an act to be unlawful or an offense without providing for a specific penalty, each separate act is punishable as a class 3 misdemeanor in accordance with G.S. 14-4(a). Similarly, when no specific penalty is listed, wherever a city ordinance, rule, or regulation mandates the performance of any act or declares the failure to take a mandated action to be unlawful or an offense, each separate violation of the relevant ordinance, rule, or regulation is punishable as a misdemeanor.

**CHAPTER 38 (AIRPORT RULES AND REGULATIONS):**

**§ 38.99      Penalty**

Any person who violates a rule and regulation promulgated by the Asheboro Airport Authority for the proper maintenance and operation of the Asheboro Regional Airport is guilty of a misdemeanor.

**CHAPTER 50 (WATER AND SEWERS):**

**§ 50.003      Permit Required to Connect to Water or Sewer System;  
Application**

It is a criminal offense for any person to cause a connection to be made to any city water main or city sewer of any type without a permit to do so issued by the city water and sewer utility.

**§ 50.019      Turning on Water When Shut Off by City Prohibited**

It is unlawful for any person, except for an authorized city water and sewer utility official, to turn on the water to any premises from which the water has been shut off by order of the utility.

#### **§ 50.020      Persons Not Entitled to Service**

It is unlawful for any person not entitled to be supplied with water from the city water system to take water from any fixture thereof, and it is unlawful for any authorized consumer of water from the city water system to supply water to any person whose supply has been cut off by the city water and sewer utility for nonpayment of the water bill or for any other violation of Chapter 50 of the Code of Asheboro. Likewise, it is unlawful for an authorized consumer of water from the city water system to permit any person whose use of the city water system has been cut off by the utility to take water from the fixtures on the authorized consumer's premises.

#### **§ 50.023      Meter By-Pass Regulated**

It is unlawful for any person to have a "by-pass" around any water meter without a written permit from the water and sewer utility, and, furthermore, it is unlawful for any person lawfully having a "by-pass" to open or use it except when permitted to do so by the utility. Each day such "by-pass" is unlawfully used is deemed to be a separate violation of this section.

#### **§ 50.024      Use of Fire Hydrants**

It is unlawful for any person to open, turn on, or use water from any fire hydrant connected to the City of Asheboro water distribution system, or to attach any hose, pipe, or any other type of apparatus to such a fire hydrant, without a written revocable permit issued by the water resources director or his or her designee; provided, that this prohibition does not apply to city employees qualified to use fire hydrants in the course of performing their official duties. Portable meters for connection to fire hydrants may be furnished by the city after a permit application and security deposit have been submitted to the water resources director or his or her designee. While a hydrant is in use, no wrench may be used on the hydrant other than an approved hydrant wrench.

#### **§ 50.025      Yard Fixtures to Be Closed when Not in Use**

It is unlawful for any person to permit any yard hydrant, sprinkler, or other yard fixture to leak or remain open when not in use.

#### **§ 50.026      Trespass upon Premises Used in Providing City Water**

It is unlawful to enter upon, walk, ride, bathe, swim, boat, skate, hunt, fish, or trespass in any manner whatsoever upon any portion of any pond or reservoir or any land or building owned, leased, or controlled by the city for the purpose of providing water unless such activity is approved by the city.

#### **§ 50.027      Emergency Water Management Procedures**

When a water emergency has been declared, it is unlawful to violate any of the mandatory water usage restrictions authorized by this section of the Code of Asheboro. A water emergency declaration may be issued when the city's water production, treatment, transmission, and storage facilities cannot meet daily water demands or when projections indicate the available water supply will not meet daily water demands.

#### **§ 50.039      Tapping to Service Connection; Installation of Meter**

It is unlawful for any person other than an employee of the city's water and sewer utility to connect any premises with the city water system.

#### **§ 50.044      Water Meters; Testing and Fees**

It is unlawful for any person to install a new in-ground irrigation system in a manner that does not strictly conform to the requirements specified in this section of the Code of Asheboro for the installation of in-ground irrigation systems connected to the city water system. In support of this prohibition, it is unlawful for a contractor to install an irrigation service line without first obtaining from the city's water resources director or his or her designee a permit authorizing the installation of an irrigation service line.

#### **§ 50.045      Tampering with Infrastructure Prohibited**

It is unlawful for any person to deface, tamper with, or injure any infrastructure connected with or pertaining to the city's water system. It is also unlawful to place any building material, rubbish, or other matter or substance on any valve, stop cock, meter box, water main, or service pipe; to obstruct access to any fixture connected with the city water system; or to remove, tamper with, or injure any pipe, fire plug, hydrant, valve or cock, or to open any of them except when authorized by the city water and sewer utility. By way of illustration and without limitation, a person is deemed to have unlawfully tampered with municipal infrastructure in violation of this section if, without authorization from the city water and sewer utility, a fire hydrant is opened or operated in any manner; a water meter is activated, operated, or manipulated in an effort to restore water service for any premises for which water service has been discontinued; the water meter or any device attached thereto is damaged to any degree by an unauthorized individual attempting to manipulate or operate some physical component of or attachment to the water meter; or the water meter is relocated to provide service in a location other than the service address noted in the records of the city water and sewer utility.

### **§ 50.076 Tampering with System**

It is unlawful for any person to remove, damage, or tamper/interfere with any sewer pipe belonging to the city or to remove, break, tamper with, or injure any portion of any manhole, flush tank, or any other component of or attachment to the city sewerage system.

### **§ 50.077 Permit Required**

It is unlawful for any person to make a connection with the city sewerage system until a permit has been granted by the city. Every person is forbidden to make any such connection under an expired or revoked permit.

### **§ 50.100 Refusal to Make Required Connection**

It is unlawful for any property owner whose property or premises is required by the Code of Asheboro to be connected with the city sewerage system to refuse or neglect to make connection thereto in the manner required by the code.

### **§ 50.102 Prohibited Connections**

It is unlawful for any person to directly or indirectly connect or permit the connection of any open gutter, cesspool, privy, vault, or rain water conductor to the city's sanitary sewer system.

## **CHAPTER 51 (GARBAGE):**

### **§ 51.02 Littering Prohibited**

It is unlawful for any person to deposit or cause to be deposited any litter, rubbish, trash, or any like material upon the streets, sidewalks, or other public places, or to throw, drop, or permit to be thrown or dropped any litter, rubbish, trash, or like material from an automobile. This section explicitly provides that it is not to be construed to prohibit occupants of residential premises or merchants, tenants, or owners of business establishments within the city from depositing trash or refuse from such establishments for regular pick-up in spaces and containers authorized by this chapter of the Code of Asheboro.

### **§ 51.03 Accumulation of Trash Unlawful**

It is unlawful to permit trash or any kind of filth to accumulate on any premises or to throw any trash or filth on the streets or any vacant lots.

#### **§ 51.04      Removal of Refuse from Vacant Lots; Notice to Owners**

It is unlawful for owners and persons in charge of vacant lots in the city to fail to maintain such lots free and clear of debris, trash, decaying matter, refuse, stagnant water, and similar materials in which vermin, mosquitoes, flies, other insects, and rats or mice live or breed.

#### **§ 51.06      Transportation of Solid Waste into City for Collection Prohibited**

It is unlawful for any person to haul, carry, or in any other manner transport solid waste into the city from outside the city for the purpose of leaving or depositing such solid waste for collection by city forces. The term "solid waste," in addition to including any materials that are collected by the city's environmental services department and regulated elsewhere in this chapter of the Code of Asheboro, is defined as any hazardous or nonhazardous garbage, refuse, sludge, and any other material that has served its original intended use and has been discarded. However, recyclable materials transported to a recycling collection point/facility and solid waste transported to the city's transfer station are permitted so long as such materials are delivered and unloaded in accordance with all applicable laws and regulations, specifically including without limitation the regulations governing the operations of the city's recycling center(s) and/or the city's transfer station.

#### **§ 51.07      Offensive Materials Not to Be Brought into or Buried in the City**

It is unlawful to fill any land with, or dump upon any vacant lot within the city, garbage, dead animals, decaying vegetable matter, or any offensive material. It is also unlawful for any of the aforementioned offensive materials to be buried within the city.

#### **§ 51.21      Interference with Solid Waste/Recyclables Containers Prohibited**

It is unlawful for anyone other than the person who initially placed the solid waste/recyclables for collection to open, move, or otherwise disturb a solid waste/recyclables container that has been placed for collection adjacent to a street or sidewalk in compliance with the applicable regulations. Additionally, it is unlawful for anyone other than the person who initially placed the solid waste/recyclables for collection to open a plastic bag placed inside a solid waste/recyclables container or to remove or otherwise disturb in any manner the contents of the solid waste/recyclables container after the container has been placed for collection adjacent to a street or sidewalk in compliance with the regulations prescribed by this chapter. The previously stated prohibitions are inapplicable to employees or contractors of the United States of America, the State of North Carolina, or the City of Asheboro when

such employees or contractors are operating within the scope of their employment or contractual responsibilities. The stated prohibitions are also inapplicable to individuals who belong to the same household as the person who initially placed the solid waste/recyclables container adjacent to the street or sidewalk for collection.

#### **§ 51.24 Compliance Required**

It is unlawful to place garbage for collection by the city or by any other person or instrumentality whatsoever on or adjacent to street or sidewalk of the city except in accordance with this chapter of the Code of Asheboro. In cases where an otherwise lawful customer of the city's environmental services department has improperly placed for collection normal, nonhazardous household waste that will not fit into the container made available for the collection and disposition of solid waste, such a customer will be billed for the collection of the improperly placed waste material in lieu of pursuing criminal process.

#### **CHAPTER 52 (SEWER USE):**

#### **§ 52.51 Other Available Remedies**

It is unlawful to violate the provisions of this chapter of the Code of Asheboro that sets forth uniform requirements for direct and indirect contributors into the city's wastewater collection and treatment system. The enactment and enforcement, criminal and otherwise, of the requirements found in this chapter enable the city to comply with the applicable federal and state laws, including the Clean Water Act and the general pretreatment regulations.

#### **CHAPTER 70 (TRAFFIC REGULATIONS):**

#### **§ 70.60 Prohibition of the Solicitation of Employment, Business, or Contributions upon Highways or Streets**

It is unlawful for a person to stand on any street, highway, or right-of-way while soliciting or attempting to solicit any employment, business, or contributions from the driver or occupants of vehicles. Sidewalks are excluded from the scope of this prohibition. Other exceptions to the prohibition include:

- (1) A person engaged in the distribution of newspapers on the non-traveled portion of any street or highway so long as the distribution activities do not impede the normal movement of traffic on the street or highway. It is unlawful for any person to impede the normal movement of traffic on the street or highway.

- (2) Licensees, employees, or contractors of the North Carolina Department of Transportation or the City of Asheboro that are engaged in construction, maintenance, or in making traffic or engineering surveys.

#### **CHAPTER 90 (ABANDONED VEHICLES):**

##### **§ 90.16 Unlawful Removal of Impounded Vehicle**

It is unlawful for any person to remove or attempt to remove from any storage facility designated by the city any vehicle that has been lawfully impounded unless and until all applicable towing and impoundment fees have been paid or an adequate bond has been provided in lieu of the payment of such fees.

#### **CHAPTER 91 (ANIMALS):**

##### **§ 91.32 Remedies and Penalties**

Any person who violates the provisions of Chapter 91 of the Code of Asheboro is guilty of a misdemeanor and shall be fined not more than \$500. Chapter 91 has been enacted to regulate, restrict, or prohibit, if necessary, animals; to protect the public from unvaccinated, diseased, stray, roaming, dangerous, wild, or exotic animals; to make unlawful certain acts of animals that interfere with the enjoyment of property or the peace and safety of the city; and to protect animals from abuse or conditions harmful to their well-being.

#### **CHAPTER 92 (CEMETERIES):**

##### **§ 92.04 Human Remains to Be Buried in Cemetery**

It is unlawful for any person to bury or assist in burying the dead body of any human being within the city except in cemeteries as are duly established and in use.

##### **§ 92.13 Prohibited Conduct**

It is unlawful for any person to do anything to disturb the quiet and good order of any cemetery or burial place by noise or conduct of any kind except such noise and conduct as is customary or necessary in cemeteries.

##### **§ 92.14 Disturbance of Burial Services**

It is unlawful for any person to do anything to disturb or interfere with any burial services that may be held in any cemetery.

### **§ 92.15 Injury to Trees and Shrubs**

It is unlawful for any person to wantonly cut, break, destroy, or in any way injure any tree, shrub, flowers, grass, or plant growing or placed on any plot or in any other part of any cemetery.

### **§ 92.16 Deposit of Trash Prohibited**

It is unlawful to throw, deposit, or leave any trash, filth, offensive, or unclean matter or substance in any cemetery. While the caption for this section references the deposit of trash, this section also provides that it is unlawful for any person to walk dogs that are leashed or unleashed in the cemetery.

### **§ 92.17 Disturbance of Grave Markers, Walls, and Enclosures**

It is unlawful for any person to in any way disturb, mutilate, deface, injure, or remove any stone marking any grave, wall, or enclosure around any grave in or about any cemetery.

### **§ 92.18 Cemeteries Not to Be Used as Playgrounds**

It is unlawful for any person to use or permit the use of any cemetery as a playground or for play. The section goes on to provide that it is the duty of all police officers and other employees of the city, so far as it lies within their power, to prevent such use and to eject any and all offenders against this section from the cemetery if the person continues to violate this section after being warned to stop.

## **CHAPTER 93 (CIVIL EMERGENCIES):**

### **§ 93.14 Penalty**

Consistent with G.S. 14-288.20A, it is unlawful for any person to violate any prohibition or restriction imposed by a state of emergency declaration that implements one or more of the restrictions authorized by this emergency management chapter of the Code of Asheboro. The restrictions available for inclusion within the state of emergency declaration are curfews, evacuations, restrictions on access to areas, and the prohibition of certain activities.

## **CHAPTER 94 (FAIR HOUSING):**

### **§ 94.99 Penalty and Remedies**

In addition to appropriate civil or equitable remedies, a person who violates any of the provisions in the City of Asheboro Fair Housing Ordinance, which is codified as

Chapter 94 of the Code of Asheboro, is subject to criminal prosecution. The practices specified as unlawful by this chapter include, by example and without limitation, the refusal to sell, purchase, rent, or lease or to deny to or withhold any housing accommodation from a person because of the person's race, color, religion, ancestry, national origin, sex, or place of birth.

#### **CHAPTER 95 (FIRE PREVENTION):**

##### **§ 95.07 Remedies and Penalties**

Any person who violates the provisions of the City of Asheboro Fire Prevention Ordinance, which is codified as Chapter 95 in the Code of Asheboro, is guilty of a misdemeanor and shall be fined not more than \$500. This chapter of the code, by reference to the North Carolina Fire Code and by prescribing certain supplemental regulations such as rules pertaining to the burning of leaves, brush, and trash, implements regulations governing conditions that are hazardous to life and property because of fire and explosion.

#### **CHAPTER 96 (NUISANCES AND NOISE):**

##### **§ 96.08 Abatement Procedure Additional to Other Remedies**

In addition to abatement procedures that may be undertaken by city forces after due process rights have been provided through notice and a hearing, criminal process may be initiated against any person or entity that allows the continued existence of conditions on one's own property that constitute a public nuisance. Chapter 96 of the Code of Asheboro declares the following conditions to constitute a public nuisance that is dangerous and detrimental to the public health and safety: the uncontrolled growth of noxious weeds and grass; the accumulation of rubbish, trash, or junk that creates a fire hazard, fosters the accumulation of stagnate water to serve as a breeding ground for mosquitoes, or creates a habitat for snakes, rats, mice, or similar vermin; the accumulation of animal or vegetable matter that creates offensive odors or creates a habitat for snakes, rats, mice, or similar vermin; and the open storage of abandoned freezers, refrigerators, and building materials. This same chapter also provides a non-exclusive list of types of noise that is prohibited because the noise is declared to be of such character, intensity, and duration as to be detrimental to the life or health of any individual.

#### **CHAPTER 98 (CULTURAL AND RECREATION SERVICES):**

##### **§ 98.02 Required Safety Equipment at Asheboro Skate Park**

It is unlawful for any person to ride, operate, or utilize in any manner a skateboard or inline skates, specifically including sneakers or other types of shoes with one or

more wheels embedded in each shoe's sole, on the premises of the Asheboro Skate Park unless such a person is wearing a helmet, elbow pads, and kneepads in strict compliance with the instructions provided by the manufacturer of the safety equipment.

#### **§ 98.03      Failure to Vacate Rented Recreation Facilities**

It is unlawful for any person to occupy or otherwise utilize in any manner a facility managed by either the City of Asheboro Cultural Services Department or the City of Asheboro Recreation Services Department, specifically including by way of illustration and not limitation shelters in city parks and the Rotary Pavilion at Bicentennial Park, when signage displayed at such a facility indicates that the facility is rented and documentation from either the Cultural Services Department or the Recreation Services Department authorizing the use of the facility by another individual, group, or entity is displayed to the person(s) attempting to unlawfully occupy or utilize the facility.

#### **§ 98.04      Prohibition of Activities that Damage City Property**

It is unlawful to engage in any action or activity on the premises of a park or facility administered by the city's cultural services department or recreation services department when that activity has not been explicitly approved by either of these departments as part of the city's cultural or recreational programming, and the unapproved action or activity has the effect of damaging the city's real or personal property. By way of illustration and not limitation, an activity that would fall within the scope of this prohibition is the use of a shovel or spade to disturb the ground in response to an alert signal from a metal detector. It is not the intent of this section, and the text of this section shall not be interpreted in any manner, that reduces or impairs the ability of the city to pursue civil actions to recover damages and/or seek the prosecution of individuals for committing criminal offenses such as trespass, injury to personal property, and injury to real property.

### **CHAPTER 99 (STREETS AND SIDEWALKS):**

#### **§ 99.03      Interference with Barricades; Driving on Barricaded Street**

It is unlawful to tear down any poles, plank, or other material erected as a blockade or barricade to close streets under construction or erected for other purposes by authorized officials. It is also unlawful for any person to operate an automobile, truck, or other vehicle upon any street that has been blockaded or barricaded by authorized officials.

#### **§ 99.10      Objects over or upon Sidewalk**

It is unlawful for any person to hang, put, erect, project, suspend, or in any manner place, maintain, or permit to remain any sign or thing of like nature over, on, or upon any sidewalk of the city or the curbing thereof, whether of wood, cloth, or other material, that is less than seven feet above such sidewalk or which shall, in any manner whatsoever, impede, delay, endanger, or inconvenience pedestrians in the free and uninterrupted use of such sidewalk or in passing to and from the sidewalk to the street; provided, that this shall not be construed to apply to awnings.

#### **§ 99.13      Building Materials on Streets and Sidewalks**

It is unlawful for any person to place building materials on any of the streets or sidewalks of the city in such a way or manner that such streets or sidewalks are obstructed or blocked thereby.

#### **§ 99.14      Scaffolding and Passageways during Building Operations**

It is unlawful for any person to build scaffolding on any of the streets or sidewalks of the city in such a way or manner that such streets or sidewalks are obstructed or blocked thereby. Before building or remodeling at any place which is in close proximity to the sidewalk, an overhead covered passageway shall be constructed so as to leave the sidewalk unobstructed and provide safe and easy passage.

#### **§ 99.15      Placing Material in Street or Alley or upon Sidewalk**

It is unlawful for any person to place in any street or alley or upon any sidewalk any boxes, casks, barrels, crates, or other like obstruction. Each day such obstruction is permitted to remain in any street or alley or upon any sidewalk after the person responsible therefor has been notified to remove such obstruction shall constitute a separate offense.

#### **§ 99.16      Allowing Merchandise to Remain on Sidewalk or Street after 7:00 P.M.**

It is unlawful for any person to allow any goods, wares, merchandise, or any article for sale to remain on the sidewalks in such manner as to obstruct the free passage of the sidewalks. It shall be unlawful for any person to allow any goods, wares, merchandise, or other articles of trade to remain on the streets of the city after 7:00 p.m.

**§ 99.17      Obstructions in Alleyways which Interfere with Fire-Fighting Equipment**

It is unlawful to obstruct in any manner whatsoever any alleyway, whether dedicated to public use or not, that is used by the public as a means of egress or ingress from or to any property located within the fire limits of the city when such an obstruction would prevent, impede, or delay the moving of fire trucks or other fire-fighting equipment to or from the property. This provisions does not prevent the use of such alleyways for temporary parking if the temporary parking is for the purpose of loading or unloading goods, wares, merchandise, or other articles in the ordinary course of business and trade. Furthermore, this section of the Code of Asheboro does not prevent the erection of permanent structures or buildings upon such alleyways by the owners thereof if such owners otherwise have the right to erect such structures or buildings.

**§ 99.25      Permit Required**

It is unlawful for any person to dig any hole, ditch, or excavation of any kind on any street in the city without having first secured a permit.

**§ 99.27      Permit Required for Removal of Sand, Dirt, or Stone**

It is unlawful for any person to, remove any sand, dirt, or stone from any street, road, or sidewalk in the city without having first secured a permit therefor.

**§ 99.29      Planks and Ropes at Excavation Sites**

It is unlawful for any person making any excavation for any purpose in a street or sidewalk of the city to fail to cover such excavation securely with plank or to place ropes around the excavation three feet from the ground.

**§ 99.30      Lights at Excavation Sites**

It is unlawful for any person making any excavation for any purpose whatsoever in any street or sidewalk of the city to fail to place a sufficient number of orange lights around such excavation before dark and to keep such lights burning all night during every night such excavation shall be open.

**§ 99.50      Permit Required**

It is unlawful for any person to construct a driveway across any public sidewalk, walkway, or parkway or into any street, or to cut any curb for such purpose, without first having obtained a permit in accordance with the provisions found within Chapter 99 of the Code of Asheboro.

## **CHAPTER 100 (YARD SALES):**

### **§ 100.99      Penalty**

Any person conducting a yard sale in violation of the regulations in Chapter 100 of the Code of Asheboro is guilty of a misdemeanor and shall be fined not more than \$50. This chapter regulates commercial or retail activities in residentially zoned districts through the use of regulations addressing the number and timing of such sales as well as regulating the signage associated with this type of commercial or retail activity in residential zoning districts.

## **CHAPTER 110 (PAWNBROKERS):**

### **§ 110.02      License Required**

It is unlawful for any person, firm, or corporation to establish or conduct a pawnbroker business within the corporate limits of the City of Asheboro unless such a person, firm, or corporation has procured a license to conduct the business in compliance with the requirements of this chapter of the Code of Asheboro and all applicable provisions of the North Carolina General Statutes.

## **CHAPTER 113 (DEALERS IN SEXUALLY EXPLICIT MATERIAL):**

### **§ 113.04      License Required**

It is unlawful for any person to operate or cause to be operated a sexually oriented business (these businesses are classified within Chapter 113 of the Code of Asheboro as adult bookstores, adult live entertainment businesses, adult mini-motion-picture theaters, adult motion-picture theaters, and clothing modeling studios) without a valid sexually oriented business license issued by the city's chief of police in accordance with the provisions of Chapter 113. It is also unlawful to conduct such a business in the absence of a business operator who was identified in writing as part of the licensing process with the chief of police.

### **§ 113.09      Notice of Violation; Suspension of License**

The chief of police must issue a notice of violation when a determination is made that a licensee, owner, operator, or employee has violated or is not in compliance with any section of Chapter 113. Furthermore, the chief of police must suspend a sexually oriented business license for a period of 30 days if the violation has not been corrected or abated within 20 days after the notice of violation has been received by the licensee, owner, or operator. It is unlawful for any person to operate or cause to be operated a sexually oriented business when such person knows or should know that the business has a suspended license.

## **CHAPTER 114 (TAXICABS):**

### **§ 114.10 Certificate Required**

It is unlawful for any person to operate a taxicab upon and over the streets of the city without first having applied for and secured from the city council a certificate of convenience and necessity as provided in the Code of Asheboro. It is also unlawful for any person to operate a taxicab upon and over the streets of the city without having a certificate of convenience and necessity secured from the City Council that is currently in effect.

### **§ 114.52 Use of Inspected and Approved Meters Required**

It is unlawful for any taxicab to be operated for public hire unless it is equipped with a taximeter that has been inspected and is used as provided in this chapter. Similarly, it is unlawful for any person to drive a taxicab to which is attached a taximeter that has not been inspected and approved as provided in this chapter.

### **§ 114.54 Prohibited Acts Relating to Meters**

It is unlawful to change the size of the wheels or tires of a taxicab in such a manner as to cause the 5% tolerance authorized by this chapter to be exceeded, to change the gears operating the taximeter, or to change a taximeter from one taxicab to another unless the taximeter is retested and approved by the chief of police.

### **§ 114.55 Duties of Drivers and Prohibited Acts**

No driver of a taxicab equipped with a taximeter, while carrying passengers or under employment, shall display the signal affixed to such taximeter in such a position as to denote such vehicle is not employed, or in such position as to denote that he is employed at a rate of fare different from that to which he is entitled under the provisions of this chapter. It is the duty of the driver to call the attention of passengers to the amount registered, and the taxicab flag shall not be changed to the vacant position until after the fare is paid. If demanded by a passenger, the driver shall give to the person paying the fare, at the time of such payment, his name, permit number, taxicab number, and the name of the owner. It is unlawful for any driver to carry any person without the earning signal on the taximeter being in operation.

### **§ 114.56 Determination of Rate of Fare; Hourly Rate**

It is unlawful for any person owning, operating, or driving a taxicab to operate or drive such taxicab unless the taximeter is used in determining the fare to be charged, and no other or different fare shall be charged to a passenger than is recorded on the reading face of such taximeter for a trip; except, that the hourly rate may be used by

mutual agreement between the passenger and the owner of the taxicab. No other rates or methods of measuring the distance or time charges shall be allowed except as authorized elsewhere in this chapter of the Code of Asheboro.

## **CHAPTER 130 (OFFENSES AGAINST PUBLIC PEACE AND SAFETY):**

### **§ 130.01 Regulation of Use of Firearms or Any Device Designed or Used to Project Pellets, Arrows, or Other Projectiles**

It is unlawful for a person to discharge any pistol, rifle, gun, or other type of firearm within the city or within the boundary lines of city-owned property located beyond the city limits. There are certain exceptions to this general prohibition such as the use of a firearm at a properly permitted shooting range, the use of a firearm by a public safety official or any individual in self-defense or the defense of others, the properly permitted hunting of ducks and dark geese on one of the city-owned lakes, and the properly permitted use of blank cartridges for historical reenactments, theatrical events, military displays, and athletic events. Subject to the same types of exceptions listed in the immediately preceding sentence, it is also unlawful for a person to shoot or project any arrow, shot, pellet, stone, rock, or other hard substance by means of a bow, air rifle, pellet gun, paintball gun, popgun, slingshot, bean shooter, or other similar type of device or contrivance within the city or within the boundary lines of any city-owned property that is located beyond the city limits.

### **§ 130.03 Consumption and Possession of Alcoholic Beverages in Certain Locations**

The purpose of this section of the Code of Asheboro is to regulate the consumption and possession of alcoholic beverages in locations where discretionary authority has been afforded to units of local government by the North Carolina General Statutes. It is unlawful for any person who is not an occupant of a motor vehicle to consume a malt beverage or unfortified wine on any public street, sidewalk, or alley in the city or on any other property owned, occupied, or controlled by the city. The possession of open containers of malt beverages and unfortified wine by any person who is not an occupant of a motor vehicle on any public street, sidewalk, or alley in the city or on any other property owned, occupied, or controlled by the city is unlawful. For the purposes of this section, an "open container" is a container with a seal that has been broken or a container other than the manufacturer's unopened original container.

Additional unlawful acts defined by this section of the Code of Asheboro include the possession of malt beverages and unfortified wines on public streets, alleys, or parking lots that are temporarily closed to regular traffic for special events. The possession or consumption of fortified wine, spirituous liquor, or mixed beverages is prohibited on property owned or leased by the city.

There are certain exceptions to these prohibitions. Examples of these exceptions are listed as follows:

- (1) The possession or consumption of alcoholic beverages by a sworn law enforcement officer acting in the performance of his or her official duties;
- (2) The possession or consumption of malt beverages at the city-owned ballpark as part of collegiate or professional baseball events hosted by legal entities with whom the City of Asheboro has entered into a lease agreement for the use of the ballpark; however, any such malt beverages found within the park must have been obtained in accordance with a sale/distribution plan developed and implemented by the hosting entity in compliance with all applicable laws and administrative regulations;
- (3) The possession or consumption of unfortified wine and malt beverages on the premises of the city-owned Sunset Theatre and Bicentennial Park facilities. The possession or consumption of unfortified wine and malt beverages on these premises is lawful only if such possession or consumption is conducted in strict compliance with the rules adopted for the facilities, inclusive of any and all sale/distribution plans developed and implemented in compliance with the City of Asheboro Cultural and Recreation Services Policy Manual; and
- (4) The possession of unfortified wine on the premises of the Downtown Farmers' Market facility. The possession of unfortified wine on these premises will be lawful only if such possession occurs as part of the retail sale by an approved Downtown Farmers' Market vendor of unfortified wine for off-premise consumption.

#### **§ 130.05 Aggressive Solicitation Prohibited**

It is unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

- (1) In an aggressive manner in a public area;
- (2) Within 15 feet of any entrance or exit of any bank or within 15 feet of any automated teller machine during the hours of operation of such bank or automated teller machine without the consent of the owner or other person legally in possession of such facilities. When an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility; or

- (3) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.

The term “aggressive manner” is defined by the ordinance to include:

- (a) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;
- (b) Following the person being solicited, if that conduct is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (c) Continuing to solicit within five feet of the person being solicited after the person has made a negative response, if continuing the solicitation is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (d) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest and acts authorized by a permit issued pursuant to Chapter 97 (Parades) of the Code of Asheboro shall not constitute obstruction of pedestrian or vehicular traffic;
- (e) Intentionally or recklessly using obscene or abusive language or gestures intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation; or
- (f) Approaching the person being solicited in a manner that is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

### **§ 130.06      Public Urination and Defecation Prohibited**

Except in designated water closets or toilet facilities, it is unlawful for any person to urinate or defecate on any public place, sidewalk, street, alleyway or right-of-way, or in any public building, or on private property. Having the permission of the owner or person in lawful possession of the real property is an affirmative defense to the charge of urinating or defecating on private property.

### **§ 130.07      All-Terrain Vehicles Prohibited on City-Owned Lands**

The act of operating any motorized all-terrain vehicle on city-owned real property is unlawful. For the purpose of this section, the term “motorized all-terrain vehicle” means a two or more wheeled vehicle designed for recreational off-road use. This section of the Code of Asheboro is not applicable to city employees and contractors, law enforcement officers, firefighters, rescue personnel, emergency medical services personnel, and emergency management personnel acting in the course and scope of their official duties.

### **§ 130.08      Curfew Established for Parks**

This section of the Code of Asheboro establishes a curfew between the hours of 11:00 p.m. and 6:00 a.m. in named city-owned parks and recreation areas. It is unlawful to violate this curfew, but no person is deemed guilty of violating the curfew if such a person is present in one of the specified parks and recreation areas within 30 minutes of the official conclusion of an event conducted in the parks and recreation areas with the approval of the city.

### **§ 130.09      Regulation of Skateboards and Inline Skates**

It is unlawful for any person riding on a skateboard or inline skates to ride any such device on the premises of facilities or lands owned in fee simple or leased by the city. However, in accordance with the regulations found in Chapter 98 (Cultural and Recreation Services) of the Code of Asheboro, this prohibition is not applicable within designated areas of the Asheboro Skate Park.

## **CHAPTER 150 (BUILDINGS):**

### **§ 150.03      Stop Orders**

The violation of a “stop order” is unlawful. The city’s building inspector may issue a stop order whenever any building or structure, or a part thereof, is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner or in substantial violation of any state law or city ordinance or in a manner that endangers life or property. The building inspector may order the specific part of the work that

is in violation or presents such a hazard to be immediately stopped. The stop order must be in writing, directed to the person doing the work, state the specific work to be stopped, the specific reasons for the order, and the conditions under which the work may be resumed. The owner or builder may appeal from a stop order involving the alleged violation of the state building code, or any approved modification thereof made by ordinance of this city, to the North Carolina Commissioner of Insurance or his designee within a period of five days after the order is issued. Pending the ruling by the Commissioner of Insurance or his designee on an appeal, no further work may take place in violation of the stop order.

#### **§ 150.47      Removing Notice from Condemned Buildings**

It is unlawful for any person to remove any notice affixed to any building or structure by the building inspector that states the dangerous character of the building or structure.

#### **§ 150.51      Failure to Comply with Order**

It is unlawful for the owner of a building or structure to fail to comply with an order issued by the building inspector requiring the owner to remedy defective conditions in a building or structure by repairing, closing, vacating, or demolishing the building or structure because the building or structure is in a condition that constitutes a fire or safety hazard or that renders it dangerous to life, health, or other property. If the owner does not comply with the order and does not appeal the order, or fails to comply with an order of the city council following an appeal, such an owner is guilty of a misdemeanor.

### **CHAPTER 151 (HOUSING CODE):**

#### **§ 151.21      Violations**

After an order has been duly made and ordered, it is unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, within the time frame specified in an order issued by a city inspector who has found the dwelling or dwelling unit to not be in compliance with the minimum standards for habitation. Each day that any such failure, neglect, or refusal to comply with such order continues is a separate and distinct offense.

It is also unlawful for the owner of any dwelling or dwelling unit, with respect to which such an order has been issued, to occupy or permit the occupancy of the dwelling or dwelling unit after the time prescribed in such order for its repair, alteration, or improvement or its vacation and closing. Each day that such occupancy continues after the prescribed time shall constitute a separate and distinct offense.

## **§ 151.99      Penalty**

This section of the Code of Asheboro specifically provides that any violation of the city's minimum housing code (Chapter 151) constitutes a misdemeanor. In addition to this criminal sanction, and the remedies provided by other provisions of Chapter 151, the housing code may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.

## **CHAPTER 152 (NONRESIDENTIAL BUILDING MAINTENANCE CODE):**

### **§ 152.22      Violations; Penalties**

It is unlawful for the owner of any nonresidential building found to be in violation of the nonresidential building maintenance code to fail, neglect, or refuse to repair, alter, or improve the same, to vacate and close, or to remove or demolish the noncompliant building within the time frame specified in an order properly issued and served on the owner by the city's enforcement officer. Each day that any such failure, neglect, or refusal to comply with the order continues shall constitute a separate and distinct offense. Similarly, it is unlawful for the owner of any nonresidential building, with respect to which an enforcement order has been issued, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration, improvement, or its vacation and closing. Each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

## **CHAPTER 153 (SUBDIVISIONS):**

### **§ 153.01      Adoption by Reference**

The City of Asheboro Subdivision Ordinance has been adopted and incorporated by reference into the Code of Asheboro as if set out at length within the code. Article IV of the subdivision ordinance explicitly provides that any owner or agent of the owner of land within the territorial jurisdiction of the city's subdivision ordinance who subdivides such land in violation of the subdivision ordinance, or transfers or sells land by reference to or exhibition of a subdivision plat that was not approved in compliance with the subdivision ordinance, is guilty of a misdemeanor.

## **CHAPTER 154 (ZONING):**

### **§ 154.01      Adoption by Reference**

The City of Asheboro Zoning Ordinance has been adopted and incorporated by reference into the Code of Asheboro as if set out at length within the code. Section 1014.4 of the zoning ordinance explicitly provides that, in addition to other remedies

that may be utilized, violations of the provisions of the zoning ordinance or the failure to comply with the zoning ordinance's requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use permits or conditional use permits, constitutes a misdemeanor.