

## **EXHIBIT A to RESPONSE TO SESSION LAW 2018-69**

### **Chapter 1 - GENERAL PROVISIONS**

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

(a) Penalties in general.

(1) Civil penalties. Unless otherwise specifically provided, violation of any provision of this Code or any other city ordinance shall subject the offender to a civil penalty in the amount of \$500.00 or as specified in the then-current fees, rates and charges schedule adopted as part of the City of Concord Annual Operating Budget; except, that where the General Statutes of North Carolina provide specific remedies for violations of provisions of this Code adopted pursuant to such statutes, such remedies available to the city for enforcement of this Code shall be in addition to the remedies hereinafter stated.

(2) Criminal penalties. No criminal penalties shall be applicable unless hereinafter stated in a section of this Code as being applicable to specific chapters or provisions of this Code.

(3) [Enforcement.] The provisions of this Code and any other city ordinances may be enforced by one, all or a combination of the remedies authorized and prescribed by this section, except that any provision the violation of which incurs a civil penalty shall not be enforced by criminal penalties except as outlined in subsection (a)(2) of this section.

(4) [Continuing violations.] Except as otherwise specifically provided, each day's continuing violation of any provision of this Code or any other city ordinance shall be a separate and distinct offense.

(b) Methods of service.

(1) General methods. All notices of violation, civil citations, orders or any other documents served upon any person or entity in connection with any violation of this Code shall be issued by the appropriate code enforcement officer and shall be served on the violator or responsible party by personal delivery or by simultaneous mailing both by first class U.S. mail and by certified or registered mail, return receipt requested and addressed to the last known address of the violator or responsible party as contained in the records of the county.

(2) Service by publication. A party that cannot with due diligence be served by personal delivery, registered or certified mail may be served by publication. Service by publication shall consist of publishing the notice of violation, civil citation, order or other document in a newspaper having general circulation in the city, that is qualified for legal advertising in accordance with G.S. 1-597 and G.S. 1-598, and circulated in the city where the action is pending. If the party's post office address is known or can with reasonable diligence be ascertained, there shall be mailed to the party at or immediately prior to the publication a copy of the notice of service of process by publication. The mailing may be omitted if the post office address cannot be ascertained with reasonable diligence. Prior to such publication, the appropriate code enforcement officer shall execute an affidavit setting forth the circumstances warranting the use of service by publication, and information, if any, regarding the location of the party served.

The service by publication shall set forth any and all requirements of the particular document being served and shall include, as appropriate, (i) the consequences of the service; (ii) the names of any known persons also being served; (iii) any time frames or deadlines involved; (iv) any appeal rights; (v) contact information for the appropriate code enforcement officer.

(3) Vehicles. If the violation is due to use of a vehicle, the citation may be served by posting it on the windshield of the offending vehicle.

(4)Time of service. The violator shall be deemed to have been served upon receipt of such notices of violation, civil citations, orders or any other documents. In the event of service by publication, the violator shall be deemed to have been served upon the date of such publication.

(c) Notice of violation. Upon determination of a violation of any section of this Code, the penalty for which is a civil penalty, notice of such violation shall be issued to the violator, setting out the nature of the violation, the code section(s) violated, the date of the violation and an order to immediately cease the violation or, if the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, stating a reasonable period of time in which the violation must be abated. The notice of violation shall specify that failure to comply with the Code shall incur a civil penalty. The notice shall include any other appropriate information including, but not limited to, how a hearing may be scheduled or other appropriate procedures to appeal the violation.

(d)Summary abatement. The violation of some sections of this Code specifically provide that if the violator fails to take appropriate action within the stated time frame, the City may abate the violation and the violator shall be responsible for the costs. Where such Code sections specifically provide, the costs, if unpaid by the violator, shall constitute a lien on the real property and may be collectable in the manner of a tax as provided in G.S. § 160A-193.

(e)Civil citation. Except where a section of this Code provides for abatement of public health and public safety nuisances in accordance with the General Statutes, where a civil penalty is incurred, a civil citation shall be served upon the appropriate person or entity responsible for the violation. The citation shall direct the violator to appear before the designated city official for a hearing at a certain time and place or that such a hearing may be scheduled by the violator within a certain time frame measured from the date of service of the citation, or alternatively to correct the violation and pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid, if applicable; otherwise, the violation will be deemed continuing and applicable civil penalties shall continue to accrue for each day that the violation remains uncorrected. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated; however, the issuance of a single citation may provide for daily accrual of civil penalties until such time as the violation is determined by the authorized enforcement officer to be corrected.

(f)Failure to respond to civil citation.

(1)If the violator fails to respond to a citation or to pay the penalty prescribed therein within the stated time frame, the violator is liable for an additional civil penalty of \$100.00.

(2)If the violator fails to respond to a citation within the stated time frame, the city may institute a civil action in the nature of a debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty.

(3)Any willful failure to pay any civil penalty imposed within this Code is a misdemeanor under G.S. § 14-4 and punishable by a fine of \$500.00 or 30 days in jail, or both.

(g)Equitable relief.

(1)In addition to any civil or criminal penalties set out in this section, any provision of this Code or any other city ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction in accordance with the North Carolina General Statutes. In such case, the general court of justice shall have jurisdiction to issue such orders as may be

appropriate, and it shall not be a defense to the application of the city for equitable relief that there is an adequate remedy at law.

(2) If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court the city may execute the order of abatement in accordance with the court order.

(3) The city shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialmen's lien, and may post notice of lis pendens against the real property of the defendant at the office of the register of deeds of the county. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(h) Appeals. Except where otherwise specifically provided, a violator may appeal a notice of violation or a civil citation to the director of the department in which the issuing code enforcement officer serves by notifying the director in writing of the specific grounds for the appeal within the time frame set forth in the notice or citation. The director of the department shall schedule a hearing on the appeal within a reasonable time, not later than ten days from receipt of the written notice of appeal and shall consider all relevant evidence in reaching a decision. The director of the department shall issue a written decision to be served upon the violator not later than five days from the date of the hearing. Appeals from the decision of the department director shall be made in writing to the city manager or his designee not later than five days from the date of service of the decision of the director and shall state with specificity the grounds for the appeal. The city manager or his designee shall schedule a hearing on the appeal within a reasonable time, not later than ten days from receipt of the written notice of appeal from the decision of the director. The city manager or his designee shall consider all relevant evidence in reaching a decision and shall issue a written decision to be served upon the violator not later than five days from the date of the hearing.

(Ord. No. 05-29, § 1, 4-14-2005; Ord. No. 08-108, § 1, 11-19-2008)

State Law reference— Similar provisions, G.S. 160A-175; penalty for violation of city ordinances, G.S. 14-4.

## **Chapter 2 - ADMINISTRATION**

### **Sec. 2-5. - Administrative review.**

(a) Any citation for alleged violation of any provision of this Code which is enforceable by civil penalties and issued by a city police officer including, but not limited to, violations for cruising or parking shall be subject, upon written request of the alleged violator, to administrative review by the assistant city manager of operations or his designee.

(b) Request for administrative review shall be made in writing within 15 calendar days of the issuance of the citation and hand delivered or sent by certified mail to the staff at the office of the city manager. If administrative review is not requested within 15 calendar days, administrative review is deemed to have been waived.

(c) Within 30 calendar days of the receipt of any request for administrative review, the assistant city manager of operations or his designee shall hold a hearing to review the violation alleged in

the citation and shall provide the alleged violator an opportunity to be heard in response to the allegations alleged in the citation.

(d) Following the administrative review requested, the assistant city manager of operations or his designee shall notify the alleged violator of his decision finding liability or no liability for the alleged violation by hand or certified mail.

(e) Upon receipt of notification of any decision finding liability, the violator shall make payment of any civil penalty incurred within 15 calendar days. If payment of any civil penalty due is not received within 15 calendar days following receipt of notice of liability after administrative review, the violator shall be liable for an additional civil penalty of \$100.00.

(f) Any person who fails to pay any civil penalty due within 30 calendar days after the latest of either receipt of a citation alleging liability or the receipt of a notice finding liability following administrative review shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500.00 or imprisoned for not more than 30 days, or both, in the discretion of the court.

(Ord. No. 00-31, § 1, 5-11-2000)

## **Chapter 6 - AMUSEMENTS AND ENTERTAINMENT**

### **ARTICLE III. - MASSAGE PARLORS**

#### **Sec. 6-71. - Purpose of article.**

To protect public health, safety, welfare and morals, the following privilege license provisions and regulations are ordained for the privilege of carrying on the business, trade or profession of massagist and for the operation of carrying on of the business, trades or professions commonly known as massage parlors, health salons, physical culture studios or similar establishments wherein massage or physical manipulation of the human body is carried on or practiced. The provisions of this article shall not apply to a regularly established and licensed hospital, sanitarium, nursing home nor to an office or clinic operated and regularly used by a duly qualified and licensed medical practitioner, osteopath or chiropractor in connection with the practice of medicine, chiropractic or osteopathy.

(Code 1987, § 7-111)

#### **Sec. 6-72. - 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:

Adult establishment means an adult bookstore, adult motion picture theater, adult minimotion picture theater, adult live entertainment business or massage business as defined in this section.

Massage means the manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device.

Massage business means any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios or massage parlors.

Sexually oriented devices means, without limitation, any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities, but shall not mean any contraceptive device.

Specified anatomical areas means:

(1) Less than completely and opaquely covered:

- a. Human genitals, pubic region;
- b. Buttock; or
- c. Female breast below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy; or
- (3) Fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breasts.

(Code 1987, § 7-112; Ord. No. 1998-46, § 4)

Cross reference— Definitions generally, § 1-2.

Sec. 6-73. - Licensing of adult establishment and massage business operators.

(a) No person, partnership, corporation or association shall operate an adult establishment or massage business unless such person, partnership, corporation or association shall have first applied for and received the privilege license provided by this section.

(b) Every application for the privilege license prescribed in this section shall be upon a form approved by the city manager and shall be filed with the city clerk. Every such application shall be made under oath and shall contain the following information:

(1) If the applicant is a person, the name and residence address of such person. If the applicant is a partnership, corporation or association, the registered name of the agent and the address of the registered office and the name and residence address of all persons having any legal or beneficial interest in such applicant;

(2) The address of the premises where the massage business shall be located;

(3) A complete statement of all convictions of any person whose name is required to be given in subsection (b)(1) of this section for any felony or prostitution or any violation of the law relative to prostitution;

(4) A complete statement of any revocation by any governmental unit of any license to operate a massage business or to engage in the business or profession of massage held by any person whose name is required to be given in subsection (b)(1) of this section;

(5) A complete statement of any conviction of any person whose name is required to be given in subsection (b)(1) of this section; for violation of any statute, law, ordinance or profession of massage;

(6) The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in subsection (b)(1) of this section wherein the business or profession of massage is carried on; and

(7) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

(c) The city clerk shall transmit a copy of the application to the police department for an investigative report and to the inspections department to determine compliance with all zoning and building regulations and ordinances. The police department shall, within a reasonable time, not to exceed 45 days, report the results of their examination to the city clerk.

(d) An application in proper form, accompanied by all reports required by this section, shall be submitted to the city council, which shall approve such application if the city council determines that:

- (1) The application contains no misstatement of fact;

(2)The applicant, or any person having legal or beneficial ownership interest in the applicant, has not been convicted of any crime involving sexual misconduct, including but not limited to G.S. 14-177—14-202.1, and G.S. 14-203—14-208, or of any federal statute relating to prostitution or of any violation of any law or ordinance of any governmental unit covering or related to the business or profession of massage;

(3)The applicant conforms to all requirements of applicable zoning, building and fire prevention codes; and

(4)The applicant or any person having a legal or beneficial ownership interest in the applicant has not, for the three-year period preceding the application, had a previously issued license for engaging in the business or profession of massage revoked.

(e)Upon approval of the application by the city council and upon receipt of a license fee as set from time to time and on file at the city clerk's office, the city tax collector shall issue a privilege license to the applicant.

(f)A license issued pursuant to this section shall be revoked by action of the city council if the city council determines that:

(1)The licensee has violated any provisions of this article;

(2)The licensee or any agent of the licensee employs or permits to be on the premises of the applicant's massage business any person practicing the business or profession of massage who has not been issued the privilege license required by section 6-74, or whose license under section 6-74 has been revoked;

(3)The licensee or the legal or beneficial owner of any interest in the licensee is convicted of any crime involving sexual misconduct including, but not limited to, G.S. 14-177—14-202.1, and G.S. 14-203—14-208;

(4)Any employee of the licensee is convicted of any felony in connection with his or her employment or is convicted of any crime involving sexual misconduct, including but not limited to G.S. 14-177—14-202.1 and G.S. 14-203—14-208; or

(5)The licensee violates any zoning, building or fire prevention ordinance.

(g)A license issued pursuant to this article is void if the licensee moves or ceases operating a massage parlor at the location required to be stated in the application for license pursuant to section 6-73(b)(2).

(Code 1987, § 7-113)

#### Sec. 6-74. - Licensing of massagists.

(a)No person shall engage in the business or profession of massage unless such person shall have first applied for and received the privilege license provided by this section and those licenses required in G.S. 90-620 et seq.

(b)The application for the license required by this section shall be upon a form approved by the city manager and shall be filed with the city clerk. Such application shall be given under oath and shall contain the following information:

(1)The name, age and residence address of the applicant;

(2)A complete statement of the previous business or occupation of the applicant for the two years immediately preceding the date of application, including any adult establishment or massage establishment experience;

(3)A complete statement of all convictions of the applicant for any felony or misdemeanor or violation of a local ordinance;

(4)A complete statement of any revocation of any license granted by any governmental unit to the applicant to engage in the adult establishment business or profession of massage;

(5)The date and place of the applicant's birth, the name of applicant's parents and the residence address or addresses of the applicant for the five years immediately preceding the date of application.

(c)The applicant shall submit, as part of the application required in subsection (b) of this section, the following:

(1)Fingerprints of the applicant taken by the police department;

(2)Two recent photographs of the applicant's head and shoulders of a size and quality prescribed by the city manager; and

(3)A medical certificate signed by a physician licensed to practice in the state within seven days of the date of the application. The certificate shall state that the applicant was examined by the certifying physician and that the applicant is free from communicable disease.

The additional information required by this subsection shall be provided at the applicant's expense.

(d)The city clerk shall transmit a copy of the application to the police department for an investigative report. The police department shall, within a reasonable time, not to exceed 45 days, report the results of its investigation to the city clerk.

(e)An application in proper form shall be submitted to the city council, together with all reports required by this section. The city council shall approve such application if the city council determines:

(1)The applicant is at least 18 years of age;

(2)The application contains no misstatement of fact;

(3)The applicant has not been convicted of any crime involving sexual misconduct, including but not limited to G.S. 14-177—14-202.1 and G.S. 14-203—14-208, or of any federal statute relating to prostitution, or the violation of any law or ordinance of any governmental unit concerning or related to the business or profession of massage revoked;

(4)The applicant has not, for the three-year period preceding the application had a previously issued license for engaging in the business or profession of massage revoked;

(5)The applicant is free from communicable disease as evidenced by the medical certificate required in this section; and

(6)The applicant has not been previously convicted of any violation of any provision of this article.

(f)Upon approval of the application by the city council and upon receipt of a license fee, as set from time to time and kept on file in the city clerk's office, the city tax collector shall issue a privilege license to the applicant.

(g)The city council shall have the authority to direct that any person licensed under this section submit to a medical examination by a licensed physician approved by the city council. This authority shall be exercised only when the city council has reason to believe that any such person has contacted a communicable disease. Refusal to submit to such examination shall be grounds for revocation of such license as provided in subsection (h) of this section. Notwithstanding the provisions of this section, every person licensed under this section shall file and continue to file with the city clerk a new medical certificate with each application for renewal of the license prescribed by this section. Failure to file such updated certificates shall be grounds for revocation of such license as provided in subsection (h) of this section.

(h) A license issued pursuant to this section shall be revoked by action of the city council if the city council determines:

- (1) The licensee has violated any provision of this article;
  - (2) The licensee is afflicted with a communicable disease;
  - (3) The licensee has failed to be examined by a licensed physician when required by the city council pursuant to subsection (g) of this section, or has failed to file any medical certificate required by subsection (g); or
  - (4) The licensee has been convicted of a felony or any crime involving sexual misconduct, including but not limited to G.S. 14-177—14-202.1 and G.S. 14-203—14-208, or any federal statute relating to prostitution, or the violation of any law or ordinance of any governmental unit related to the business or profession of massage.
- (Code 1987, § 7-114)

Sec. 6-75. - Employer to use only licensed employees.

No person, corporation, partnership, or association licensed under section 6-73 shall allow or permit any person to massage or treat any person upon the premises operated by the licensee unless the person giving such massage or treatment has complied with all requirements of licensing under section 6-74, including periodic medical examinations by a licensed physician. Violation of this section shall be grounds for revocation of the license to such violator pursuant to this article.

(Code 1987, § 7-115)

Sec. 6-76. - Posting of license.

- (a) Every massagist shall post the license required by this article in his work area.
- (b) Every person, corporation, partnership, or association licensed under section 6-73 shall display such license in prominent place.

(Code 1987, § 7-116)

Sec. 6-77. - Notice and hearing.

Before the city council revokes a license issued pursuant to this article, or if the city council determines reasonable grounds exist to deny an application for a license pursuant to this article, the city council shall cause a written notice to be sent by certified mail to the licensee affected or applicant affected at the address stated in the license or application. This notice shall advise the affected party of a right to appear before the city council presenting any evidence relevant to such revocation or denial and for the purpose of hearing all evidence submitted and examining or cross examining any person providing such evidence.

(Code 1987, § 7-117)

Sec. 6-78. - Hours of operation.

- (a) No person licensed as a massagist under section 6-74 shall massage or treat any person or engage in the business or profession of massage before 8:00 a.m. or after 12:00 p.m., prevailing time.
- (b) No person, corporation, partnership or association licensed under section 6-73 shall admit customers or prospective customers or remain open for business or allow or permit or condone any massage or treatment of any person upon the premises before 8:00 a.m. or after 12:00 p.m., prevailing time.



(c) No person in charge of managing a massage business upon the premises shall allow, permit or condone any massage or treatment of any person before 8:00 a.m. or after 12:00 p.m., prevailing time.

(Code 1987, § 7-118)

Sec. 6-79. - Massage of persons under age 18.

(a) No person licensed as a masseur or masseuse under section 6-74 shall massage or treat any person under the age of 18 upon the licensed premises, except upon written order by a licensed physician, osteopath, chiropractor or registered physical therapist; such order being dated and in the possession of the masseur or masseuse giving the massage or treatment. A violation of this subsection shall be grounds for revocation of any license issued to such violator pursuant to this article.

(b) No person, corporation, partnership or association licensed under section 6-73 shall allow, permit or condone the massage or treatment of any person under the age of 18 upon the licensed premises, except upon written order by a licensed physician, osteopath, chiropractor or registered physician therapist; such order being dated and a true copy of such order being in the possession of the licensee before administration of any massage or treatment. A violation of this subsection shall be grounds for revocation of any license issued to such violator pursuant to this article.

(c) No person, corporation, partnership or association licensed pursuant to section 6-73 shall employ any person under the age of 18 years in the operation of a massage business.

(Code 1987, § 7-119)

Sec. 6-80. - Massage by person of opposite sex.

(a) It shall be unlawful for any person, corporation, partnership or association licensed pursuant to section 6-73 to knowingly provide, allow or permit a massage or treatment to be given by a person to a person of the opposite sex.

(b) It shall be unlawful for any person licensed as a massagist under section 6-74 to massage or treat a person of the opposite sex.

(Code 1987, § 7-120)

Sec. 6-81. - Massage of private parts for hire.

It shall be unlawful for any person to massage or to offer to massage the private parts of another for hire. The provisions of this section shall not apply to licensed medical practitioners, osteopaths or chiropractors, or persons operating at their discretion in connection with the practice of medicine, chiropractic or osteopathy.

(Code 1987, § 7-121)

Sec. 6-82. - Privilege license annual.

The licenses required under this article are annual privilege licenses. Such licenses shall be due and payable in the same manner as prescribed for other privilege licenses by the county pursuant to the license and privilege tax ordinance of the county.

(Code 1987, § 7-122)

Sec. 6-83. - Penalties for violation of article.

Any person convicted of violating any provisions of this article shall be punished by a \$500.00 fine or imprisoned as provided by G.S. 14-4. Any violation may result in the imposition of a

\$1,000.00 civil penalty to be recovered in the nature of a debt, pursuant to section 1-6 of this Code.

(Code 1987, § 7-123)

Secs. 6-84—6-110. - Reserved.

## **Chapter 14 - BUILDINGS AND BUILDING REGULATIONS**

### **ARTICLE II. - MINIMUM HOUSING STANDARDS<sup>[2]</sup>**

Sec. 14-31. - Housing code established; title.

There are hereby established rules and regulations for the repair or elimination of unfit and/or unsafe housing conditions in the city, which shall be known and designated as "The Housing Code of the City of Concord," and will be referred to hereafter as the "code." Housing is defined as any structure used for, but not limited to, human habitation. Any structure used to house people or property shall be governed by the code.

(Code 1987, § 4-26)

Sec. 14-32. - Exercise of police power; finding; purpose.

(a) Pursuant to G.S. 160A-441, it is hereby found and declared by the city council that there exist in the city, dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to health, safety and morals, and otherwise inimical to the welfare of the residents of the city. There also exist abandoned structures which the city council finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities. Buildings unfit for human habitation are hereby declared to be a public nuisance and shall be repaired or rehabilitated to the standards of this article or demolished in accordance with the procedure set forth in this article.

(b) In order to protect the health, safety and general welfare of the residents of the city, as authorized by G.S. 160A-441 et seq., it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444, and to provide procedures for the repair, closing and demolition of buildings not conforming to such minimum standards of fitness, as expressly authorized by G.S. 160A-443.

(Code 1987, § 4-27; Ord. No. 07-85, § 1, 9-13-2007) Sec. 14-33. - Conflicting provisions.

If any provision, standard or requirement of this article is found to be in conflict with any provision of any ordinance or code of the city, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health, safety and general welfare of the residents of the city shall prevail.

(Code 1987, § 4-28)

Sec. 14-34. - Code remedial.

This Code is hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof—which are public health, safety, and general welfare—through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal,

demolition, use and occupancy of dwellings, apartment houses, rooming houses or buildings, structures or premises used as such.  
(Code 1987, § 4-30)

Sec. 14-35. - Scope of article.

(a) The provisions of this Code shall apply to the construction, alteration, repair, equipment, use, occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

(b) No provision of this Code shall be held to deprive any federal or state agency, or any municipal authority having jurisdiction, of any power or authority which it had on the effective date of this article or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.

(c) The provisions of this Code shall apply to all tents, motor homes, pop-up campers, RVs, and similar vehicles used for human shelter which are designed to be transportable and which are not attached to the ground, to another structure or to any utilities system on the same premises, when they are used for residential occupancy in excess of 15 consecutive days.

(Code 1987, § 4-31)

Sec. 14-36. - Reserved.

**Editor's note**— Ord. No. 07-85, § 1, adopted Sept. 13, 2007 repealed [§ 14-36](#) which pertained to exercise of police power; finding; purpose. See also the Code Comparative Table.

Sec. 14-37. - Existing buildings.

The provisions of this code shall apply to any dwelling, apartment, apartment house or rooming house irrespective of when the building was constructed, altered or repaired.

(1) If, within any period of 12 months, alterations or repairs are made to an existing building costing in excess of 50 percent of the then-physical value of the building, such building shall be made to conform to the requirements of the building code for new buildings.

(2) If an existing building is damaged by fire or otherwise in excess of 50 percent of its then-physical value before such damage is repaired, it shall be made to conform to the requirements of the building code for new buildings.

(3) If the cost of such alterations or repairs, or the amount of such damage, is more than 25 percent but not more than 50 percent of the then-physical value of the building, the portions to be altered or repaired shall be made to conform to the requirements of the building code for the new building to such extent as the building official may determine.

(4) Repairs and alterations not covered by the preceding subdivisions of this section, restoring a building to its condition previous to damage or deterioration, or altering it in conformity with the provisions of the building code or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building is constructed.

(5) For the purposes of this section the physical value of a building or structure, as defined in this section, shall be determined by a housing code enforcement officer, and he shall use as a guideline the tax value of the building exclusive of land.

(Code 1987, § 4-33)

Sec. 14-38. - Maintenance of buildings.

All buildings or structures, both existing and new, and all parts of such buildings or structures, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this Code in a building when erected, altered or repaired shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings, structures and premises.

(Code 1987, § 4-34; Ord. No. 07-85 § 1, 9-13-2007)

#### Sec. 14-39. - Definitions.

Words not defined in this section shall have the meanings in Webster's Third New International Dictionary, as revised. All words in this article that are used in the present tense include the future, used in the masculine gender include the feminine and neuter, and the singular number includes the plural and the plural number includes the singular. 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:

Abandoned structure means any structure that has not been occupied or used, by its owner or by some person acting under authority of its owner, for a continuous period of 30 days or longer and which is determined by the housing code enforcement officer to be unfit for human habitation or occupancy based upon the standards as set forth in this article.

Accessory building and outhouse mean a building or structure the use of which is incidental to that of the main building or structure and which is located on the same lot or on a contiguous lot, also known as an appurtenance.

Alteration means a change or rearrangement in the structural parts or in the exit facilities; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another; or a modification in the use of occupancy; and the term "alter" in its various moods and tenses and its participle, refers to the making of an alteration.

Approved, as applied to a material, device or mode of construction, means approved by the inspector under the provisions of this Code, or by other authority designated by law to give approval in the matter in question.

Area means:

- (1) As applied to the dimension, the maximum horizontal projected area of the building.
- (2) As applied to the dimensions of a room, the total square footage of floor area between finished walls.

Basement means a story having a clear height of at least seven feet from finished floor to finished ceiling, the floor level of which is below finished grade but not less than four feet below the average finished grade, having floor and walls of approved construction.

Building means any structure built for the support, shelter or enclosure of persons which has enclosed walls for 50 percent of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof."

Cellar means a portion of a building located partly or wholly underground, having one-half or more of its clear floor-to-ceiling height (by cubic measurement) below the average grade of the adjoining ground, and having inadequate access to light and air from windows located partly or wholly below the adjoining ground.

Certificate of occupancy means a permit issued by the Director of Cabarrus County Building Inspections or his designated agents, certifying the named dwelling complies with the minimum requirements of the North Carolina State Building Code.

Close means securing the building so that unauthorized persons cannot gain entrance to the building.

Demolish means the demolition and removal of the entire building leaving the property free and clear of any debris and without holes or pockets which may retain water. See the definition of "removal."

Deteriorated means that a dwelling is required to comply with minimum standards and can be repaired, altered or improved to comply with all of the minimum standards established by this article at a cost not in excess of 50 percent of its value as determined by finding of the officer.

Dilapidated means that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this article at a cost not in excess of 50 percent of its value, as determined by finding of the officer.

Dwelling means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing as defined in this section shall not be regarded as a dwelling.

Dwelling, dwelling unit, rooming house, rooming unit and premises shall be construed as though they were followed by the words "or any part thereof."

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

Exit means a clear and unobstructed way of departure from the interior of a building or structure to the exterior at street or grade level.

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

Facilities means water closets, tub or shower, lavatories, sink and water heating and heating unit that may be commonly found to exist in a habitable dwelling or dwelling unit.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and/or consumption of food by humans or animals. See the definition of "rubbish."

Governing body means the city council.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

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

Multiple dwelling means any dwelling containing more than two dwelling units.

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

Officer means the chief of police of the city or his authorized housing code enforcement agent.

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

Owner means any person who alone or jointly or severally with others:

(1) Shall have title to any dwelling or dwelling unit, with or without accompanying actual possession thereof;

(2) Shall have charge, care or control of any dwelling or dwelling unit as owner or agent of the owner or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner, and any such person thus representing the actual owner shall be bound to comply with the provisions of this article and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner; or

(3) Is a mortgagee of record for any dwelling, dwelling unit or rooming unit.

Parties in interest means all individuals, associations and corporations who have interest of record in a dwelling and any who are in possession of a dwelling.

Perimeter means the outer limits of an area.

Pier means a masonry support extending from the ground and footing to and supporting the building or its portion.

Plumbing means and includes all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catchbasins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas line.

Premises means a lot, plat or parcel of land, including the building or structures thereon.

Public authority means any officer who is in charge of any department or branch of the government of the city or county or state relating to health, fire, building regulations or other activities concerning dwellings in the city.

Removal means the demolition and removal of the entire building, leaving the premises free and clear of any debris; any excavation properly filled in and with no holes or pockets which may retain water.

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

Rooming house means any dwelling or that part of any dwelling containing one or more rooming units in which space is let by the owner or operator to three or more persons who are not related by marriage or biologically to the owner or operator.

Rubbish means combustible and noncombustible waste materials except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

Structure means that which is built or constructed, an edifice or building of any kind; or any piece of work artificially built up or composed of parts joined together in some definite manner.

The term "structure" shall be construed as if followed by the words "or part thereof."

Substandard means any conditions existing in any habitable dwelling, or dwelling unit, which violate or do not comply with one or more minimum standards of fitness of this Code.

Supplied means paid for, furnished or provided by or under the control of the owner or operator.

Temporary housing means any tent, motor home, pop-up camper, RV, and similar type vehicle used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than 15 consecutive days.

Tenant means any person who alone or jointly or severally with others occupies a residential building under a lease or holds a legal tenancy in a building.

Unfit for human habitation means that conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness and are inimical to the health, safety and moral welfare of the occupants or residents in the area.

Ventilation means the expelling of stale air from housing through circulation of fresh air by natural or mechanical means.

Ventilation, mechanical, means ventilation by power-driven devices.

Ventilation, natural, means ventilation by opening to outer air through windows, skylights, doors, louvers or stacks with or without wind-driven devices.

(Code 1987, § 4-36; Ord. No. 07-85, § 1, 9-13-2007)

**Cross reference**— Definitions generally, [§ 1-2](#).

#### Sec. 14-40. - Violations.

(a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve such dwelling or dwelling unit or to vacate and close and remove or demolish it upon order of the officer duly made and served within the time specified in such order. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to [section 14-44](#) to occupy or permit the occupancy of such dwelling or dwelling unit after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing. No administrative fee shall be charged for the first inspection following an order to repair, alter or improve or to vacate and close, or to demolish a dwelling in order to ascertain compliance with inspection orders. For each inspection, beginning with the second inspection, an administrative fee shall be assessed as written in the annual adopted budget ordinance.

(b) In addition to other penalties, any person who shall commit a violation of article II, [chapter 14](#) of the City Code, and receives official notice from the city of said violation who fails to remedy said violation within the time period specified, after the hearing, such that a housing code violation citation is issued shall be subject to an administrative fee as written in the annual adopted budget ordinance.

(c) In addition to any other charge, any owner of a dwelling, dwelling unit or rooming unit shall be subject to an administrative fee, as written in the annual adopted budget ordinance, upon any additional inspection hearings disclosing violations of minimum housing code standards pursuant to this article within the same 12-month period beginning on the date of the violation and ending on the same date in the following year. The property owner may also be assessed any costs incurred in obtaining service including legal publication of notice of complaint charges, hearing notice and findings of fact and orders related to the dwelling.

(d) In addition to other penalties, any person who violates this section shall be subject to a civil penalty as written in the annual adopted budget ordinance beginning on the first day following the expiration of the time period specified in the order for such repair, alteration or improvement. Each day that a dwelling or dwelling unit remains in violation of the order it shall be a separate violation subject to the penalty written in the annual adopted budget ordinance. If a person fails to pay the civil penalty(s) and administrative fees within ten days after being notified of the amount due, the city may seek to recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

(Code 1987, § 4-36; Ord. No. 05-54, § 1, 6-28-2005)

#### Sec. 14-41. - Qualifications, duties and powers of the housing code enforcement officer.

(a) The officer shall have a competent knowledge of building construction. The officer shall be a sworn officer of the city and must hold either the state code officials qualification board probationary certificate or a building inspector level I certificate.

(b) The officer is hereby designated as the officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed. It shall be the duty of the officer to:

(1) Investigate the dwelling conditions and inspect dwellings and dwelling units located in the city, in order to determine which dwelling and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this article with respect to such dwellings and dwelling units;

(2) Take such action together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(3) Keep a record of the results of inspections made pursuant to this article and an inventory of those dwellings that do not meet the minimum standards of fitness prescribed in this article; and

(4) Perform such other duties as may be prescribed in this article.

(c) The officer is hereby authorized to exercise any powers necessary or convenient to carry out and effectuate the general spirit, purpose and provisions of this Code, including specifically, but not limited to, the following:

(1) Investigate the dwelling conditions in the city, in order to determine which dwellings are unfit for human habitation;

(2) Administer oaths and affirmations, examine witnesses and receive evidence;

(3) Enter upon premises for the purpose of making examinations and inspections, provided such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and

(4) The officer shall have authority to request advice and assistance from any public authority or agency he deems appropriate in performing his duties.

(d) While holding office, the officer shall not engage in or be interested in the business of owning or managing rental property or the business of contracting for the construction or improvement of dwellings within the city. The officer is obligated to avoid any conflict of interest that may result from the performance of his duties.

(Code 1987, § 4-37; Ord. No. 07-85, § 1, 9-13-2007)

#### Sec. 14-42. - Inspections; duty of owners and occupants.

For the purpose of making inspections, the officer is hereby authorized, upon presentation of proper credentials, to enter, examine and survey at all reasonable times all dwellings, dwelling units and premises. The owner or occupant of every dwelling, dwelling unit or rooming unit or the person in charge shall give the officer free access to such dwelling, dwelling unit or rooming unit and its premises at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner, or his agent or employee, access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article. If the owner or occupant refuses admission for this purpose, admission may be obtained through the provisions of G.S. 15-27.2.

(Code 1987, § 4-38)

#### Sec. 14-43. - Refusal to permit entry upon premises; misdemeanor.

It shall be unlawful for any owner or person in possession of premises on which housing is located in the city to refuse, after being presented with a warrant as issued under G.S. 15-27.2, to permit the officer or his duly appointed agents to enter upon the premises for the purpose of



making examinations as authorized by this code. Violation of this section shall constitute a misdemeanor punishable by a \$500.00 fine. Violators shall be subject to a civil penalty of \$500.00 which may be recovered by filing an action in the nature of a debt.  
(Code 1987, § 4-39)

Sec. 14-44. - Enforcement.

(a) Complaint, notice, hearing. Whenever a complaint is filed with the officer by a public authority or by at least five residents of the city, charging that any dwelling or dwelling unit is unfit for human habitation or whenever it appears to the officer upon inspection that any dwelling or dwelling unit is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the officer at a place within the county therein fixed, not less than ten days nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the officer.

(b) Written determination, procedure. After such notice and hearing, the officer shall state in writing his determination that such dwelling or dwelling unit is deteriorated or dilapidated.

(1) If the officer determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof any order directing and requiring the owner to repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article within a specified period of time not to be less than 30 days nor to exceed 90 days. Such order may also direct the owner or authorize the officer to vacate and close such dwelling or dwelling unit until such repairs, alterations and improvements have been made. Upon application by the owner within the specified period of time, the chief of police may grant extensions of up to one year if the dwelling or dwelling unit is occupied by the owner, or up to 180 days if the dwelling or dwelling unit is not occupied by the owner, for good cause shown.

(2) If the officer determines that the dwelling or dwelling unit is dilapidated, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to vacate and repair or demolish it within a specified period of time not to be less than 30 days nor to exceed 90 days, unless an application for an extension of up to 180 days is applied for by the owner and granted by the chief of police for good cause shown.

(3) In order to be considered for an extension of time for compliance with an order issued pursuant to this article, the owner must have made a good faith effort to comply with the order and all dangerous conditions must have been repaired. The chief of police shall have sole authority to grant extensions.

(4) If the officer determines that a dwelling unit is in a deteriorated or dilapidated condition and the dwelling unit is vacant the officer shall serve notice on the servicing utility agent that all utilities must be disconnected from the unit until which time the unit is brought into compliance with this Code.

(5) If a dwelling unit is vacant when it is deemed to be deteriorated or dilapidated, the owner shall not be permitted to rent that unit or allow anyone to occupy it until all of the specified improvements have been made.

(c) Failure to comply with order. After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the officer within the time specified therein the officer shall submit to the city council an ordinance ordering the officer to cause such dwelling or dwelling unit to be repaired, altered, improved or vacated and closed and removed or demolished as provided in the original order of the officer, and pending such action, shall placard such dwelling as provided by G.S. 160A-443 and [section 14-50](#). No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(d) Filing a notice of lis pendens. Upon the issuance of a complaint and notice of hearing pursuant to this section, the officer shall cause the filing of a notice of lis pendens in the Office of the Clerk of Superior Court and Registrar of Deeds of Cabarrus County. The lis pendens shall be cross indexed in accordance with the indexing procedures of the North Carolina General Statutes. The inspector shall cause a copy of the notice of lis pendens to be served upon the owners and other parties in interest at the time of filing in accordance with G.S. 160A-445. Upon compliance with the requirements of any order based upon such complaint and hearing, the officer shall direct the clerk of superior court and the registrar of deeds to cancel the notice of lis pendens.

(Code 1987, § 4-40; Ord. No. 05-16, § 1, 3-10-2005; Ord. No. 07-85, § 1, 9-13-2007)

#### Sec. 14-45. - Methods of service of complaints and orders.

Complaints or orders issued by the officer shall be served upon persons either personally or by registered or certified mail. If the whereabouts of persons are unknown and cannot be ascertained by the officer in the exercise of reasonable diligence, and the officer makes an affidavit to that effect, then the serving of the complaint or order upon the person may be made by publication in a newspaper having general circulation in the city at least once no later than the time at which personal service would be required under the provisions of this article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(Code 1987, § 4-41)

#### Sec. 14-46. - Action to remove occupant.

If any owner fails to comply with an order to vacate a dwelling, the officer may file a civil action in the name of the city to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenure, and if on its return it appears to have been duly served and if at the hearing the officer produces a certified copy of an ordinance adopted by the city council pursuant to G.S. 160A-443(5) authorizing the officer to proceed to vacate the occupied dwelling, the

magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. [42-30](#). An appeal from any judgment entered under this section by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this section unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the city council has ordered the officer to proceed to exercise his duties under G.S. 160A-443(4) and (5) to vacate and close or remove and demolish the dwelling.  
(Code 1987, § 4-42)

Sec. 14-47. - Procedure for repairing, closing or demolishing certain abandoned structures.

(a) In addition to the exercise of police power authorized herein with respect to dwellings, the city shall cause to be repaired, closed or demolished any abandoned structure which the city council finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities. The repair, closing or demolition of such structures shall be pursuant to the same provisions and procedures as are prescribed in [section 14-36](#) for the repair, closing or demolition of dwellings found to be unfit for human habitation.

(b) For purposes of this section, the term "abandoned structure" means any structure that has not been occupied or used, by its owner or by some person acting under authority of its owner, for a continuous period of 30 days or longer and which is determined by the housing code enforcement officer to be unfit for human habitation or occupancy based upon the standards as set forth in this article.

(Code 1987, § 4-43)

Sec. 14-48. - Housing appeals board and zoning board of adjustment to hear appeals.

(a) All appeals which may be taken from decisions or orders of the officer under the provisions of this article shall be heard and determined by the zoning board of adjustment, except for orders for the demolition of structures and houses.

(b) All appeals which may be taken from decisions or orders of the officer regarding the demolition of houses and/or structures under the provisions of this article shall be heard and determined by the city council acting as the housing appeals board.

(Code 1987, § 4-44; Ord. No. 07-85, § 1, 9-13-2007)

Sec. 14-49. - Appeals.

An appeal of the decision of the housing code enforcement officer must be made in writing to the zoning administrator and post marked, if mailed, within ten days from receipt of the decision or order of the housing code enforcement officer. This appeal consists of a letter to the zoning administrator notifying them of the intent to appeal. In addition, within one month of the date of the letter of notification of intent to appeal, the appellant must pay the board of adjustment fee (the fee shall also be paid for appeals to the housing board of appeals), which is set by the city council, as well as submit a formal application to the zoning administrator which shall specify specific grounds for appeal. The appealing party shall be notified by the zoning administrator of

the date, place, and time of the board of adjustment or housing board of appeals hearing. The appeal will be scheduled at the next scheduled meeting of the board of adjustment or housing board of appeals. It is the responsibility of the appellant to attend the scheduled hearing and make their presentations. The chief of police shall submit all documents constituting the record upon which the housing code enforcement officer's decision was made to the board of adjustment or housing board of appeals. The board of adjustment or housing board of appeals may reverse, affirm, in whole or in part, or may modify the decision or order appealed. The board of adjustment or housing board of appeals shall have the power also in passing upon appeals in any case where there are practical difficulties or undue hardships in the way of carrying out the strict letter of the code, to adapt the application of the code to the necessities of the case to the end that the spirit of the code shall be observed, public health, safety and general welfare secured, and substantial justice done. Every decision of the board of adjustment or housing board of appeals shall be subject to review by proceedings in the nature of certiorari instituted in the county superior court within 15 days after the written decision of the board of adjustment or housing board of appeals is filed, but not otherwise.

(Code 1987, § 4-45; Ord. No. 07-85, § 1, 9-13-2007)

Sec. 14-50. - Action by officer; placarding; record of ordinance.

(a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the officer issued pursuant to the provision of this article and upon adoption by the city council of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443(5) and [section 14-44\(c\)](#), the officer shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this article or to be vacated and closed and removed or demolished as directed by the ordinance of the city council and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words:

"This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful. **Occupation of a building so posted shall constitute a misdemeanor.**"

(b) Each such ordinance shall be recorded in the office of the register of deeds for the county and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-443(5).

(Code 1987, § 4-46)

Sec. 14-51. - Securing vacated property; approval before reoccupancy.

Dwellings or dwelling units ordered vacated by the officer shall have all outer doors firmly locked and basement, cellar and first-story windows barred or boarded to prevent entry, and shall not again be used for human habitation until written approval is secured from the officer. If the owner closes and secures a dwelling pursuant to an order issued by the officer and thereafter the dwelling or dwelling unit is unlawfully opened, the officer shall serve the owner with an order to reclose and secure the dwelling or dwelling unit within 15 days after service of the order. Any person who fails to comply with an order to reclose and secure a dwelling or dwelling unit shall be subject to the civil penalty provided for in [section 14-40](#).

(Code 1987, § 4-47)

Sec. 14-52. - Costs; lien.

As provided by G.S. 160A-443(6), the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition caused to be made or done by the officer pursuant to [section 14-50](#) shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. 160A-216 et seq.  
(Code 1987, § 4-48)

Sec. 14-53. - Nonliability of city personnel.

No officer, agent or employee of the city, acting in good faith and without malice in the discharge of his duties shall render himself personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of his duties under this Code. Any suit brought against any officer, employee or agent of the city as a result of such an act or omission performed in the enforcement of this Code shall be defended by the city until final determination and any judgment thereof shall be assumed by the city. This Code shall not relieve or lessen the responsibility of an owner, operator or controller of a building for any damages to the person or property caused by defects, nor shall the building department or its jurisdiction be held to assume any such liability by reason of inspection or permits authorized by this Code.

(Code 1987, § 4-49; Ord. No. 07-85, § 1, 9-13-2007)

Sec. 14-54. - Remedial authority of city.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this article by *criminal* process as authorized by G.S. 14-4 and [section 14-40](#). The enforcement of any remedy provided in this article shall not prevent the enforcement of any other remedy provided in this article or in other ordinances or laws.

(Code 1987, § 4-50)

Sec. 14-55. - Compliance.

Every dwelling and dwelling unit used as a human habitation or held out for use as a human habitation shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections [14-57](#) through [14-62](#). After the time limit set by the officer for compliance has expired, no person shall occupy as owner-occupant or let to another for occupancy or receive rentals or use as a human habitation any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections [14-57](#) through [14-62](#). All work performed on a dwelling or dwelling unit for the purpose of bringing it into compliance with this article shall be done in a workmanlike manner.

(Code 1987, § 4-51; Ord. No. 07-85, § 1, 9-13-2007)

Sec. 14-56. - Emergency cases; unsafe conditions.

(a) The housing code enforcement officer shall determine that a dwelling or dwelling unit is unsafe and represents a threat to life and property, if any of the following conditions exist:

- (1) No operating heating facilities between November 1 and March 31 of any year.
- (2) No potable water service.
- (3) No hot water supply.

- (4) No electricity.
  - (5) Failing or failed primary structural members that threaten the stability of the dwelling or dwelling unit and/or visible structural defects that appear to render the structural members ineffective.
  - (6) Improperly operating or no sanitary facilities.
  - (7) Overloaded electrical circuits or unsafe or exposed electrical wiring.
  - (8) Presence of raw sewage or open sewer, inside the dwelling or dwelling unit, whether from broken, plugged or inoperative fixtures or pipes inside the dwelling or dwelling unit or migrating into the dwelling or dwelling unit from the outside.
  - (9) Presence of uncontained flammable or combustible liquids or gases, poisonous solids, liquids or gases or life or health threatening depletion of oxygen.
  - (10) Missing roof, or part of roof missing.
  - (11) Chimney or vent flues clogged.
  - (12) The dwelling or dwelling unit is a physical threat due to immediate possibility of collapse.
  - (13) The primary means of exit or escape in the event of fire or other emergency is blocked or structurally unsafe.
  - (14) Occupancy of habitable space that does not meet below grade occupancy standards.
  - (15) Internal accumulation of garbage or debris.
  - (16) Interior wall sheathing or sheeting that is not present, or has been removed, to a point where there is little or no protection from the spread of fire from story to story, or from habitable spaces to bedrooms.
  - (17) Multiple violations of the standards set forth in the minimum standards section of this article.
  - (18) The use of aboveground or belowground storage tanks for the purpose of storing gasoline or other flammable/combustible materials is prohibited when the tanks are not approved for such use. In order to be approved, the tanks must be properly placarded and installed to the manufacturer's instructions and NFPA 30, Flammable Combustible Liquids requirements. This action does not apply to home heating fuel.
  - (b) The housing code enforcement officer shall give priority enforcement to any dwelling or dwelling unit that falls within the provisions of this section.
  - (c) Upon discovering a violation of subsection (a) of this section and in order to protect the life and safety of occupants of a building, the housing code enforcement officer shall request in writing that the owner resolve all emergency and unsafe conditions listed within 48 hours. If the owner fails to make the requested corrections, the officer may order the dwelling or dwelling unit vacated as provided by [section 14-46](#). The officer may pursue any other civil or criminal action as he deems reasonably necessary in order to effectuate the purposes of this section.
  - (d) In emergency and unsafe conditions, the officer shall have the power, after 48 hours, to cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words:

"This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful. Occupation of a building so posted shall constitute a misdemeanor."
- (Code 1987, § 4-52)

#### Sec. 14-57. - Structural standards.

- (a) Foundation. Foundations shall conform to the following:



- (1) Beneath the building there shall be firm ground, which is reasonably dry, properly drained and no water running under the building.
- (2) There shall be sound footings capable of providing adequate bearing.
- (3) Piers shall be sound with no loose mortar or masonry.
- (4) There shall be no piers in which the plumb line from the top center falls outside the middle one-third of the pier base.
- (5) There shall be no isolated solid masonry piers exceeding in height ten times the least dimension of the pier.
- (6) There shall be no wood stiff-knee or other improper piers allowed.
- (b) Floors. Floors shall conform to the following:
  - (1) There shall be no decayed, termite-damaged, fire-damaged, broken, overloaded or sagging sills.
  - (2) Sills shall be properly supported and reasonably level.
  - (3) Joists shall not be overloaded, sagging or broken, and shall be structurally sound and not likely to cause structural weakness in the future.
  - (4) Maximum spans for floor joists and sills, provided that they show signs of being weak or overloaded, shall comply with the requirements of the state residential building code.
  - (5) Flooring shall be weathertight without holes or excessive cracks which permit air to penetrate rooms.
  - (6) Flooring shall be reasonably smooth and not decayed, fire damaged or excessively worn.
  - (7) There shall be no loose flooring.
  - (8) Floors shall be reasonably level.
  - (9) The flooring in each room shall consist of the same or similar material, impervious to water; and where covering or finishing is provided, such covering or finishing shall be reasonably smooth for sanitary maintenance and not excessively worn.
- (c) Walls, exterior. Exterior walls shall conform to the following:
  - (1) There shall be no wall in which the plumbline from the top center of studs falls outside the base plate at any point along the wall.
  - (2) Maximum spacing for studding, providing they show signs of being weak or overloaded, shall comply with the requirements of the state residential building code.
  - (3) Studs shall be structurally sound and not likely to cause structural weakness in the future.
  - (4) There shall be no broken or cracked structural members.
  - (5) All siding shall be painted or treated to be weathertight, with no holes or excessive cracks or decayed boards which permit air to penetrate rooms.
  - (6) There shall be no loose siding.
  - (7) There shall be no deterioration because of lack of preventive maintenance consisting of painting, waterproofing and repair.
- (d) Walls, interior. Interior walls shall conform to the following:
  - (1) Interior finish shall be free of holes and excessive cracks which permit air to penetrate rooms. Paint or wallpaper, shall be free of chips or excessive peeling.
  - (2) There shall be no walls in which the plumbline from the top center of studs falls outside the base plate at any point along the wall.
  - (3) There shall be no loose plaster, loose boards or other loose wall materials.
  - (4) There shall be no cardboard, newspaper or highly combustible or improper wall finish; and all wall materials shall be of the same or similar quality and material.

- (5) Maximum spacing for studding, providing they show signs of being weak or overloaded, shall comply with the requirements of the state residential building code.
- (6) Studs shall be structurally sound and not likely to cause structural weakness in the future.
- (7) There shall be no broken or cracked studs or other structural members.
- (e) Ceilings. Ceilings shall conform to the following:
  - (1) There shall be no joists which are decayed, broken, sagging or improperly supported at the ends.
  - (2) Maximum spacing for ceiling joists, providing they show signs of sagging and being weak, shall comply with the requirements of the state residential building code.
  - (3) Maximum spans for ceiling joists, provided that they show signs of being weak or overloaded, shall comply with the requirements of the state residential building code.
  - (4) There shall be no loose plaster, boards, gypsum wall board or other ceiling finish.
  - (5) There shall be no holes or excessive cracks which permit air and dust to penetrate rooms.
  - (6) There shall be no cardboard, newspaper, highly combustible or improper ceiling finish; and all ceiling materials shall be of the same or similar quality and material.
  - (7) Ceiling joists shall be structurally sound and not likely to cause structural weakness in the future.
- (f) Roofs. Roofs shall conform to the following:
  - (1) There shall be no rafters which are decayed, broken or improperly supported at the ends.
  - (2) No rafters shall be seriously damaged by fire.
  - (3) The attic shall be properly ventilated.
  - (4) Sheathing shall not be loose and shall be structurally sound and not likely to cause structural weakness in the future.
  - (5) There shall be no loose roof covering, no holes, and no leaks causing damage to the structure or rooms.
  - (6) There shall be a minimum of class C roof covering.
  - (7) There shall be proper flashing at walls and/or chimneys.
- (g) Porches. Porches shall conform to the following:
  - (1) The floor, ceiling, and roof shall be equal to requirements set forth in this section, except sills, joists and floors need not be level if providing drainage of floors; floors need not be weathertight; the ceiling height may be seven feet; and the attic need not be vented.
  - (2) If required to be replaced or if no railings or guards are provided, each porch, terrace or entrance platform located more than 30 inches above adjacent finished grade shall be equipped with railings or guards not less than 36 inches high, and shall have pickets installed so as not to allow a sphere greater than six inches to pass through. Horizontal spacing between the vertical members in required guardrails shall be a maximum of four inches at the nearest point between the members.
  - (3) If post and railings are provided, they shall be structurally sound and not likely to cause structural weakness in the future.
- (h) Stairs and steps. Stairs and steps shall conform to the following:
  - (1) Stairs and steps shall be free of holes, grooves and cracks large enough to constitute accident hazards.
  - (2) Stairwells and flights of stairs more than four risers high shall have rails on at least one side and a guardrail on all open sides not less than 30 inches nor more than 38 inches, measured vertically from the nose of the treads to the top of the rail.
  - (3) Every rail shall be firmly fastened and maintained in good condition.



- (4) No flight of stairs shall be settled more than one inch out of its intended position or pulled away from supporting or adjacent structures.
  - (5) Supports shall not sag and shall be structurally sound and not likely to cause structural weakness in the future.
  - (6) Every stair riser shall be reasonably uniform in height, and treads shall be sound and securely fastened in position and strong enough to bear a concentrated load of at least 300 pounds without danger of breaking through.
- (Code 1987, § 4-53)

Sec. 14-58. - Basic equipment and facilities.

(a) Plumbing system.

- (1) Each dwelling unit shall be connected to a potable water supply system. The term "potable water supply" means direct connection to a well, to a public water utility or equivalent approved water service delivery system.
- (2) Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, and water closet with an adequate supply of both cold water and hot water properly connected to an approved public sewer disposal facility or a sewer system approved by the county health department.
- (3) Every plumbing fixture shall be equipped with safety shutoff valves and maintained in good sanitary and working condition, free from leaks, defects and obstructions in compliance with the standards of the state plumbing code.
- (4) Every dwelling shall have a water heater equipped with approved relief valves and properly connected to deliver hot water to the kitchen sink, lavatory, tub/shower and laundry area.
- (5) All required plumbing facilities, such as water closets, tub and/or shower shall be accessible to all occupants affording privacy to the user.

(b) Heating system.

- (1) Every dwelling shall have a heating system, central or other, properly installed and maintained in a good and safe working condition capable of adequately heating and maintaining all habitable rooms and bathrooms to a minimum temperature of 68 degrees three feet above the floor between November 1 and March 31 of any year.
- (2) Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues and gas vents whereby heating appliances may be connected so as to heat all habitable rooms to the minimum temperature of 68 degrees three feet above the floor during winter.
- (3) All heating systems shall be properly vented.
  - a. There shall be no holes in flues.
  - b. Thimbles shall be grouted in tightly and shall not be cracked or broken.
  - c. Chimneys shall not have any loose bricks.
  - d. There shall be no hanging chimneys.

(c) Electrical system.

- (1) Lights and outlets. Lights and outlets shall conform to the following:
  - a. No receptacles, ceiling fixtures, or other fixtures shall be hanging loose.
  - b. All switches and receptacles shall be safely operable.
  - c. Every habitable room shall contain not less than two wall-type electrical convenience receptacles.

d. There shall be installed in every habitable room, bathroom, laundry room, hallway, stairway and furnace room at least one supplied ceiling or wall-type electrical light fixture; provided, further, that the ceiling light fixture may be omitted in living room and bedrooms, provided that three electrical convenience receptacles are installed, one of which is controlled from a wall switch.

e. There shall be no unsafe wiring and all wiring shall be installed in accordance with the National Electrical Code.

f. There shall be no drop or extension cords in excess of six feet in length.

g. No circuits shall be overloaded.

h. Fuses shall be sized correctly and not bridged out.

i. Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times.

(2) Smoke detectors. A minimum of one 120-volt permanently connected automatic smoke detector shall be installed in all dwelling units on each habitable floor level and basement. Floor levels containing one or more sleeping areas shall have a smoke detector installed inside and outside each sleeping area. All required smoke detectors shall be supplied by a branch circuit serving one or more of the required lighting outlets and permanently connected ahead of switching devices.

(3) Electric service.

a. Adequate electric service must be provided to the dwelling. The term "adequate" means a minimum of 60 ampere service with no more than five two-wire branch circuits connected and a total connected load of less than ten kilowatts. If a service has six or more two-wire branch circuits, 100 ampere service at a minimum must be provided. If the connected electrical load exceeds the capacity of a 100 ampere service, a service of sufficient ampere capacity to safely bear the connected electrical load shall be furnished. Drop cords from a neighboring source, generator or similar source are not adequate for purposes of this code.

b. Every new or additional electrical outlet and fixture required by the code shall be installed, maintained and connected to a source of electric power in accordance with the provisions of the state building code.

(Code 1987, § 4-54)

#### Sec. 14-59. - Ventilation.

(a) Every habitable room shall have at least one window or skylight facing directly to the outdoors.

(b) The minimum total window area, measured between stops, for every habitable room shall be eight square feet or eight percent of the floor area of such room.

(c) The total of openable window area in each habitable room shall be equal to at least one-half of the required minimum glazed area.

(d) Bathrooms, water closet compartments and other similar rooms shall be provided with aggregate glazing in windows or not less than three square feet, one-half of which must be openable.

(e) Windows in bathrooms shall not be required where artificial light and an approved mechanical ventilation system capable of producing a change of air every 12 minutes are provided.

(Code 1987, § 4-55)

Sec. 14-60. - Habitable space.

(a) Room size. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the residential building code. Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

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

(c) Floor area calculation. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than 4½ feet shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible occupancy.

(d) Cellar. No cellar shall be used for living purposes.

(e) Basements. No basement shall be used for living purposes unless the:

(1) Floor and walls are substantially watertight;

(2) Total window area, total openable window area, and ceiling height are equal to those required for habitable rooms;

(3) Required minimum window area of every habitable room is entirely above the grade adjoining such window area except where windows face a stairwell, window well or accessway.  
(Code 1987, § 4-56)

Sec. 14-61. - Safe and sanitary maintenance.

(a) Foundation, exterior walls and roofs. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture of the weather. Every foundation wall, exterior wall and exterior roof shall be:

(1) Substantially weathertight and rodent- proof;

(2) Kept in sound condition and good repair;

(3) Capable of affording privacy; and

(4) Safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(b) Interior floors, doors, walls and ceilings. Every floor, interior door, interior wall and ceiling shall be:

(1) Substantially rodentproof;

(2) Kept in sound condition and good repair; and

(3) Safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(c) Windows and exterior doors. Every window, window space, exterior door, basement or cellar door and hatchway shall be:

(1) Substantially weathertight, watertight and rodentproof; and

(2) Kept in sound working condition and good repair.

- (d) Stairs, porches and appurtenances. Every inside and outside stair, porch and any appurtenance thereto shall be:
- (1) Safe to use and capable of supporting the load that normal use may cause to be placed thereon; and
  - (2) Kept in sound condition and good repair.
- (e) Bathroom floors. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained to be reasonably impervious to water and to permit such floor to be easily kept in a clean and sanitary condition.
- (f) Supplied facilities. Every supplied facility, piece of equipment or utility which is required under this article shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
- (g) Drainage. Every yard shall be properly graded to attain thorough drainage and to prevent the accumulation of stagnant water.
- (h) Noxious weeds. Every yard and all exterior property areas shall be kept free of species of weeds or plant growth that are noxious or detrimental to health or provide shelter or breeding places for rodents or snakes.
- (i) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the state building code.
- (j) Accessory structures. Every fence and accessory structure shall be:
- (1) Properly maintained in a safe, clean, sanitary and substantial condition;
  - (2) Free from physical hazards and other matter detrimental to public health or safety;
  - (3) Exterior surfaces, not inherently resistant to deterioration, shall be treated with a protective coating, such as paint or other suitable preservative, and with sufficient frequency to prevent deterioration; and
  - (4) Any electrical, plumbing, heating or other utilities furnished to an accessory structure shall be installed in accordance with applicable provisions and maintained in a safe condition.
- (Code 1987, § 4-57)

Sec. 14-62. - Control of insects, rodents and infestations.

- (a) Screens. In every dwelling unit, for protection against mosquitoes, flies and other insects, every window opening directly from a dwelling unit to outdoor space shall have screens installed. Screens are not required to be supplied or installed if the dwelling unit is equipped with a central air conditioning system. If the dwelling unit is supplied with a window air conditioning unit, only the room containing the unit is exempt from the required window screens.
- (b) Rodents. All openings into habitable space shall be minimized to prevent the entrance of rodents. Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement shall be supplied with screens installed or such other approved device as will effectively prevent the entrance of rodents.
- (c) Infestation. Every owner of a dwelling unit shall be responsible for the extermination of any insects, rodents or other pests in or on the premises. The extermination shall be provided within 15 days of the date of notice from the housing code enforcement officer.
- (d) Rubbish storage and disposal. Every dwelling and every dwelling unit shall be supplied by the owner with approved containers and covers for storage of rubbish as required by the city and the agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(e) Garbage storage and disposal. Every single family dwelling unit shall be supplied by the owner thereof with garbage storage containers adequate in size and number to accommodate one week's anticipated garbage for that family. In a dwelling containing more than one dwelling unit, the owner shall either supply each individual family with separate garbage storage facilities for storing an anticipated one week's garbage for that family or supply garbage storage facilities to be used jointly by all of the families housed therein, such joint facilities to be large enough to hold the anticipated garbage for all of the families housed therein as deemed appropriate by the street superintendent. The agent in control of any premises shall be responsible for the proper use of the garbage storage facilities.

(Code 1987, § 4-58)

#### Sec. 14-63. - Applicability to rooming houses; exceptions.

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

(1) Water closet, hand lavatory and bath facilities. At least one water closet, lavatory basin and bathtub or shower properly connected to an approved water supply and sewer disposal system and in good working condition shall be supplied for each three bedrooms within a rooming house wherever the facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be no more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(2) Minimum floor area for sleeping purposes. Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

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

(4) Juxtaposition of sanitary facilities. Every water closet, flush urinal, lavatory basin and bathtub or shower required by subsection (1) of this section shall be located within the rooming house and within rooms that afford privacy and are separate from the habitable rooms, and that are accessible from a common hall without going outside the rooming house or through any other room.

(Code 1987, § 4-59)

#### Sec. 14-64. - Responsibilities of owners and occupants.

(a) Generally. Every owner shall remain ultimately responsible for any violations of responsibilities imposed upon him by this code or any other ordinance even though a similar responsibility may have been imposed upon the occupant by the owner and even though the occupant may have agreed to bear the responsibility imposed by ordinance upon the owner.

- (b) Public areas. Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and its premises.
- (c) Cleanliness. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises which he occupies and controls.
- (d) Rubbish and garbage. Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for furnishing rubbish and garbage storage facilities.
- (e) Supplied plumbing fixtures. Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in their proper use and operation.
- (f) Care of facilities, equipment and structure. No occupant shall destroy, deface or impair any of the facilities or equipment or any part of the structure of a dwelling or dwelling unit.
- (g) Interior furniture and appliances. No occupant shall maintain, store, use, or operate interior furniture or appliances on the exterior of a dwelling or dwelling unit.
- (h) Emergency and unsafe conditions. Every owner shall, in order to protect the life and safety of occupants of a dwelling or dwelling unit, within 48 hours after being notified in writing by a housing code enforcement officer, resolve any conditions listed in [section 14-56](#).  
(Code 1987, § 4-60)

Sec. 14-65. - Outdoor swimming pools.

- (a) Fence required. In the interest of public safety and particularly the safety of children and pursuant to G.S. 130A-280 et seq., all outdoor swimming pools (except commercial pools and pools operated by hotels or motels and under constant surveillance) in the city consisting of at least 450 square feet of water surface area, or having a depth of water of 36 inches or greater at its shallowest point, or requiring connection of a filtering device to an electrical system, shall be completely surrounded by a fence or a wall not less than four feet in height. Such fence or wall shall be constructed as not to have any openings greater than 16 square inches or four inches in any direction. In the case of erection of a picket fence, the distance between pickets shall not exceed five inches. A fence or wall may be made by any material including wood, metal, wire, masonry, concrete, tile, hedge, shrubs, and plastic material, or any combination of these or other suitable materials if the openings do not exceed the maximum width described in this subsection. A dwelling house or accessory building may be used as part of such enclosure. All gates or doors opening through such fence or wall shall have self-closing and self-latching devices for keeping the gate or door closed at all times when not in actual use except that the door of any dwelling which is considered part of the enclosure need not be so equipped. No person in possession of land in the city, either as owner, purchaser, lessee, tenant or a licensee, upon which is situated a swimming pool shall fail to provide and maintain such fence or wall as provided in this section, except where an owner's lot or premises is completely enclosed by a fence or wall which meets the requirements of this section.
- (b) Modifications and exceptions. The housing code enforcement officer may make modifications in individual cases, upon a showing of good cause with respect to the height, nature or location of the fence, wall, gates or latches, provided that the minimum degree of protection as provided with the standard requirements are not reduced. The housing code enforcement officer may permit other protective devices or structures to be used so long as the

degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate and latch as specified in this section. The housing code enforcement officer shall allow a reasonable period up to 120 days or more within which fences or walls or other protective enclosures shall be placed around existing pools to comply with the requirements of this section.  
(Code 1987, § 4-61)

#### ARTICLE IV. - UNSAFE BUILDING STANDARDS

##### Sec. 14-85. - Defects in buildings to be corrected.

When a city zoning enforcement officer or fire inspector finds any defects in a building, or finds that the building has not been constructed in accordance with the applicable state and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be his duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property he owns.  
(Ord. No. 04-26, § 1, 5-13-2004)

##### Sec. 14-86. - Unsafe buildings condemned.

(a)Residential building and nonresidential building or structure. Every building that shall appear to the city zoning enforcement officer or fire inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the city zoning enforcement officer or fire inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building.

(b)Nonresidential building or structure. In addition to the authority granted in subsection (a) of this section, a city zoning enforcement officer or fire inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets both of the following conditions:

(1)It appears to the city zoning enforcement officer or fire inspector to be vacant or abandoned.

(2)It appears to the city zoning enforcement officer or fire inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(c)If a city zoning enforcement officer or fire inspector declares a nonresidential building or structure to be unsafe under subsection (b) of this section, the city zoning enforcement officer or fire inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this section, the term "community development target area" means an area that has characteristics of a development zone under G.S. 105-129.3A, a "nonresidential redevelopment area" under G.S. 160A-503(10), or an area with similar characteristics designated by the city council as being in special need of revitalization for the benefit and welfare of its citizens.

(Ord. No. 04-26, § 1, 5-13-2004)

Sec. 14-87. - Removing notice from condemned building.

If any person shall remove any notice that has been affixed to any building or structure by a city zoning enforcement officer or fire inspector and that states the dangerous character of the building or structure, he shall be guilty of a Class 1 misdemeanor.

(Ord. No. 04-26, § 1, 5-13-2004)

Sec. 14-88. - Action in event of failure to take corrective action.

If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. 160A-426 shall fail to take prompt corrective action, the city zoning enforcement officer or fire inspector shall give him written notice, by certified or registered mail to his last known address or by personal service,

(1) That the building or structure is in a condition that appears to meet one or more of the following conditions:

a. Constitutes a fire or safety hazard.

b. Is dangerous to life, health, or other property.

c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.

d. Has a tendency to attract persons intent on criminal activities or other activities that could constitute a public nuisance.

(2) That a hearing will be held before the city zoning enforcement officer or fire inspector at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the city zoning enforcement officer or fire inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate. If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least ten days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the city at least once not later than one week prior to the hearing.

(Ord. No. 04-26, § 1, 5-13-2004)

Sec. 14-89. - Order to take corrective action.

If, upon a hearing held pursuant to the notice prescribed in G.S. 160A-428, the city's city zoning enforcement officer or fire inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, he shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or structure or taking other necessary steps, within such period, not less than 60 days, as the city zoning enforcement officer or fire inspector may prescribe; provided, that where the city zoning enforcement officer or fire inspector finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

(Ord. No. 04-26, § 1, 5-13-2004)

Sec. 14-90. - Appeal; finality of order if not appealed.



Any owner who has received an order under G.S. 160A-429 may appeal from the order to the city council by giving notice of appeal in writing to the city zoning enforcement officer or fire inspector and to the city clerk within ten days following issuance of the order. In the absence of an appeal, the order of the city zoning enforcement officer or fire inspector shall be final. The city council shall hear and render a decision in an appeal within a reasonable time. The city council may affirm, modify and affirm, or revoke the order.  
(Ord. No. 04-26, § 1, 5-13-2004)

Sec. 14-91. - Failure to comply with order.

If the owner of a building or structure fails to comply with an order issued pursuant to G.S. 160A-429 from which no appeal has been taken, or fails to comply with an order of the city council following an appeal, he shall be guilty of a Class 1 misdemeanor.  
(Ord. No. 04-26, § 1, 5-13-2004)

Sec. 14-92. - Enforcement.

(a)Whenever any violation is denominated a misdemeanor under the provisions of this article, the city, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(b)In the case of a nonresidential building or structure declared unsafe under G.S. 160A-426, a city may, in lieu of taking action under subsection (a), cause the building or structure to be removed or demolished. The amounts incurred by the city in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of G.S. Chapter 160A. If the building or structure is removed or demolished by the city, the city shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The city shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

(c)Additional lien. The amounts incurred by the city in connection with the removal or demolition shall also be a lien against any other real property owned by the owner of the building or structure and located within the municipal limits or within one mile of the municipal limits, except for the owner's primary residence. The provisions of subsection (b) of this section apply to this additional lien, except that this additional lien is inferior to all prior liens and shall be collected as a money judgment.

(d)Nothing in this section shall be construed to impair or limit the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

(e)No administrative fee shall be charged for the first inspection following an order to repair, alter or improve or to vacate and close, or to demolish a dwelling in order to ascertain compliance with inspection orders. For each inspection, beginning with the second inspection, an administrative fee shall be assessed as written in the annual adopted budget ordinance.

(f)In addition to other penalties, any person who shall commit a violation of article IV, chapter 14 of the City Code, and receives official notice from the city of said violation and fails to

remedy said violation within the time period specified, after the hearing, such that a housing code violation citation is issued, shall be subject to an administrative fee as written in the annual adopted budget ordinance.

(g) In addition to any other charge, any owner of an unsafe building(s) shall be subject to an administrative fee, as written in the annual adopted budget ordinance, upon any additional inspection hearings disclosing the building to be unsafe due to any defects defined in this article or G.S. 160A-426 within the same 12-month period beginning on the date of the violation and ending on the same date in the following year. The property owner may also be assessed any costs incurred in obtaining service including legal publication of notice of complaint charges, hearing notice and findings of fact and orders related to the dwelling.

(Ord. No. 04-26, § 1, 5-13-2004; Ord. No. 05-54, § 3, 6-28-2005; Ord. No. 07-85, § 3, 9-13-2007)

#### Sec. 14-93. - Records and reports.

The code enforcement division of the police department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made, defects found, certificates of compliance granted, and all other work and activities of the department. These records shall be kept in the manner and for the periods prescribed by the North Carolina Department of Cultural Resources. Periodic reports shall be submitted to the city council and to the commissioner of insurance as they shall by ordinance, rule, or regulation require.

(Ord. No. 04-26, § 1, 5-13-2004; Ord. No. 07-85, § 3, 9-13-2007)

#### Sec. 14-94. - Appeals in general.

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of the city planning and community development department pertaining to the State Building Code or other state building laws shall be taken to the commissioner of insurance or his designee or other official specified in G.S. 143-139, by filing a written notice with him and with the planning and community development department within a period of ten days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law. (Ord. No. 04-26, § 1, 5-13-2004)

### **Chapter 18 - BUSINESSES**

Sec. 18-36. - Permanent food cart vendors (except those operating during city-sponsored downtown festivals.)  
modified

(a) It is the purpose of these regulations to promote the general welfare and appearance of the city by setting standards for the operation and licenses of all street vending pushcarts and trailers in the municipal service district. It is declared that the regulation of such vending vehicles within the city is necessary and in the public interest to:

(1) Promote the revitalization of downtown Concord by encouraging an environment which is attractive and safe for pedestrians and businesses;

(2) Provide for the safety of pedestrian and vehicular traffic by setting guidelines on the placement of the vendors to prevent traffic congestions.

(b) The provisions of these regulations shall apply to the operation, location, size, insurance and design of all food vending pushcarts and trailers in the municipal service district of the city

operated after the effective date of these provisions, except those operating during downtown festivals sponsored or co-sponsored by the city.

(c) Administration.

(1) The city planning and neighborhood development department will review all applications for the compliance to all the regulations set forth herein. Design standards set forth in the guidelines will be reviewed and the planning and neighborhood development department may then issue the permit accordingly.

(2) The review regulations may include, but are not limited to, design, size, kinds of materials, color, health, safety, aesthetics, merchandise, method of distributions and disposal of food and merchandise, all of which ensure safe, healthy and attractive municipal service district vendor environment.

(d) Location of vendors.

(1) City council shall periodically review and approve a map of "approved vendor locations" in the municipal service district. The map of "approved vendor locations" is adopted and incorporated by reference as if published and reproduced herein.

(2) Vendor locations will be picked from the predetermined spaces available at the time of application, if any have been selected by city council prior to the application. Locations are to remain the same throughout the duration of the permit. If relocation is desired, a request must be made in writing to the planning and neighborhood development department.

(3) The assignment of vendor locations will be on a "first come-first-serve" basis". Additional locations will be created when there is a need for them and will be approved by the city council.

(e) Permanent food cart vendors shall have a consistent presence in downtown Concord and shall conduct business at least eight hours a week on average. Failure to meet this standard may result in the revocation of the permit.

(f) Regulatory permit required. It shall be unlawful for any vendor to sell or to offer for sale, any food or beverage on the streets of the MSD (as defined in section 18-18) unless there is compliance with the provisions of this article and the review regulations and unless a permit has been obtained. Otherwise, it shall be unlawful for a person to sell or offer to sell anything on the streets and sidewalks within the MSD. This section shall not apply to news vending machines, festivals or other special events sponsored by the city or the Concord Downtown Development Corporation.

(g) Application for permits. The application for food vendors permit may include but is not limited to the following information:

(1) The name, home and business address of the applicant, the name and address of the owner, if other than the applicant, the name of the vending business, and information to show compliance with the review regulations for the stand to be used in the operation of the vending business.

(2) A description of the type of food or beverage to be sold.

(3) A description (a scaled drawing) and a photograph of the stand to be used in the operation with the business.

(4) A certificate of insurance issued by an insurance company licensed to do business in the state, showing a policy of the comprehensive general liability, including coverage for products/completed operations and contractual liability for the indemnification provision in the vendor permit, in the amount of not less than \$300,000.00 for bodily injury per occurrence and \$100,000.00 for property damage per occurrence. Any termination or lapse of such insurance shall automatically revoke any permit issued pursuant to this article. Such insurance limits and

requirements shall be subject to revision by the city council. Current certificates of insurance shall be provided by the vendor and shall be kept on file with the vendor's application.

(5) Proof of acquisition of any necessary business privilege license or any other legally required permits or licenses.

(6) Any other relevant information to this article as may be required by the planning and neighborhood development department.

(h) Permit issuance. No later than 30 days after filing of the completed application for a permit, the applicant shall be notified by the planning and neighborhood development department of the decision on the issuance or denial of the permit. If the permit is denied, the applicant shall be provided with a written statement of reasons for the denial on the application. A permit issued to a person is not transferable in any way and the recipient of the permit remains responsible for compliance with this article.

(i) Prohibited conduct. The following shall constitute unlawful conduct. It shall be unlawful to:

(1) Violate any federal, state, county or city law or regulation that pertains to food, to the operation of the vendor's business in the municipal service district.

(2) Fail to permit any lawfully requested inspection by the health officials or to comply with any lawful request of a police officer.

(3) Fail to carry and display at all times the permit issued under this article.

(4) Have a stand that is not in compliance with the review regulations or any additional special restrictions or conditions stated in the permit.

(5) Vend without the insurance required by this article.

(6) Vend in any area other than that space which was approved by the development services department.

(7) Leave any stand overnight on any street or sidewalk, or park other than in lawful parking space, or fail to remove stand in an unspecified hour.

(8) Sell food or beverage for immediate consumption, unless the vendor has available for public use the vendor's litter receptacle or a public litter receptacle no more than ten feet in distance from the person's stand.

(9) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the vendor.

(10) Allow any item relating to the operation of the vending business to be placed anywhere other than in, on or under the stand, or offer to sell any goods other than those permitted by the vendor's permit.

(11) Use any device that produces any loud noise or engage in hawking or harassment for the purpose of attracting the attention of the public to the stand for commercial purposes.

(12) Have any lights that flash used solely for the purpose of attracting the attention of the public to the stand for commercial purposes.

(13) Use any kind of advertising on the stand other than the name of the business, posting of prices, names of the products and the name of the vendor.

(14) Use a vehicle to pick up or deliver a cart during the hours of 7:30 a.m. to 9:00 a.m. and 4:30 p.m. to 6:00 p.m.

(j) Denial, suspension and revocation of permit.

(1) The planning and neighborhood development department shall have the authority to deny, suspend or revoke a permit for any of the following cases:

a. Fraud or misrepresentation contained in the application for the permit, or, in applying for the permit, failure to provide the information required by this article, by the planning and

neighborhood development department, or to provide any relevant information sought by the staff.

b. Fraud or misrepresentation made in the course of carrying on the business of vending or failure to pay required sales tax.

c. A violation of a provision of this article or the review application.

d. Conviction of the permittee for any felony or for a misdemeanor related to the vendor business authorized by the permit.

(2) The planning and neighborhood development department shall have the authority to revoke a permit for any of the reasons stated in this section.

(3) If a permit is suspended or revoked, then the permittee shall have the right to appeal the revocation or the suspension to the city manager or his designee in writing within ten days of the suspension or revocation. The decision of the city manager or his designee shall be final.

(4) If a vendor with a permit is convicted of a *criminal* misdemeanor for a violation of this article or has a permit revoked, then the planning and neighborhood development department may reject any application for any kind of permit under this article for a 12-month period from the date of the conviction or revocation.

(Ord. No. 12-105, § 1, 9-13-2012; Ord. No. 13-12, § 1, 3-14-2013; Ord. No. 18-75, § 1, 8-9-2018)

**Editor's note**— Ord. No. 13-12, § 1, adopted March 14, 2013, amended the title of [§ 18-36](#) to read as set out herein. Previously [§ 18-36](#) was titled permanent pushcart vendors (except those operating during city-sponsored downtown festivals).

### ARTICLE III. - HOUSE MOVING

Sec. 18-71. - Application for permit; fee.

(a) Any person desiring a permit to move a house shall file a completed application with the office of chief of police no later than ten working days prior to the scheduled date of the move. House moves shall be conducted between 12:01 a.m. Saturday and 11:59 p.m. Sunday, unless otherwise approved by the chief of police.

(b) At the time the application is filed, the applicant shall pay a nonrefundable fee as set from time to time and on file at the city clerk's office to process the application.

(Code 1987, § 8-351)

State Law reference— Professional housemoving, G.S. 20-356 et seq.

Sec. 18-72. - Additional requirements for issuance of permit.

In addition to the information supplied on the application form, the following shall be required before a permit may be issued:

(1) A copy of the applicant's house moving license issued by the state department of transportation, G.S. 20-356 et seq.;

(2) A copy of the applicant's house moving permit issued by the state department of transportation if the proposed move is to be on state streets, G.S. 20-360;

(3) If the building is to be moved to a place within the city limits or within the limits of the city's extraterritorial jurisdiction, a copy of the zoning compliance permit;

(4) Any other information determined by the chief of police to be necessary to ensure that the move will be conducted safely and in compliance with applicable law.

(Code 1987, § 8-352)

Sec. 18-73. - Issuance of permit; required notice.

(a) Once the chief of police has confirmed that the application is complete, the requirements of this article and those of the zoning ordinance have been met and that the move can be made safely, a permit shall be issued. A copy of such permit shall be kept with the permittee during the entire move.

(b) The permittee shall contact all local utility companies and make provision to ensure noninterference with overhead utility lines. Failure to make these notifications may result in invalidation of the permit.

(Code 1987, § 8-353)

Sec. 18-74. - Sealing pipelines.

Before any work is started on the moving of a building or structure, the appropriate utility departments shall be notified in order that all gas, water and oil pipelines that are to be disconnected from the building shall be securely capped and sealed.

(Code 1987, § 8-354)

Sec. 18-75. - Lighting.

(a) Every building which occupies any portion of public property after sundown shall have sufficient light continuously burning between sunset and sunrise for the protection of the public.

(b) There shall be a minimum of five red lights placed on each side of the building. Such lights shall be attached to the building in such a fashion as to indicate extreme width, height and size.

(Code 1987, § 8-355)

Sec. 18-76. - Flagmen and escorts.

(a) When more than 50 percent of the paved area of the street is occupied at night by a building or when, in the opinion of the chief of police, officers are necessary to direct or caution traffic, the owner or person moving such building shall reimburse the city for overtime costs of officers as necessary to direct or caution traffic.

(b) The permittee shall furnish front and rear escort vehicles equipped with flashing amber lights. Each vehicle shall burn its headlights and be equipped with red flags on each side at the front and a sign across the front or rear bumper with the legend "wide load" or "oversized load."

(Code 1987, § 8-356)

Sec. 18-77. - Penalties and remedies.

(a) Failure to obtain a permit prior to moving a building or failure to comply with any other requirements of sections 18-71—18-76 shall result in a civil penalty being imposed on the responsible party in the amount of \$2,500.00. In addition, the chief of police may refuse to issue any further house moving permits to the house mover and to the house mover's business until all appropriate penalties have been paid and all provisions of this article have been complied with. If a person fails to pay this civil penalty within ten days after being cited for a violation, the city may seek to recover this penalty by filing a civil action in the nature of a debt.

(b) Violations of sections 18-71—18-76 shall be considered a misdemeanor pursuant to G.S. 14-4, punishable by imprisonment for up to 30 days or a criminal fine of up to \$500.00, or both.

(Code 1987, § 8-357)

DIVISION 2. - TAXICABS<sup>[5]</sup>

Subdivision I. - In General

Sec. 18-151. - 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: Certificate means a certificate of public convenience and necessity issued by the chief of police licensing the operation of a taxicab business.

Driver means any person who drives a taxicab, either owned by him or by other persons.

Holder means any person to whom a certificate of public convenience and necessity has been issued.

Manifest means a daily record of all trips made by a taxicab, showing time and place of origin and destination of each trip and the amount of fare.

Owner means any person operating one or more taxicabs for hire.

Permit means a permit issued by the chief of police indicating that an individual has been granted permission to drive a taxicab.

Taxicab means any motor vehicle, seating nine or fewer passengers, operated upon any street or highway on call or demand, accepting or soliciting passengers for money or donation between such points along streets or highways as may be directed by the passenger being transported.

Taximeter means a mechanical instrument or device attached to a taxicab by which the charge for the hire of a taxicab and its corresponding waiting time at a predetermined rate is mechanically calculated and registered for the distance traveled and the waiting time upon which such charges shall be identified by means of figures clearly visible for the passenger's information.

Waiting time means the time when a taxicab is not in motion, at the direction of a passenger, from the time of acceptance of a passenger(s) to the time of discharge, but does not include the time consumed by a premature response or for the first three minutes following the timely arrival in response to a call or for delay caused by traffic interruption, the inefficiency of the taxicab or its driver due to any cause other than the request, act or fault of a passenger(s).

(Code 1987, § 7-46; Ord. No. 05-112, § 1, 12-8-05)

**Cross reference**— Definitions generally, [§ 1-2](#).

Sec. 18-152. - Operators and drivers distinguished.

To operate one or more taxicabs shall mean to engage in the taxicab business with such taxicabs in the city by causing taxicabs which are under one's ownership or control to be propelled, either by himself or by someone under his direction or supervision, for the purpose of carrying passengers for hire. An operator is a person who operates one or more taxicabs. To drive a taxicab shall mean to be physically in control of a taxicab, whether or not such taxicab is in motion, when such taxicab is being used for or is available or ready to be used for the carrying of passengers for hire. A driver is one who drives a taxicab. The same person may or may not be both an operator and a driver.

(Code 1987, § 7-47)

Sec. 18-153. - Proof of financial responsibility.

(a) No person shall engage in the business of operating a taxicab within the city unless he first files with the chief of police proof of financial responsibility. As used in this section, proof of financial responsibility shall mean a certificate of any insurance carrier duly authorized to do business in the state certifying that there is in effect a policy of liability insurance insuring the

owner and operator of the taxicab business and his agents and employees while in the performance of their duties against loss from any liability imposed by law for damages, including damages for care and loss of service because of bodily injury to or destruction of property caused by accident arising out of the ownership, use or operation of such taxicabs, subject to limits, exclusive of interest and costs, with respect to each such motor vehicle as follows: An amount as set from time to time and on file at the city clerk's office because of bodily injury to or death of one person in any one accident, and subject to such limit for one person; an amount as set from time to time and on file at the city clerk's office because of bodily injury to or death of two or more persons in any accident; and an amount as set from time to time and on file at the city clerk's office because of injury to or destruction of property of others in any one accident.

(b) Before any certificate of insurance provided for in this section may be cancelled, ten days' notice shall be given to the chief of police by the insurance carrier prior to the date of such cancellation.

(Code 1987, § 7-48)

Secs. 18-154—18-170. - Reserved.

## Subdivision II. - Certificate

### Sec. 18-171. - Definition.

For purposes of this article, the word "certificate" shall mean a certificate of public convenience and necessity as required in this article.

(Code 1987, § 7-61)

**Cross reference**— Definitions generally, [§ 1-2](#).

### Sec. 18-172. - Required.

It shall be unlawful for any person to operate a taxicab or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon city streets without having first obtained a certificate of public convenience and necessity authorized by the chief of police in accordance with the provisions of this article.

(Code 1987, § 7-62)

### Sec. 18-173. - Certificate to constitute franchise.

A certificate of public convenience and necessity issued under the provisions of this article shall constitute a franchise from the city for the operation of taxicabs within the city, subject to the provisions of this chapter and the ordinances of the city regulating the operating of taxicabs.

(Code 1987, § 7-63)

### Sec. 18-174. - Application.

Any person desiring a certificate required by the provisions of this article shall file an application therefor with the chief of police. Such application shall set forth such information as may be of assistance to the chief of police in determining whether the public convenience and necessity require the issuance of the certificate for which the application is filed.

(Code 1987, § 7-64)



Sec. 18-175. - Investigation.

The chief of police or his designee shall make a full and complete investigation of facts relative to the situation.

(Code 1987, § 7-65)

Sec. 18-176. - Factors to be considered in granting.

In determining whether the public convenience and necessity require the issuance of a certificate the chief of police shall, among other things, take into consideration the following factors:

(1) Whether or not the public convenience and necessity require such proposed or additional taxicab service within the city.

(2) The financial responsibility of the applicant and the likelihood of the proposed services being permanent, responsible and satisfactory.

(3) The number and condition of vehicles.

(4) The number of taxicabs operated at the time of such determination and the demand for increased service, if any, whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved, and whether or not adequate provisions have been made for off-street parking of such taxicabs.

(5) The experience of the applicant in the taxicab business.

(6) Results of inspection in section 18-17.

(7) Such other relative facts as may be deemed necessary and advisable.

(Code 1987, § 7-66)

Sec. 18-177. - Inspection of vehicles.

After filing of an application for a certificate required by the provisions of this article, the applicant shall make available for inspection those vehicles that will be used in the operation of the taxicab business. Such vehicles will be presented to the chief of police or his designee at a place and time to be fixed by the chief of police or his designee for an examination and inspection to determine that the vehicles meet the requirements set forth in this chapter for taxicabs.

(Code 1987, § 7-67)

Sec. 18-178. - Issuance; denial.

The chief of police shall have the power and it shall be his duty to order certain certificates issued or to refuse to issue certain certificates or to issue certificates for a partial exercise only of the privileges sought, and the chief of police may attach to the exercise of the rights granted by such certificates such terms and conditions as in its judgment the public convenience and necessity may require.

(Code 1987, § 7-68)

Sec. 18-179. - Term; reissuance.

A certificate issued under the provisions of this article shall expire on December 31 of each year, unless a shorter period of time is specified in the certificate. Each certificate shall be reissued by the chief of police during the month of December of each year without application therefor unless previously revoked.

(Code 1987, § 7-69)

Sec. 18-180. - Failure to begin operations.

If a certificate is issued to an applicant under this article and such applicant shall fail, in accordance with the provisions of the certificate, to begin operations within 60 days after the date of such certificate, then such certificate shall become null and void.

(Code 1987, § 7-70)

Sec. 18-181. - Transfer.

A certificate issued under this article shall not be transferred without the consent of the chief of police. Application for a transfer shall be filed in the same manner as an application for a certificate. The proceedings upon such application for a transfer shall be the same as those described for the issuance of a certificate, except that the question of public convenience and necessity need not be proved.

(Code 1987, § 7-71)

Sec. 18-182. - Revocation.

(a) The chief of police may, at any time, revoke any certificate issued under this article for any one or more of the following causes:

(1) Failure to operate the taxicabs specified in the certificate in such a manner as to serve the public adequately and efficiently.

(2) Failure to maintain motor equipment in good repair.

(3) Failure to pay the city taxes or license fees imposed upon taxicabs.

(4) Failure to carry liability insurance or bond as required by this article.

(5) Violation by the taxicab drivers employed by the holder of the certificate in question of traffic and safety ordinances or state laws relating to narcotics, alcoholic beverages, prostitution or other *criminal* offenses.

(6) Failure to report accidents.

(7) Willful failure to comply with any provision of this article or other ordinances or state laws.

(8) The abandonment of the use of a certificate for a period of 90 consecutive days, provided that the chief of police may, in his discretion, renew such certificate for an additional 90 days upon written application by the owner filed prior to the 90-day expiration date.

(b) No certificate shall be revoked until the owner has had at least five days' notice by personal service or certified mail of the charges against him and of the time and place of the hearing. If, after the hearing, it is found that the owner is liable for one or more of the violations listed in this section, the chief of police shall have the power to revoke the certificate, or to condition a revocation upon compliance of his order within any time fixed by him.

(Code 1987, § 7-72)

Sec. 18-183. - Substitution of vehicles.

The person to whom a certificate has been issued under this article may, by appropriate endorsement thereon by the chief of police, substitute another vehicle for the vehicle for which the certificate is granted. In such instances, the liability insurance or bonds shall also be transferred to such substitute vehicle.

(Code 1987, § 7-73)

Sec. 18-184. - Additional vehicles.

Any time that additional vehicles are proposed to be used in connection with any taxicab business over and above the number listed in the certificate, the holder of the certificate must file an application for an amendment to the certificate with the chief of police.

(Code 1987, § 7-74)

Secs. 18-185—18-210. - Reserved.

### Subdivision III. - Taxicab Driver's Permit

#### Sec. 18-211. - Required.

No person shall drive a taxicab for hire within the city unless the driver of such taxicab shall have first obtained and shall have then in force a taxicab driver's permit issued under the provisions of this article. In regard to this article, the term "applicant" refers to any person applying for a taxicab driver's permit or for the renewal of such permit.

(Code 1987, § 7-81)

#### Sec. 18-212. - Application.

(a) An application for a taxicab driver's permit shall be filed with the police department on forms provided by the department. Such application shall be verified under oath and shall include the following information:

- (1) The name and permanent address of the applicant.
- (2) The applicant's *criminal* and traffic conviction history.
- (3) The number and date of issuance of the applicant's driver's license.
- (4) Such other information as the department shall require.

(b) Each application shall be accompanied by the following:

- (1) Full fingerprints of the applicant.
- (2) Results of physical examination by a physician.
- (3) A statement from a physician certifying that the applicant is not afflicted with any disease, affliction or disability which would materially impair his ability to drive a taxicab in a safe manner. Such statement shall state the hearing and eyesight condition of the applicant.
- (4) A fee to be set by the police department for the processing of the application, which shall be nonrefundable.
- (5) The results of a preemployment drug screen from a medical facility, approved by the chief of police, showing a negative result.

(Code 1987, § 7-82)

#### Sec. 18-213. - Investigation of applicant.

(a) The police department shall conduct an investigation of each applicant for an initial or renewal permit under this article. Such investigation is to determine:

- (1) The accuracy of information within the application.
- (2) Whether the applicant meets the qualifications required in this division.
- (3) Whether there is any basis to refuse a permit.

(b) A record of such investigation and a copy of the traffic and *criminal* record of the applicant, if any, shall be forwarded with the application for review by the chief of police.

(Code 1987, § 7-83)

Sec. 18-214. - Issuance.

(a) After determination that the applicant satisfactorily meets the requirements set out in this division, the chief of police may issue a taxicab driver's permit.

(b) Such permit shall be of a design and contain information prescribed by the chief of police and approved by the city manager.

(Code 1987, § 7-84)

Sec. 18-215. - Expiration and renewal.

Taxicab driver's permits shall be in effect from the date of issue until June 30 of the year following the year of issue. A permit for each 12-month period thereafter will become available on July 1, must be secured no later than August 15, and shall be issued only upon a reexamination of the individual's traffic and *criminal* history for the previous year. If the history discloses violations, the chief of police may deny a permit renewal.

(Code 1987, § 7-85)

Sec. 18-216. - Refusal; suspension; revocation.

(a) Upon consideration of the application for a permit under this division, the chief of police shall either approve or reject the application. The chief of police may refuse to grant or renew or may revoke or suspend the taxicab driver's permit for any applicant or driver who fails or refuses to comply with the provisions of this article or otherwise ceases to be qualified. In cases of suspension, revocation or refusal to grant or renew a driver's permit, the driver shall be notified of the reasons for such action through personal service or in writing.

(b) Factors to be considered relative to such refusal, suspension or revocation include the following:

(1) The appliance or driver does not possess a valid driver's license issued by the state.

(2) The applicant or driver is not physically or mentally capable of operating a taxicab in a safe manner.

(3) The applicant or driver is addicted to or a habitual user of alcoholic beverages, narcotics or other habit-forming substance.

(4) The applicant or driver has knowingly made a false statement or given false information on the application for the permit.

(5) The applicant or driver is or has been a habitual violator of local or state traffic or *criminal* laws.

(6) The applicant or driver has accumulated a sufficient number of points against his driving record under the schedule in G.S. ch. 20 to justify the suspension or revocation of a driver's license.

(7) The applicant or driver has been convicted of a felony against this state, any other state or the United States.

(8) The applicant or driver has been convicted of or has entered a plea of guilty to any of the following offenses within a period of ten years immediately prior to the date of application:

a. A crime involving a motor vehicle resulting in death.

b. Driving a motor vehicle while intoxicated.

c. A violation of any local, state or federal law relating to alcoholic beverages, narcotics, prostitution or gambling.

(Code 1987, § 7-86)

Sec. 18-217. - Appeals.

(a) In a case of refusal to grant or renew a taxicab driver's permit or certificate or upon the suspension or revocation of such permit, the applicant or driver may appeal to the city manager. Such appeal must be made within ten days following receipt of notice of such action and shall be filed with the city clerk.

(b) Upon failure of an applicant or driver to appeal within the prescribed time, such decision shall be considered final.

(c) During the pendency of any appeal, the driver's permit shall be immediately surrendered to the police department, and it shall be unlawful for the appellant to drive a taxicab within the city.

(d) During the consideration of any appeal, the city manager and city council shall limit their scope of review to findings of fact only. The city council's decision shall be final and conclusive. The city may attach any conditions to any decision or order which it deems appropriate.  
(Code 1987, § 7-87)

Sec. 18-218. - Display.

Every taxicab driver licensed under this article shall be required to post his driver's permit in such a place as to be in full view of all passengers while such driver is operating a taxicab and in conformance with regulations established by the police department.

(Code 1987, § 7-88)

Secs. 18-219—18-240. - Reserved.

Subdivision IV. - Operation

Sec. 18-241. - Vehicle equipment.

All taxicabs operated within the city shall be equipped and maintained in a satisfactory condition so as to comply with the state statutes and the provisions of this Code, and among other requirements shall:

(1) Have a body of the sedan or enclosed type and be of not less than four-passenger capacity.

(2) Have four doors, two leading into the passengers' compartment and two leading into the driver's compartment, so constructed that they may be opened from the inside and outside.

(3) Have all windows, vents and doors in proper working condition.

(4) Be equipped with a heater sufficient to heat the interior of the taxicab adequately in cold weather.

(5) Have all windshields and side and rear glasses clear and free of cracks and clear of dirt and obstructions to clear view.

(6) Have front and rear bumpers of original manufacturer's design and attachments which shall be in place and in proper repair.

(7) Have headlights in good working condition and as installed by the original manufacturer.

(8) Be equipped with a number of seatbelts equal to the passenger capacity of the vehicle.

(Code 1987, § 7-101)

Sec. 18-242. - Condition of vehicle.

Every vehicle operating under this article shall be kept in a clean and sanitary condition. The interior and exterior of the vehicle shall be maintained safe and clean, and its general appearance shall be kept as close as possible to the manufacturer's original appearance with respect to sheet

metal and finish of car, normal wear and tear expected. Dents and other exterior body damage shall be repaired as soon as practical.

(Code 1987, § 7-102)

Sec. 18-243. - Repair of vehicle.

When any taxicab is wrecked, damaged or unsafe for taxicab operation, repairs and alterations as may be necessary shall be made, and such vehicle shall not be operated until such repairs and alterations have been completed.

(Code 1987, § 7-103)

Sec. 18-244. - Identification of vehicles.

Every taxicab operating upon the streets of the city shall have the name of the owner of the business thereof and, at his option, his address and telephone number, painted in letters at least two inches in height upon each side of the main portion of the vehicle's body in such manner as to be plainly visible at all times. Each taxicab certificate holder shall adopt a color scheme for painting their cabs distinct from that of any other cab company. All cabs of each company shall be of the same color scheme.

(Code 1987, § 7-104)

Sec. 18-245. - Inspections.

(a) In addition to the initial inspection by the police department, every taxicab operated within the city shall be subject to an annual inspection conducted by the police department. The purpose of such inspection will be to determine that taxicabs are capable of providing safe and sanitary transportation. The police department may also conduct unannounced inspections at reasonable times in order to verify that at all times the condition of taxicabs is in conformance with the rules and regulations specified in this article.

(b) If, during the course of such inspection, any vehicle should be found to be unsafe or unfit for operation or not to conform with the requirements of this article, notice shall be given by the police department to the owner of such vehicle that such vehicle shall not be operated as a taxicab until it has been placed back into safe condition for operation or into conformity with this article.

(c) Reserved.

(Code 1987, § 7-105; Ord. No. 07-10, § 1, 2-8-2007)

Sec. 18-246. - Business headquarters.

It shall be unlawful for any person to operate or cause to be operated any taxicab upon the streets of the city unless such person has some central or established headquarters or place of business where calls can be received. Such place of business shall be maintained in a clean and orderly manner.

(Code 1987, § 7-106)

Sec. 18-247. - Driver's manifests.

(a) A daily manifest shall be maintained for each driver upon which is recorded all trips made each day, showing time and place of origin and destination of each trip, the number of passengers, and amount of fare. The forms for such records shall be of a manner approved by the chief of police.

(b) Every operator shall retain and preserve all manifests in a safe place for at least 180 days, and the manifests shall be made available upon demand for inspection by the police department.  
(Code 1987, § 7-107)

Sec. 18-248. - Refusal to carry passenger.

(a) No driver of a taxicab shall refuse or neglect to convey any orderly person, upon request, anywhere in the city unless previously engaged or unable to do so.

(b) No driver of a taxicab shall refuse or neglect to convey any orderly person on the basis of race, religion, national origin or sex.

(Code 1987, § 7-108)

Sec. 18-249. - Carrying additional passengers.

No driver of a taxicab shall carry any person other than the passenger first employing such taxicab, without the consent of such passenger.

(Code 1987, § 7-109)

Sec. 18-250. - Schedule of fares.

(a) It shall be unlawful for any person owning operating, leasing or controlling any taxicab within the corporate limits of the city to assess, collect or receive any charge, the sum of which has been determined by the taximeter, at rates greater than those included in [section 18-257](#).

These rates are subject to review and revision by city council.

(b) Every vehicle for hire, operated under this chapter, shall have a rate card setting forth the authorized rates of fare for the distance traveled and the waiting time displayed in a conspicuous place inside each taxicab. Such card shall also set forth the charge for carrying packages or similar articles in addition to the fee assessed by taxicabs for each passenger of a party in excess of two in number.

(c) It shall be unlawful for the operator or driver of any taxicab to refuse to convey a passenger at the rate shown on the rate card displayed in the taxicab or demand a rate in excess of the fare shown on the card.

(Code 1987, § 7-110; Ord. No. 05-112, § 2, 12-8-2005)

Sec. 18-251. - Reserved.

**Editor's note**— Ord. No. 05-112, § 3, adopted Dec. 8, 2005, repealed [§ 18-251](#) in its entirety. Formerly, said section pertained to prepayment of fare as enacted by Code 1987, § 7-110.1.

Sec. 18-252. - Refusal to pay fare.

Every person requesting a taxicab operator or driver to transport him to a designated location and who refuses to pay the legal fare shall be presumed to have fraudulently obtained such services with intent to cheat the operator or driver of just charges and shall be guilty of a misdemeanor punishable by a fine of \$500.00 pursuant to [section 1-6](#) of this Code. Violators may be subject to a \$500.00 civil penalty, to be recovered in the nature of a debt.

(Code 1987, § 7-110.2)

Sec. 18-253. - Lost articles.

The driver of a taxicab shall make every effort possible to return lost articles that are found in the taxicab to the rightful owner as soon as possible after discovery of such articles. If the owner

cannot be located or determined, then the article shall be given to the police department within ten days.

(Code 1987, § 7-110.3)

Sec. 18-254. - Taximeter required.

Effective April 1, 2006, it shall be unlawful for any person to operate any taxicab in the city unless such taxicab is equipped with a taximeter which shall be approved by the police chief or agent. It shall be the duty of the certificate holder of such taxicab and also the driver thereof to keep such meters operating at all times within five percent of absolute accuracy. No passenger shall be carried in such a cab unless such taximeter shall be in operation and such meter shall be kept operating continuously during the entire time that it is engaged in the transportation of passengers for compensation and during any waiting time. The operator of the taxicab shall not reset the taximeter until the fare due and owing for the use of the taxicab is paid.

(Ord. No. 05-112, § 4, 12-8-05)

Sec. 18-255. - Installation and location of taximeters.

Each taximeter installed under this chapter shall be operated mechanically by a mechanism of standard design and construction and shall be installed so as to be driven directly from the taxicab transmission. The taximeter shall be sealed at all points and connections which, if manipulated, would affect its reading and recording. The taximeter shall be placed in each taxicab so that the reading dial showing the amount to be charged shall be easily seen and read by a passenger riding in any part of the taxicab. Taximeters shall indicate the charge of a trip by means of legible figures which are electrically lighted or registered each time the taximeter flag is thrown from a non earning to an earning position.

Every taximeter used in the operation of taxicabs shall be subject to inspection at any time by the police department. Upon the discovery of any inaccuracy in a taximeter, the operator thereof shall remove or cause to be removed from service the vehicle equipped with the taximeter until such taximeter shall have been repaired and accurately adjusted.

(Ord. No. 05-112, § 4, 12-8-05)

Sec. 18-256. - Enforcement and penalties.

(a) Civil penalty. In addition to all other remedies available to the City or imposed under law, there is hereby imposed a civil penalty in the amount of \$50.00 for the first violation of any provision of this chapter in any 12-month period and \$100.00 for any subsequent violation in a 12-month period.

(1) The levying of civil penalties may be initiated by any police officer giving written notice of the violation along with a statement that a civil penalty is being imposed. The notice shall inform the recipient that he or she may appeal the civil penalty within ten days to the chief. If an appeal is made, a hearing shall be held before the chief, who, following the hearing, shall affirm or reverse the imposition of the penalty. A notice of violation that is not appealed, or one affirmed after appeal, shall be considered finally assessed.

(2) For the second and successive violations of any of the provisions of this chapter during any 12-month period, the civil penalty shall be double that for the first violation.

(3) Civil penalties shall be paid within 30 days to the office of finance. If not so paid, the city may initiate a civil action in the name of the city in the nature of debt to collect any unpaid penalty.



(4) Any permit required to be issued or renewed under this chapter shall not be issued or renewed unless and until all civil penalties that have been assessed against the applicant, or any employee of the applicant, have been paid in full.

(b) Misdemeanor offenses. In addition to the civil penalty, violations may be punishable as a misdemeanor offense, each day's continuing violation constituting a separate offense.

(Ord. No. 05-112, § 4, 12-8-05)

Sec. 18-257. - Taxicab rates.

(a) Regular rates. The following rates, which shall be maximum rates and are not to be exceeded, shall be charged for taxicab service within the corporate limits of the city and up to two miles beyond as determined by taxicab meters. Established rates shall be reviewed and adjustments approved by city council annually.

(1) Initial meter charge: \$2.00

(2) Each additional ¼ mile thereafter: \$0.50

(3) Per hour wait time: \$0.25 per 60 seconds wait or \$15.00 per hour wait time.

(4) Extra charges: \$0.10 for each one-half mile or part thereof for trips to or from points two miles beyond the city limits.

(5) Surcharge: \$0.50 per trip between the hours of 12:00 midnight and 6:00 a.m.

(6) Flat rates: Flat rates for trips to frequent locations outside of the city corporate limits may be established.

(b) Additional passengers. The rates set out in subsection (a) of this section shall apply for one to three passengers going from the same point to the same destination, but the provisions of this section shall not be construed to prohibit a person who engages a taxicab from having the driver thereof stop at one or more points on the trip and pick up additional passengers to be transported in accordance with these rates.

(Ord. No. 05-112, § 4, 12-8-05)

Secs. 18-258—18-280. - Reserved.

## **Chapter 26 - CIVIL EMERGENCIES**

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

Secs. 26-1—26-30. - Reserved.

### **ARTICLE II. - EMERGENCY MANAGEMENT**

Sec. 26-31. - Short title of article.

This article is the Concord Emergency Management Ordinance.

(Code 1987, § 2-21)

Sec. 26-32. - Intent and scope of article.

The purpose of this article is to set forth the authority and responsibility in prevention of, preparation for, response to and recovery from natural or manmade disasters and to:

(1) Reduce vulnerability of people and property of this city to damage, injury, and loss of life and property;

(2) Prepare for prompt and efficient rescue, care and treatment of threatened or affected persons;

(3) Provide for the rapid and orderly rehabilitation of persons and restorations of property;

(4) Provide for cooperation and coordination of activities relating to emergencies between officials of this city with local, state and federal governments, interstate agencies, and with private and quasiofficial organizations;

(5) This article will not relieve any city department of the moral responsibilities or authorities given to it in the city Charter or by local ordinances. It will not adversely affect the work of any volunteer agencies organized for relief in disaster emergencies.

(Code 1987, § 2-22)

#### Sec. 26-33. - 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:

Activated or activation means placing into operation such as the activating the emergency operations center or emergency operations organization.

Branch means when activated, operates under the direction of the operations section and is responsible for the implementation of the incident action plan appropriate the branch.

Debris management plan shall mean provides a framework to clear, remove, reduce, recycle, and dispose of debris generated during an emergency.

Disaster declaration means a gubernatorial declaration that the impact or anticipated impact of an emergency constitutes a disaster of one of the types enumerated in G.S. 166A-19.21(b).

Emergency means an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, weather-related, or riot-related cause.

Emergency area means the geographical area covered by a state of emergency.

Emergency management means those measures taken by the populace and governments at federal, state, and local levels to minimize the adverse effect of any type emergency, which includes the never-ending preparedness cycle of planning, prevention, mitigation, warning, movement, shelter, emergency assistance, and recovery.

Emergency management coordinator coordinates the city's emergency operations organization and is in charge of the emergency management division.

Emergency management division means the city of concord division charged with coordination of all emergency management activities for its jurisdiction.

Emergency operations means the organization and approach the city utilizes to protect people and property from disasters caused by the hazards to which the community is vulnerable.

Emergency operations center means facility that coordinates municipal response assets and provides situational awareness.

Emergency operations director means the director of the city's emergency operations organization.

Emergency operations organization means centralizes the direction and control of the planning, coordination and management of disaster preparedness, mitigation, response and recovery.

Emergency operations plan shall mean establishes the policies, plans, guidelines and procedures that will allow departments with emergency planning, response, recovery or mitigation responsibilities to function effectively when disaster strikes.

Hazard risk management means the systematic application of policies, practices, and resources to the identification, assessment, and control of risk associated with hazards affecting human health and safety and property. Hazard, risk, and cost-benefit analysis are used to support development of risk reduction options, program objectives, and prioritization of issues and resources.

Incident action plan means defines the response tactics to achieve goals and objections of the within the overall response strategy.

Incident command system means a systematic tool used for the command, control, and coordination of emergency response. The incident command system is a sub-component of the national incident management system.

26-33.png

Incident management team means a city-based team composed of subject matter experts and incident management professionals from various departments who provide incident management support during a major incident.

Mayor means the mayor or other chief executive official of a municipality or, in case of that person's absence or disability, the person authorized to act in that person's stead pursuant to the state general statutes. The succession of persons authorized to act in lieu of the mayor is as follows:

(1)The mayor pro-tempore of the city council,

(2)In the event of sickness, absence from the city, or disability of the mayor pro tempore, or in the case of a vacancy in that office, the most senior member of the council not similarly disqualified shall act at the mayor as provided herein. The sequence of succession to so act shall be based on seniority, the most senior person being determined by the greatest cumulative time in office as a member of the city council; provided, however, that in the event two or more of those members eligible have the same seniority in office, the authority for one of those members to act as mayor shall be determine by an alphabetical priority according to the beginning letter, and if necessary, by the letters following the beginning letter as they sequentially appear in each of the members' surnames, given names, and middle names, in that order, until alphabetical priority shall have been determined. In each case, the highest priority in the alphabet sequence shall be the letter "A".

The member with the authority to act as the mayor as determined pursuant to the above sequence of succession, shall exercise the powers and duties of the mayor only so long as the mayor, mayor pro tempore, or another member of the city council with higher priority to act according to the above sequence of succession, is disqualified from acting for one or more reasons set forth above.

National incident management system means comprehensive, nationwide systematic approach to incident management. Required by Homeland Security Presidential Directive — 5 as a conditions for federal preparedness assistance.

Operations section means a section of the incident command system, managed by a chief and responsible for the management of all operations directly applicable to the primary mission.

Preliminary damage assessment means the initial estimate prepared by state, local, or federal emergency management workers used to determine the severity and magnitude of damage caused by an emergency.

Recovery operations plan means a recovery operations plan or disaster recovery plan is a documented process or procedure to recover and protect a community in the aftermath of a disaster. This includes continuity of government and operations.

Stafford Act means the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, 88 Stat. 143, codified generally at 42 U.S.C. § 5121, et seq., as amended.

State acquisition and relocation fund means state funding for supplemental grants to homeowners participating in a federal hazard mitigation grant program acquisition and relocation program.

These grants are used to acquire safe, decent, and sanitary housing by paying the difference between the cost of the home acquired under the federal hazard mitigation grant program acquisition and relocation program and the cost of a comparable home located outside the 100-year floodplain.

State of emergency means a finding and declaration by any of the following authorities that an emergency exists:

- (1)The governor, acting under the authority of G.S. 166A-19.20.
  - (2)The general assembly, acting under the authority of G.S. 166A-19.20.
  - (3)The governing body of a municipality or the mayor of a municipality, acting under the authority of G.S. 166A-19.22.
  - (4)The governing body of a county or the chair of the board of commissioners of a county, acting under the authority of G.S. 166A-19.22.
- (Ord. No. 13-63, § 2, 7-11-2013)

Sec. 26-34. - Purpose of the emergency management division.

The emergency management division is created to provide coordination, management and direction of all city emergency preparedness activities.

(Ord. No. 13-63, § 2, 7-11-2013)

Sec. 26-35. - Management.

The division shall be under the control and management of an emergency management coordinator who shall be exercising those powers and duties described in section 26-36 and 26-40(8).

(Ord. No. 13-63, § 2, 7-11-2013)

Sec. 26-36. - Duties of the division.

The emergency management division shall have the following powers and duties:

- (1)Coordination of the activities of all city departments for emergency management within the incorporated limits, including planning, organizing, staffing, equipping, training, testing, and activating emergency management programs;
- (2)Preparation and maintenance of municipal plans for emergencies. These plans or parts thereof may be incorporated into policies;
- (3)Coordinate with public and private agencies to address emergency preparedness needs;
- (4)Coordinate available resources to augment the personnel and facilities of the city for emergency management;
- (5)Assist city administration with the preparation of declarations, policies and regulations as necessary or appropriate;
- (6)Coordinate information and resources for hazard risk management, including conducting hazard risk analysis and establishing and maintaining the annual hazard risk analysis program;
- (7)Research and coordinate various grant funds provided for emergency management purposes;
- (8)Opening the emergency operations center;
- (9)Make recommendations, as appropriate for zoning, building, and other land-use/occupancy use controls and safety measures to protect against or mitigate the effects of an emergency;
- (10)Coordinate inspections of occupancies storing, manufacturing or handling hazardous material, maintain plans, and act as a liaison between private industry and city government;

- (11)Coordinate municipal mutual aid planning, implementation and resource procurement to support emergency response and recovery;
  - (12)Conduct public education to assist in emergency preparedness; and
  - (13)Perform other duties as provided by ordinance or delegated by the city manager.
- (Ord. No. 13-63, § 2, 7-11-2013)

Sec. 26-37. - Declaration of state of emergency.

(a)Declaration. As authorized by G.S. 166A-19.22, the mayor is hereby empowered to declare the existence of a state of emergency upon a finding that any of the circumstances described below, exist, or at any time a disaster or emergency is declared by the President of the United States, governor of the state or chairman of the county commissioners. The declaration shall:

(1)Be in writing.

(2)Shall take effect immediately upon its issuance.

(3)Any or all of the following prohibitions and restrictions may be included in the declaration of a state of emergency when deemed necessary:

a.The prohibition/restriction of movements of people in public places, including imposing a curfew, directing and compelling the voluntary or mandatory evacuation of all or part of the population from any stricken or threatened area, prescribing routes, modes of transportation and destinations in connection with evacuation, and controlling the ingress and egress of an emergency area and the movements of people within the area;

b.The prohibition/restriction of the operations of offices, businesses establishments, and or other places to or from which people may travel or at which they may congregate;

c.A prohibition/restriction on the possession, transportation, sale, purchase and consumption of alcoholic beverages;

d.A prohibition/restriction on the possession, transportation, sale, purchase storage and use of gasoline and dangerous weapons and substances except that this section does not authorize prohibitions or restrictions on lawfully possessed firearms or ammunition for said fire arms; and

e.A prohibition/restriction upon any other activity or conditions, the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency.

f.A prohibition/restriction preventing the cost of any merchandise, services, rentals, or lodging from increasing above the average of the previous 30 days or by an unconscionable amount.

(b)Publication. The mayor shall cause widespread publicity and notice to be given of such declaration through the most feasible and adequate means of disseminating such notice throughout the city.

(c)Ratifying resolution. Whenever a state of emergency is declared by the mayor, the city attorney shall prepare a resolution ratifying the existence of a state of emergency and the need for continuing the state of emergency. The city council shall approve or disapprove the resolution within seven days from the date of the original declaration by the mayor and at least every 14 days thereafter unless the state of emergency is terminated sooner.

(Ord. No. 13-63, § 2, 7-11-2013)

Sec. 26-38. - Effective time, amendment and termination of a state of emergency.

The emergency operations director shall keep the mayor and city council fully advised as to the status of the emergency. The city council shall declare and publicize the termination of such local emergency at the earliest possible date that conditions warrant. Upon announcement by the

city council of the termination of the existence of a state of emergency any rules, regulations, orders and directives that were included in the declaration shall terminate and be of no further force or effect. In addition:

(1) All prohibitions and restrictions imposed by declaration shall take effect immediately upon publication of the declaration. For the purpose of this section, publication may consist of reports of the substance of the prohibitions and restrictions in the mass communication media serving the affected area or other effective methods of disseminating the necessary information quickly. The requirements of G.S. 1-597 shall apply to such declaration.

(2) The declaration may be extended as to time and area, amended or rescinded by declaration. Prohibitions and restrictions imposed by declaration pursuant to this section shall expire in five days after their imposition unless sooner terminated by declaration.

(3) Notwithstanding any other provision of law, upon declaration by the mayor that a state of emergency exists within the municipality, or is imminent, any ordinance enacted under the authority of this article shall take effect immediately unless the ordinance sets a later time. If the effect of this subsection is to cause an ordinance to go into effect sooner than it otherwise could under the law applicable to the municipality, the mayor shall take steps to cause reports of the substance of any such ordinance to be disseminated in a fashion that such substance will likely be communicated to the public in general or to those who may be particularly affected by the ordinance if it does not affect the public generally. As soon as practical thereafter, appropriate distribution or publication of the full text of any such ordinance shall be made.

(Ord. No. 13-63, § 2, 7-11-2013)

#### Sec. 26-39. - Violations of regulations.

It shall be unlawful for any person to violate any of the provisions of this article or of the regulations or plans issued pursuant to the authority contained in this article, or to willfully obstruct, hinder or delay any member of the emergency services organization in the enforcement provisions of this article, or any regulations or plan issued under this article. Any violator shall be guilty of a Class 2 misdemeanor and shall be fined not more than \$1000.00 civil penalty or a misdemeanor, punishable by a \$500.00 fine according to G.S. 14-4.

(Ord. No. 13-63, § 2, 7-11-2013)

#### Sec. 26-40. - Activation of emergency operations plan.

Upon receipt of an impending or threatened emergency, or upon the declaration of a state of emergency, the emergency operations plan shall be immediately activated and all of such portions of its functions as the mayor may direct shall be called into active service including the city emergency operations organization.

(1) Creation of the incident management team. There is hereby created an incident management team (IMT), which shall consist of the following members:

- a. Chief of the department of fire and life safety;
- b. Chief of the police department;
- c. Emergency management coordinator;
- d. Director of building and grounds;
- e. Director of finance;
- f. Director of human resources;
- g. Director of streets department;
- h. Director of engineering;

i. Risk manager;

j. Public relations manager;

k. Dependent upon the nature of the incident or emergency and the needs presented, the director of any other city department may be placed on the incident management team at the mayor's discretion.

(2) Powers and duties. It shall be the duty of the IMT, to supervise, regulate, control and manage the affairs of the emergency operations of the city. The IMT is organized on the concept of the national incident management system following the incident command system structure. The IMT shall have the power to make and enforce all necessary and desirable rules and regulations for the purpose of governing emergency operations during periods of preparation, local emergency, response and recovery and for the exercise of the powers conferred upon it by this chapter. The IMT actions with respect to emergency preparedness or response activities shall be subject to the direction and approval of the emergency operations director.

(3) Power to requisition supplies and personnel. The emergency operations director may obtain vital supplies and other such property as needed for the protection of life and property of the people, and bind the city for the fair value thereof, and, if required immediately may commandeer the same for public use, may require emergency service of any employee, or any citizen, and may requisition personnel or material of any city department or agency.

(4) Emergency operations center. The emergency operations center and all emergency operations equipment shall be under the control of the IMT. Under circumstances set forth in the city's emergency operation plan, the emergency operations center may be activated at the request of any division or city department notwithstanding the absence of a declaration of local emergency.

(5) Structure of the functions of emergency organization. City emergency operations will be managed under the national incident management system. Each of the sections of the emergency operations organization shall be under the command of a chief of the section. The chief shall have as assistants a deputy chief and a second deputy, who shall succeed the chief in that order in the event of the absence or inability of the chief of the section to act. The primary sections of the city's emergency operations structure are; operations, planning, finance/administration, and logistic.

(6) Emergency operations director. During the period of a local emergency, and with respect to emergency preparedness and response activities, the city manager shall be the emergency operations director and shall carry out all duties and responsibilities herein conferred. The emergency operations director is authorized to promulgate issue and enforce rules, regulations, orders and directives necessary for the protection of life and property. Such rules, regulations, orders and directives shall take effect immediately upon their issuance, and copies thereof shall be filed with the office of the city clerk.

(7) Deputy emergency operations—Powers and duties of. The assistant city manager shall be the deputy emergency operations director. The deputy emergency operations director shall coordinate the city incident command system, may arrange with other municipalities, counties, state and federal agencies, for cooperation, mutual aid and protection during a local emergency, and perform such other duties as the director may designate.

(8) Emergency management coordinator. The emergency management coordinator shall perform the following duties, and shall be subject to the supervision of the emergency operations director:

a. Coordinate the powers and duties of the incident management team;

b. Establish and maintain liaison with other governmental agencies, city departments, and private agencies as may be deemed necessary;

- c. Prepare and process emergency operations program papers and applications for federal and state funds with respect to post-disaster assistance;
- d. Notify the city manager in writing prior to the beginning of each fiscal year of the recommended budgetary items relating to emergency operations activities and is included in the division's recommended budget.
- e. Assign necessary personnel to perform staff duties for the incident management team as may be required by the city manager;
- f. Coordinate and provide for dissemination of public information relating to the emergency operations activities as required;
- g. Exercise further powers and duties as may be delegated by the director of emergency operations.

(9)Section chief—Powers and duties of. The city's emergency operations organization is composed of four primary sections: operations, logistics, finance/administration and planning. Each section is managed by a section chief who shall formulate and maintain operational plans for the section, including a written plan regarding activation of the section, subject to the approval of the IMT. Each section chief shall organize their section into such branches and groups as are necessary for the proper functioning of the section. Each section chief shall have the power to appoint, discharge, suspend, transfer, and train personnel; and to plan and prepare the logistics for the personnel and materials of the section.

Each section will be activated based on the needs of the emergency. The section chief of each section shall immediately assign branches and groups as necessary to carry out such orders and directions as are received from the director.

(10)Distribution of functions and duties of city emergency operations. The four sections of the emergency operations organization shall be distributed among the following departments:

- (1)Police;
- (2)Fire and life safety;
- (3)Transportation/streets;
- (4)Utilities(water/electric);
- (5)Finance;
- (6)Human resources;
- (7)Building and grounds;
- (8)Airport;
- (9)Communications/IT.

(11)Operations chief. The operations section of the city's emergency operations organization shall be under the control of the department having primary response jurisdiction for the emergency. The chief of this section may assign a deputy chief to assist with managing the operations sections. In addition to the regular powers of assigned personnel, the operations chief may assign as many groups or branches necessary to perform the duties under this chapter.

(12)Law enforcement branch. The law enforcement branch shall be under and subject to the control of the police department of the city. The director of this branch shall be the chief of police. In addition to the regular powers and duties of this office during a state of emergency, the chief shall have the power to direct police department personnel as may be necessary to perform the duties under this chapter and support the incident command structure for the incident. The chief shall enforce all laws of the state and city for the preservation of life and property and shall maintain peace and order.



(13) Fire suppression and life safety branch. Fire suppression and rescue operations shall be under and subject to the control of the city department of fire and life safety. The director of this branch shall be the chief of the department. In addition to the regular powers and duties of this office, during a state of emergency, the chief shall have the power to direct such fire and life safety personnel as may be necessary to perform the duties under this chapter. The chief shall direct and control all fire suppression, hazardous materials, special rescue operations, basic medical services and fire prevention, and shall retain administrative authority for supervision of personnel and equipment provided by other branches or jurisdictions, and exercise such other powers as may be assigned to this branch. The chief shall coordinate with other governmental and private agencies for providing or administering medical services during a state of emergency.

(14) Traffic/streets branch. The traffic/streets branch shall be under and subject to the control of the city's transportation department. The transportation department shall develop plans for, have charge of and arrange for maintenance and repair of streets including placement of barricades, cones or delineators as necessary or as required by the directors of the police and fire and life safety branches, and traffic signals and bridges as required by any of the sections. This branch shall develop plans and have responsibility for the functional supervision of personnel assigned to the branch.

(15) Solid waste branch. The solid waste branch shall be under and subject to the control of the solid waste department. The solid waste department shall develop plans for, have charge of and arrange for the removal of wastes and debris in accordance with the debris management plan. The director of this branch shall develop plans for and have responsibility for the functional supervision of branch personnel assigned to this branch.

(16) Utilities branch. The utilities branch shall be under and subject to the control of one of the infrastructure departments of the city. The utilities branch director will be provided by the most severely impacted infrastructure department with other infrastructure representatives serving jointly or as a deputy director(s), as directed by the emergency operations director. The utilities branch director shall develop plans and arrange for necessary cooperation and emergency services by both municipally owned and privately owned public utilities, except privately owned communications systems.

(17) Airport branch. The airport branch shall be under and subject to the control of director of the city regional airport. The airport branch director shall be responsible for airport security as directed by the chief of police. It shall be the duty of the airport branch to prepare operational plans for the control of ground operations and management of aircraft and other hazards during a state of emergency. The airport branch director shall coordinate emergency activities with the tenants of the airports, the Federal Aviation Administration, other federal agencies having jurisdiction, and other sections in the emergency operations organization. The airport branch shall be staffed by personnel of the city regional airport.

(18) Finance section. The finance section shall be under and subject to the control of the director of the finance department. The finance section shall develop plans and arrange for the necessary financial support including purchasing and procurement of special equipment and other property for the emergency operations organization. The finance section shall develop plans for, have charge of and arrange for the post disaster recovery operations in accordance with the recovery operations plan. The chief of this section shall develop plans for and have responsibility for the functional supervision of section personnel.

(19)Logistics section. The purchasing department shall procure and be the custodian of the special equipment and other property which may be obtained from any source for the special use of the emergency operations organization, and shall assemble information concerning available equipment and operators.

(20)Personnel unit. The personnel unit shall be under and subject to the control of the human resources department. The personnel unit leader shall be the director of human resources. The personnel unit shall maintain records of all personnel of the emergency operations organization. The personnel unit shall be the recruiting center for the emergency operations organization, and shall establish a plan for the use of qualified city personnel by any of the sections requiring additional forces during a local emergency. The chiefs of all other sections shall render such services as are requested by the personnel unit leader in the recruitment of personnel for the various sections.

The personnel unit shall develop, with the assistance of emergency management, a program for the use of volunteers during a state of emergency. The program shall provide procedures for:

- a.The recruitment of volunteer forces through the media;
- b.The registration of volunteers as disaster workers in the state workers compensation program;
- c.The dispatching of volunteers at disaster or local command posts or other locations; and
- d.The development of such other procedures necessary to implement this section.

All volunteer activities shall be coordinated by the personnel unit through the emergency operations center during a state of emergency.

(21)Recovery branch. The director of the city finance department as the shall assign the director of the recovery branch from finance department personnel. The recovery branch will work with the other sections of the emergency operations organization to coordinate the development of necessary procedures and implementation of policies, plans, legislation and operating procedures relating to post-emergency recovery and reconstruction.

The finance section chief in coordination with the emergency management officer assigns personnel as may be required to prepare and process applications for federal and state post-disaster grants.

(22)Fleet services branch. The fleet services branch shall be under and subject to the control of the director of fleet services. The fleet service branch shall develop plans for maintenance of all city owned equipment, vehicles, and fuel facilities, have charge of, develop plans for and arrange for the fueling of all city owned vehicles and shall develop and maintain liaison with other publicly and privately owned agencies or firms which supply such services. The director of the fleet services branch shall also develop and maintain an inventory of city vehicles available from all divisions/departments.

(23)Communications unit. The communications unit shall develop plans for and provide, restore and maintain emergency communications services for the city. The leader of the unit shall also maintain liaison with other local governments sharing in the local communications system, volunteer radio emergency services and agencies providing public communications services to the city and its citizens. During a state of emergency, the unit leader shall have the power and duty to direct such city and volunteer communications personnel as may be necessary to perform the duties under this chapter. The leader of this section shall design, install, maintain and/or restore city communications networks and city telephone networks, and provide related voice communications services (e.g. radios, telephones, command post communications equipment, etc.)

(24)Information technology unit. The leader of this unit shall define, maintain and/or restore critical city computer applications and systems, manage the maintenance and retrieval of data and materials stored on back-up servers and coordinate the repair or replacement of personal computers and related equipment.  
(Ord. No. 13-63, § 2, 7-11-2013)

## **Chapter 30 – ENVIRONMENT**

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

#### **Sec. 30-1. - Public nuisance.**

(a) Any condition specifically deemed to constitute a detriment, danger and hazard to the health, safety, morals, and general welfare of the inhabitants of the city and are declared to be public nuisances wherever the same may exist and the creation, maintenance, or failure to abate any nuisances is hereby declared unlawful, notwithstanding those conditions enumerated in [section 30-161](#).

(b) A public nuisance, notwithstanding those conditions enumerated in [section 30-161](#) shall also include but is not limited to the erection, establishment, continuance, maintenance, use, ownership, leasing of any building or place for social gatherings or business conducted in the city and which, by reason of the conduct of those persons in attendance, results in any one or more of the following conditions or occurrences: public drinking or drunkenness; public urination or defecation; the unlawful sale, furnishing, or consumption of alcoholic beverages or illegal drugs; the unlawful deposit of trash or litter on public or private property; the slaughter of any cattle, sheep, goats, domestic fowl, or swine, whether for human consumption or otherwise, at any location other than a farm as defined in G.S. 105-277.2 and 105-277.3 where such farm is classified by Cabarrus County as agricultural for tax purposes, a properly permitted and licensed slaughterhouse, butcher shop or similar facility; the destruction of public or private property; the generation of pedestrian or vehicular traffic which obstructs the free flow of residential traffic or interferes with the ability to provide emergency services; excessive, unnecessary or unusually loud noise which disturbs the repose of the neighborhood; public disturbances, brawls, fights or quarrels; repeated activities which violate local ordinances; permitted repeated acts which create and constitute a breach of the peace, as defined in G.S. 19-1.1 or any other activity resulting in conditions that annoy, injure or endanger the safety, health, comfort or repose of the neighboring residents, or results in any obscene conduct, or results in any immoral exhibition or indecent exposure by persons in attendance.

(c) Any person being the owner, occupant, tenant, or otherwise having any possessory control or interest of any degree of any premises who either sponsors, conducts, hosts, invites, suffers, permits, or continues to allow a gathering to continue or business to be conducted which is or becomes a nuisance as described in subsection (a) above is in violation of this section and may be punished by any of the *criminal* or civil enforcement penalties available to municipalities. Any person attending a nuisance gathering is also in violation of this section.

(d) This section shall not apply to gatherings or businesses held at locations holding valid entertainment center permits or any other gatherings authorized by this Code.

(Ord. No. 05-81, § 1, 9-8-2005; Ord. No. 09-72, § 1, 8-13-2009; Ord. No. 14-42, § 1, 5-8-2014)

#### **Sec. 30-164. - Graffiti.**

(a) Graffiti defined. Graffiti means any inscription, work, writing, drawing, figure, mark of paint, ink, chalk, dye or other similar substance, etching, engraving or other defacement (collectively "defacement") on a public or private building, sidewalks, streets, structures, or places. Graffiti shall include drawings writings, markings or inscriptions regardless of the content or the nature of materials used in the commission of the act.

(b) Exemption. Graffiti shall not include temporary, easily removable chalk or other water soluble markings on public or private sidewalks, streets or other paved surfaces which are used in connection with traditional children's activities such as drawings, bases for games, hopscotch or similar activities, nor shall it include temporary, easily removable chalk or other water soluble markings used in connection with any lawful business or public purpose activity.

(c) Graffiti prohibited. It shall be unlawful for any person to write, paint inscribe scrawl, spray, place, draw or otherwise cause graffiti to be placed on any public or private building, structure, street, sidewalk, or any other real or personal property. Any person convicted of a violation of this subsection shall be guilty of a misdemeanor and fined not less than \$250.00 for a first offense and \$500.00 for any second and subsequent offenses.

(d) Removal of graffiti. It shall be unlawful for any person owning property, acting as manager or agent for the owner of property or in possession or control of property to fail to remove or effectively obscure any graffiti upon such property. Failure to remove or effectively obscure any graffiti upon such property within five days of the date of receipt of written notice of the graffiti shall result in civil penalties in the amount of \$100.00 per day until such time as the graffiti is completely removed or obscured.

(e) Restitution. In addition to any other punishment imposed, the court shall order any person convicted of this section to make restitution to the victim for damages or losses suffered by the victim as a result of the offense. The terms, conditions and amount of restitution shall be determined by the court.

(f) Removal of graffiti by city. Whenever the city becomes aware of the existence of graffiti on any property, the city is authorized to remove the graffiti as set forth in this section. The city shall give written notice to remove or effectively obscure the graffiti within five days of the date of the notice, to all property owners as shown in the county registry and to any other person known or thought to be in possession or control of the property. Notice shall be given by personal service or certified mail. All notices shall state the procedure for appeal.

(g) Costs and liens. If the property owner or person in control or possession of the property fails to remove or effectively obscure the graffiti within five days of the date of the notice, the city may enforce this section and may cause the graffiti to be removed or effectively obscured and charge the property owner or person in control or possession of the property for the expenses incurred by the city. The city may sue in a court of competent jurisdiction to recover all such expenses including but not limited to administrative costs, attorney's fees and all actual costs related to such enforcement. The city may, separately or in conjunction with any such lawsuit, file a lien in the public records for all such expenses and the lien shall bear interest from the date of filing.

(h) Appeal procedure. Appeal of the code enforcement decision shall be made in writing by the property owner or person in possession or control of the property to the chief of police within five days of the date of the notice sent or posted by the city. The chief of police shall review the matter and issue a written decision within seven days of the date of receipt of the written request for appeal. Appeals from the decision of the chief of police shall be to the city council or its designee in writing by the property owner or person in control or possession of the property

within five days of the date of mailing the decision of the chief of police to the appellant. If the party requesting the appeal requests a hearing, the hearing shall be scheduled at the next scheduled regular meeting of the city council. If city council or its designee determines that the graffiti must be removed, the city council or its designee may set a new deadline date for compliance or authorize the city to proceed to remove or obscure the graffiti. The city shall not remove or obscure any graffiti during the pendency of an appeal. All written requests for appeal shall state the reasons for the appeal.

(i) Emergency removal. If the city determines that any graffiti is a danger to the health, safety or welfare of the public and is unable to provide personal service after at least two attempts to do so, 48 hours after either:

1. Mailing of notice described in subsection (e) about by certified mail or
2. Posting notice on the building or structure in a conspicuous manner, the city may proceed to remove or cause the graffiti to be removed or obscured at its expense.

(j) Repair/restoration. The city shall not be required to paint or repair any area on which graffiti was obscured or removed beyond that where the graffiti itself was located. The city shall not be required to restore the obscured area to its original condition, nor shall the city be required to match paint colors, finishes or textures in any manner whatsoever. However, if the city manager determines that painting or repair of a more extensive area is necessary in order to avoid an aesthetic disfigurement to the neighborhood or community, the city, or its designee is authorized to perform the necessary work. If more extensive work is performed, the property owner shall be liable only for the cost of that portion of work necessary to remove or obscure the graffiti.

(Ord. No. 14-42, § 3, 5-8-2014)

**Editor's note**— Ord. No. 14-42, § 3, adopted May 8, 2014, set out provisions for use herein as [§ 30-164](#). Prior to the adoption of those provisions [§ 30-164](#) was repealed by Ord. No. 05-81, § 3, adopted Sept. 9, 2005 and pertained to stagnant water; other unhealthy matter as enacted by Code 1987, § 10-6.

#### Sec. 30-204. - Noises prohibited.

The following acts are declared to be per se violations of this article.

(1) Unreasonable noises: The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with usual activities or the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.

(2) Vehicle horns, signaling devices, and similar devices: The sounding of any horn signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space of the City of Concord, for more than ten consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt for this prohibition.

(3) Non-emergency signaling devices: Sounding or permitting the sounding of any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten consecutive seconds in any hourly period.

The reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors, or by governments for traffic control purposes are exempt from the operation of this provision.

(4) Emergency signaling devices: The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided by subsections a. and b. below.

a. Testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.

b. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within 15 minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this article.

(5) Radios, televisions, boom-boxes, phonographs, stereos, musical instruments and similar devices: The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passers-by, or is plainly audible at a distance of 50 feet from any person in a commercial, industrial area, or public space. The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors in residential or noise sensitive areas, including multifamily or single-family dwellings, or is plainly audible at a distance of 30 feet from any person in a residential or noise sensitive area, including any residence.

(6) Loudspeakers, amplifiers, public address systems, and similar devices: The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound in the following areas:

a. Within or adjacent to residential or noise-sensitive areas;

b. Within public space(s) if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous.

(7) Yelling, shouting, and similar activities: Yelling, shouting, hooting, whistling, or singing in residential or noise sensitive areas or in public places, between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities.

(8) Animals and birds: Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls or otherwise cares for the animal or bird. Sounds made by animals or birds in animal shelters, kennels, veterinary hospitals, pet shops or pet kennels, licensed under and in compliance with licensing and permitting provisions set forth in this Code, are exempt from this subsection.

(9) Loading or unloading merchandise, materials, equipment: The creation of unreasonably loud and raucous noise in connection with the loading or unloading of any vehicle at a place of business or residence.

(10) Construction or repair of buildings, excavation of streets and highways: Unreasonably loud and raucous noise emitted from the construction, demolition, alteration or repair of any building or the excavation of streets and highways other than between the hours of 7:00 a.m. and 7:00 p.m., on weekdays. In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, a code enforcement officer may issue a permit, upon application, if the code enforcement officer determines that the public health and safety, as affected by loud and raucous noise caused by construction or repair of buildings or excavation of streets and highways between the hours of 7:00 p.m. and 7:00 a.m. will not be impaired, and if the building inspector further determines that loss or inconvenience would result to a party in interest.

(11) Noise sensitive areas—Schools, courts, churches, hospitals, and similar institutions: The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which unreasonably disturbs the persons in these institutions, provided that conspicuous signs delineating the boundaries of the noise sensitive area are displayed in the areas surrounding the noise sensitive area.

(12) Blowers, and similar devices: In residential or noise sensitive areas, between the hours of 7:00 p.m. and 7:00 a.m. the operation of any noise-creating device that is powered by an internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, and that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates.

(13) Commercial establishments adjacent to residential property: Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 10:00 p.m. and 7:00 a.m. which is plainly audible at a distance of 30 feet or less from any residential property.

(14) Engine compression braking: Use of engine compression brakes in any way engaged or activated on a motor vehicle or any unit or part thereof, except for emergency situations or for the purpose of avoiding a collision with another object, person or vehicle, where such use is posted as being prohibited. Engine compression brakes means a device primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes (commonly referred to as a "Jake brake", "Jacob's brake", "engine brake" or "dynamic braking device").

(Ord. No. 06-15, § 1, 2-9-2006; Ord. No. 16-128, § 1, 12-8-2016)

#### Sec. 30-205. - Exemptions.

Sounds caused by the following are exempt from the prohibitions set out in sections [30-203](#) and [30-204](#) and are in addition to the exemptions specifically set forth in [section 30-204](#):

(1) Motor vehicles on traffic ways of the City of Concord, except that the prohibition of subsections [30-204](#)(2) and [30-204](#)(14) continues to apply.

(2) Repairs of utility structures which pose a clear and immediate danger to life, health, or significant loss of property.

(3) Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger, except that the prohibitions contained in subsection [30-204](#)(d) continue to apply.

(4) The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.



(5) Repairs or excavations of bridges, streets or highways by or on behalf of the City of Concord, the state, or the federal government, between the hours of 7:00 p.m. and 7:00 a.m. when public welfare and convenience renders it impractical to perform the work between 7:00 a.m. and 7:00 p.m.

(6) Governmental non-emergency signaling devices.

(7) Outdoor school and playground activities. Normal activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used including but not limited to, school athletic and school entertainment events.

(8) Other outdoor events. Outdoor gatherings, public dances, shows, sporting and athletic events, parades, festivals or similar scheduled events which are conducted, sponsored or approved by the city.

(9) Noise or sound emitted from properly equipped aircraft operated in accordance with applicable federal rules and regulations.

(10) Noise or sound from railroad operations.

(11) Noise emitted from Motor Sports Athletic Events during the following dates and times: Monday through Thursday (7:30 a.m. to 10:30 p.m.), Friday and Saturday (7:30 a.m. to midnight), Sunday (11:00 a.m. to 10:30 p.m.). Noise emitted from Motor Sports Athletic Events outside of these set times due to unavoidable circumstances with the express written permission of the chief of police in the interest of public safety and after due consideration of the factors listed in [section 30-206\(b\)](#). The chief of police shall follow the provisions of [section 30-206](#) in its entirety in giving permission to extending the noise exemption outside of the hours stated above, unless otherwise regulated by another ordinance or permit, and then the stricter ordinance and/or permit shall apply.

(Ord. No. 06-15, § 1, 2-9-2006; Ord. No. 10-59, § 1, 6-10-2010; Ord. No. 16-128, § 2, 12-8-2016)

#### Sec. 30-206. - Noise permit.

(a) It shall be unlawful for any person to use or cause to be used any sound amplifying device, musical or other instrument for entertainment, advertising or other purposes, or to otherwise engage in any activity creating noise which exceeds the standards set forth in sections [30-203](#) and [30-204](#), without obtaining a noise permit in advance of these activities.

(b) All applications for noise permits shall be promptly considered and acted upon by the chief of police or his designee. In considering and acting on all applications for permits, the chief of police shall consider, but shall not be limited to, the following factors:

(1) Taking into consideration the factors listed in subsection (b), the nature and duration of the proposed activity;

(2) Other uses in the vicinity or location proposed for the activity;

(3) Effect of the activity on nearby residential areas;

(4) Cultural, social, recreational and/or educational benefits of the proposed activity;

(5) Previous experience with the applicant; and

(6) Previous violations of this noise article, if any, by the applicant.

(c) Taking into consideration the factors listed in subsection (b) above, the chief of police or his designee shall issue a noise permit upon finding that, under all of the circumstances, the noise-generating activity will not unduly annoy, disturb, injure, or endanger the comfort, health, peace, or safety of reasonable persons of ordinary sensibilities.



(d) The chief of police or his designee may impose such reasonable and appropriate conditions upon the permit as he deems necessary to assure that the proposed noise-generating activity will be consistent with the intent of this section.

(e) The permit holder(s) shall agree to cooperate with the police department in enforcing the noise control ordinance by being available at the site of the event during the entire time for which a permit has been issued and in assisting the police in enforcing the noise control ordinance. Failure of the permit holder(s) to be present or to assist the police in complying with this article will be cause for revocation of said permit.

(f) A permit may be denied or revoked in the following cases:

(1) The activity constitutes a threat to the health, safety or welfare of others, or the chief of police or his designee is unable to make the requisite finding under subsection (3) of this section;

(2) The applicant has violated any provisions of this article within 12 months preceding the date of the application;

(3) The applicant violates any of the permit conditions during the time allowed for the permitted activity; or

(4) The activity interferes with another previously permitted activity.

(Ord. No. 06-15, § 1, 2-9-2006)

#### Sec. 30-207. - Appeal procedure.

(a) If an application for a noise permit is denied, is approved with conditions unacceptable to the applicant, or if a permit is revoked, the applicant or permit holder shall be entitled to appeal the chief of police's action to the city manager after submission of a written request to do so within ten business days after notice of the denial has been received by the applicant. Within five business days (or such longer period of time agreed to by the applicant) after the city has received the written appeal, the appeals official shall hold a quasi-judicial hearing on whether to issue the permit or uphold the denial. The applicant shall have the right to present evidence at this hearing. The decision to issue the permit or uphold the denial shall be based solely on the approval criteria set forth in [section 30-206](#), and the burden of proof to uphold the denial shall be on the chief of police by a preponderance of the evidence. The appeals official shall render a written decision on the appeal within five business days after the date of the hearing.

(b) The decision of the appeals official is subject to review in the Superior Court of Cabarrus County by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the clerk of superior court within 30 days after the applicant has received notice of the decision of the appeals official. Unless good cause exists to contest a petition for writ of certiorari, the city shall stipulate to certiorari no later than five business days after the petitioner requests such a stipulation. The city shall transmit the record to the court no later than five business days after receiving the order allowing certiorari. Notwithstanding the provisions of any local rule of the reviewing court that allows for a longer time period, the city shall serve its brief upon the petitioner within 15 days after it is served with the petitioner's brief. If the petitioner serves his or her brief by mail, the city shall add three days to this time limit, in accordance with North Carolina General Statute 1A-1, Rule 5. If the local rule is subsequently amended to provide for a shorter time period for serving any brief, then the shorter time period shall control.

(Ord. No. 06-15, § 1, 2-9-2006)

#### Sec. 30-208. - Noise complaint procedure.

In the event any person has reasonable grounds for believing that any provision of the city's noise ordinance is being violated, (s)he may make a report thereof to the Concord Police Department which shall investigate the alleged violation. If such investigation reveals probable cause for a violation, the investigating officer shall cause a written complaint to be made, and may issue a *criminal* or civil citation for the violation thereof.  
(Ord. No. 06-15, § 1, 2-9-2006)

Sec. 30-209. - Enforcement.

- (a) The city manager, chief of police or their designee(s) shall have primary responsibility for the enforcement of the noise regulations contained herein. Nothing in this article shall prevent the city manager or chief of police or their designee(s) from obtaining voluntary compliance by way of warning, notice or education.
- (b) If a person's conduct violates this article, the person must be ordered to cease and desist and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.  
(Ord. No. 06-15, § 1, 2-9-2006)

Sec. 30-210. - Penalties for violation.

The first violation of this section shall be a misdemeanor punishable by a \$10.00 fine as provided in [section 1-6](#) of this Code and G.S. 160A-175 and 14-4. The second and all subsequent violations of this section shall be a misdemeanor punishable by up to a \$500.00 fine as provided in [section 1-6](#) of this Code. Violators may also be subject to a civil penalty of \$500.00 to be recovered in the nature of a debt as allowed in [section 1-6](#) of this Code.  
(Ord. No. 06-15, § 1, 2-9-2006)

Sec. 30-211. - Severability clause.

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part, of this article shall not affect the validity of the remaining parts to this article.  
(Ord. No. 06-15, § 1, 2-9-2006)

## **Chapter 34 - FIRE PREVENTION AND PROTECTION[1]**

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

Sec. 34-2. - Fireworks.

- (a) Except as otherwise provided in this section, it shall be unlawful for any person to possess, store, offer for sale or sell at retail, any kind or type of fireworks of any description within the corporate limits of the city. This subsection shall not apply to fireworks exempted under G.S. 14-414.
- (b) Except as otherwise provided in this section, it shall be unlawful for any person to discharge in any manner any kind or type of fireworks of any description within the corporate limits of the city. This subsection shall not apply to fireworks exempted under G.S. 14-414 or to a public display of fireworks as permitted by the North Carolina Fire Prevention Code and G.S. ch. 58, art. 82A.
- (c) Any person seeking to conduct a public display of fireworks shall obtain a permit and submit a plan in writing at least 15 working days prior to the display to the fire department with the following information:

- (1) The name of the person, group, or organization responsible for the display;
- (2) All state pyrotechnic display operator's license card/certificates of the individuals to discharge pyrotechnics;
- (3) The date and time of the display;
- (4) The location of the display;
- (5) The duration of the display;
- (6) A narrative description of the display;
- (7) A site plan showing the following:
  - a. The location of the audience;
  - b. The area affected by the display;
  - c. All buildings, structures and parking lots affected by the display;
  - d. Means of egress;
  - e. Fire protection features and locations;
  - f. PPE to be worn by operators during initiation or electronic firing controls to be utilized by operators during the display.
- (d) The use of fireworks, pyrotechnic or flame effect devices shall meet the following codes and standards:
  - (1) NFPA 106—Standard for flame effects before an audience.
  - (2) NFPA 1123—Code for fireworks display.
  - (3) NFPA 1126—Standard for the use of pyrotechnics before a proximate audience.
  - (4) North Carolina State Building Code—Fire Prevention Code Chapter 33.
  - (5) North Carolina General Statute Chapter 58, Article 82A.
- (e) Fireworks found within the city limits except for those exempted by G.S. 14-414 are hereby declared to be contraband and subject to seizure by any member of the fire prevention bureau of the fire department or a law enforcement officer unless possessed by a permittee for a public display of fireworks as permitted by the state fire prevention code.
- (f) Any person who shall violate the provisions of subsections (a) or (b) shall be guilty of a misdemeanor and shall be punishable by imprisonment up to 30 days or a fine of \$500.00, or both. Violators may be subject to a \$500.00 civil penalty to be recovered in the nature of a debt. (Ord. No. 14-117, § 1, 11-13-2014)

#### Sec. 34-3. - Lock boxes.

- (a) Required.
  - (1) All commercial enterprises or industries in the city which use, store or manufacture on-site hazardous materials that must be reported under state right-to-know laws, G.S. 95-173 et seq., or under Title III of the Federal Superfund Amendments and Reauthorization Act and the regulations promulgated thereunder, must have an approved on-site hazardous materials data storage box at each facility where hazardous materials may be found.
  - (2) All facilities which have a system which transmits off-site alarms for fire detection or suppression systems must have an approved on-site lock box which contains keys to provide fire department access in an emergency or alarm activation.
  - (3) Keys in boxes must be kept up-to-date. When locks are changed the fire marshal's office must be notified and new keys provided for the box.
- (b) Contents, types and location of data storage box.
  - (1) This data storage box may contain keys providing access to secured portions of the facility. The box shall contain current specific information to assist fire departments and hazardous

materials teams responding to emergencies at the facility including, but not limited to, facility maps or plans showing the type and location of hazardous materials, Tier II forms, lists of chemicals with CAS numbers, chemical safety data sheets, telephone numbers for facility employees and other persons to be contacted in case of such emergencies.

(2) All information requested on the city fire department data storage sheets must be provided on the forms provided by the city fire department, or in a substantially similar format, and must be placed in the data storage box. Such information must be updated continuously to ensure its accuracy.

(3) The data storage box itself shall be of the type designated and approved by the city fire department and shall be located at or near the primary entrance to the facility and installed in accordance with directives of the chief of the fire department.

(c) Violations; enforcement.

(1) Violations of this section shall be a misdemeanor punishable by a \$500.00 fine as provided under G.S. 160A-175 and 14-4. Violators may be subject to a \$500.00 civil penalty to be recovered in the nature of a debt. Each day's continuing violation shall constitute a separate offense as provided by G.S. 160A-175(g).

(2) The municipality may also secure injunctive and other appropriate equitable remedies to ensure compliance with this chapter, as provided by G.S. 160A-175.

(3) Enforcement actions may be initiated by the inspectors of the city fire department, bureau chief or chief of the fire department.

(d) Exceptions.

(1) Whereas the city recognizes that certain commercial enterprises maintain 24-hour security and emergency responses, such enterprises may propose measures which will provide immediate access to vital information on a 24-hour basis, 365 days per year. This information must meet the criterion of information stored in the lock boxes and be available to initial arriving emergency response vehicles.

(2) The duplicate copies of the proposal must be sent to the city fire department. Each proposal must specify the means by which the commercial enterprise will provide services equal to that of the lock box program.

(3) All proposals will be reviewed on an individual basis. Proposals must be renewed on a yearly basis.

(Ord. No. 14-117, § 1, 11-13-2014)

Sec. 34-4. - Open burning.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Open burning means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through a chimney, or a permitted air pollution control device.

Pile means a quantity of objects or materials stacked or thrown together in a heap, three feet (914 millimeters) or less in diameter and two feet (610 millimeters) or less in height.

Stack means a usually conical shaped pile of debris or material, three feet (914 millimeters) or less in diameter and two feet (610 millimeters) or less in height.

(b) Prohibited acts. No person shall ignite, cause to be ignited, permit to be ignited, allow or maintain, kindle or maintain within the corporate limits of the city any open burning fire.

(c) Exceptions. Exceptions shall include only the following:

(1) Training fires set for the purpose of instruction and training of public and industrial employees in the methods of firefighting. Prior to commencement of open burning, the fire department shall be notified. All open burning for this purpose shall meet the requirements of all state regulations.

(2) Open fires for cooking, heating, religious and ceremonial fires shall be allowed when such fire is not composed, in whole or substantial part, of leaves or yard waste, and the location of such fire, and the items necessary for its containment, and provided that the emission of smoke and fumes do not irritate, annoy or constitute a nuisance to others. Such fires shall be conducted in accordance with the North Carolina Fire Prevention Code, be contained in a campfire pit meeting the requirements of pile and/or stack, confined to a container no larger than a 55-gallon drum or other device designed for such use. Fuels for such fires must be naturally cut wood, charcoal, propane or natural gas; no construction materials or building materials shall be permitted.

(3) Bonfires, public or private, shall require a permit and are subject to approval of the fire department. Approval will be granted on the sole discretion of the fire department based upon:

a. The proximity of the proposed fire to dwellings, trees, woods and other structures.

b. Facilities available for fire management.

c. Atmospheric conditions.

d. Type of material to be burnt: must be naturally cut wood, three inches in diameter or smaller; no construction materials or building materials.

e. The bonfire shall be no more than five feet by five feet by five feet in dimension and shall burn no longer than three hours.

f. Any other consideration judged by the fire department to be required to ensure safe burning.

g. Such fires shall be maintained in accordance with the North Carolina Fire Prevention Code. Failure to maintain bonfires in accordance with this section shall constitute fire extinguishment and revocation of the permit.

(4) Fires set for the purpose of disposing of waste propellants, explosives or pyrotechnics, including associated contaminated wastes. The fires must be necessary and the waste not able to be disposed of by any other means than burning. No materials shall be imported from off-site for disposal. A permit must be obtained for fires used for this purpose.

(5) On the sole discretion of the fire department when there exists an extreme or emergency circumstance which lacks any other reasonable means of disposing of items which need to be disposed of, and not addressed in this section, the fire department may issue a permit to burn. These fires shall be limited to the disposal of material generated during a natural disaster, such as a tornado, hurricane or flood.

(6) Fires set as part of commercial film or video production activities for motion pictures and television or fires set as part of a planned civic event designed to educate or otherwise benefit the public.

a. The use of fireworks, pyrotechnic or flame effect devices used in conjunction with or to initiate such fires shall meet the following codes and standards:

1. NFPA 106—Standard for flame effects before an audience.

2. NFPA 1123—Code for fireworks display.

3. NFPA 1126—Standard for the use of pyrotechnics before a proximate audience.

4. North Carolina State Building Fire Prevention Code Chapter 33.

5. North Carolina General Statute Chapter 58 Article 82A—Pyrotechnics Training and Permitting.

b. Any person seeking to conduct a fire for such reasons shall obtain a permit and submit a plan in writing at least 15 working days prior to the burn to the fire department with the following information:

1. The name of the person, group, or organization responsible for the production;
2. If applicable, state pyrotechnic display operators license card/certificate of the individuals to discharge pyrotechnics;
3. The date and time of the production;
4. The location of the production;
5. The duration of the burn;
6. A narrative description of the burn;
7. A site plan showing the following:
  - i. The location of the audience;
  - ii. The area affected by the burn;
  - iii. Means of egress;
  - iv. Fire protection features and locations.
8. PPE to be worn by operators during initiation or electronic firing controls to be utilized by operators during the display.

(d) Violations and enforcement.

(1) The fire official shall have the authority to summarily abate any condition that is in violation of this section and that presents an immediate fire hazard to life or property.

(2) Any open burning in violation of this section shall be extinguished by the responsible party or the fire department.

(3) All costs incurred by the city for enforcement of this section will be the responsibility of the party in violation of this section and will be added to the fine.

(4) A civil fine shall be issued to any person or company violating the provisions of this section. The civil fine for residential violations shall be \$50.00 and \$100.00 for any repeat violation. The civil fine for commercial violations of this section shall be \$500.00 per stack or pile and \$1,000.00 per stack or pile for any repeat violation by the same person or company.

(5) Violations of this section shall be a misdemeanor as provided under G.S. 160A-175 and 14-4. Each day's continuing violation shall constitute a separate offense as provided by G.S. 160A-175(g).

(Ord. No. 14-117, § 1, 11-13-2014)

Sec. 34-5. - False alarms.

(a) False fire alarms defined. A fire alarm means the activation of a fire alarm system through mechanical or electronic failure, malfunction, improper installation, or the intentional acts or negligence of the alarm user, his/her employees or agents, to summon fire department personnel, unless fire department response was cancelled by the alarm company (designated by the alarm user) prior to fire department personnel arrival on the scene. An alarm is false within the meaning of this chapter when, upon inspection by the fire department, evidence indicates that no fire, smoke or other condition exists in or on the premises which would have activated a properly functioning fire alarm system. Notwithstanding the foregoing, a false alarm shall not include an alarm which can reasonably be determined by the investigating officer to have been caused or activated by a violent condition of nature including but not limited to flood, hurricane, lightning,

blizzard or other similar condition outside the alarm user's control. In addition, an alarm activated during an alarm system testing procedure shall not be considered a false alarm if the alarm user first notifies the fire department and notifies and receives permission from the user's alarm company, or designee, to test the system. This section shall not apply to burglar alarms or other types of alarms to which fire department response is neither required nor customary. (Reference Chapter 36 for additional information regarding alarms responded to by entities other than the fire department.)

(b) Civil penalty for false alarms. No civil penalty shall be incurred for the first or second false alarms occurring during any rolling 90-day period. The third occurrence of a false alarm in any 90-day rolling period shall result in a civil penalty of \$250.00 or as specified in the then-current fees, rates and charges schedule adopted as part of the city annual operating budget. Each additional false alarm, in excess of three, occurring in the same rolling 90-day period shall result in additional civil penalties in accordance with this section. For the purpose of this section, a "rolling" time period shall begin on the date of the first event and end 90 days from that date if no further events occur. If additional events occur prior to the date that is 90 days from the date of the first event, the 90 days may "roll" forward until such time as 90 days pass without the occurrence of an event.

(c) Duties of the alarm user, his/her employees or agents:

(1) Users shall maintain the alarm system and related premises in a manner that will reduce or eliminate false alarms.

(2) Users shall respond to or cause a representative to respond to the alarm system's location within 30 minutes of being notified by the city fire department and/or city emergency communications to deactivate an alarm system; provide right of entry to the premises; provide alternative security for the premises; and/or take control of the premises upon fire department release of the premises and departure.

(3) Users shall not manually activate an alarm system for any reason other than for the systems intended purposes; to perform an emergency evacuation drill (fire drill) as required the North Carolina Fire Code; or to perform routine maintenance as prescribed by alarm system provider, and only after notice to and permission for such testing from the alarm company and the city fire department.

(4) Failure to follow the requirements of this section shall result in a fine of \$250.00 per occurrence. This fine shall be assessed in addition to any other fines assessed under other sections of this chapter. In addition to this fine, neither the responding officer, nor the city fire department shall have, nor assume any responsibility for securing, guarding or otherwise protecting any real or personal property that may have become exposed during the event resulting in the alarm. In addition to any fines under this section, the property owner and/or alarm user may be prosecuted for violation of section 30-204(4) et seq. regarding prohibited noises.

(Ord. No. 14-117, § 1, 11-13-2014)

### ARTICLE III. - FIRE PREVENTION CODE

Sec. 34-81. - Adoption.

(a) There is hereby adopted by reference the 2012 North Carolina Building Code and Appendices B, C, D and revisions. The provisions of such code shall be controlling within the limits of the city.



(b) The permits required by the fire marshal's office shall be listed on the fire department inspection fee schedule.

(Ord. No. 14-117, § 1, 11-13-2014)

Sec. 34-82. - Fire marshal's office; establishment and duties.

The North Carolina Fire Code of the state building code shall be enforced by the fire marshal's office in the fire department of the city, which is hereby established and which shall be operated under the supervision of the bureau chief.

(Ord. No. 14-117, § 1, 11-13-2014)

Sec. 34-83. - District chief; appointment.

The district chief in charge of the fire marshal's office shall be appointed by the chief of the fire department.

(Ord. No. 14-117, § 1, 11-13-2014)

**Cross reference**— Administration, ch. 2.

Sec. 34-84. - Inspectors.

The fire chief may detail such members of the department as inspectors as shall from time to time be necessary.

(Ord. No. 14-117, § 1, 11-13-2014)

**Cross reference**— Administration, ch. 2.

Sec. 34-85. - Periodic inspections.

(a) Subject to the limitations and conditions stated in the state building code, it shall be the duty of the district chief to inspect or cause to be inspected all buildings, structures and premises within his jurisdiction for the purposes of ascertaining and causing to be corrected any condition which may cause fire or explosion, endanger life from fire or explosion, or any violations of the provisions of the code, or any other ordinances pertaining to fire or explosion hazards in accordance with the minimum periodic inspection schedule for occupancies approved by the state building code council, or upon complaint by interested parties or if there is given probable cause for such inspection.

(b) Fire inspections shall be conducted on all occupancies, except those exempted in Section 102.13 of the North Carolina Fire Code, at a frequency not less than the schedule listed in Section 106 of the North Carolina Fire Code.

Nothing in this section shall prevent inspection from being conducted at more frequent intervals than listed in the schedule.

(Ord. No. 14-117, § 1, 11-13-2014)

Sec. 34-86. - Penalties.

(a) *Criminal* penalties. Any person who shall violate or fail to comply with any provisions of this Code shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$50.00. Each 30 days that such violation continues shall constitute a separate and distinct *criminal* offense.

(b) Civil penalties. In addition to or in lieu of *criminal* penalties set forth in subsection (a), violation of or failure to comply with the provisions of this Code shall, at the election of the city, subject the offender to a civil penalty in the amount of \$500.00 or as specified in the then-current fees, rates and charges schedule adopted as part of the city annual operating budget upon the



issuance of a citation for such violation as provided in this article. Each day's continuing violation shall constitute a separate offense as provided by G.S. 160A-175(g).

(c) Equitable relief. In addition to the *criminal* and civil penalties set out in subsections (a) and (b), any provision of this Code may be enforced by an appropriate equitable remedy, including but not limited to injunctive relief or order of abatement, issuing from a court of competent jurisdiction in accordance with subsection [1-6](#)(h) and with the provisions of the state general statutes.

(Ord. No. 14-117, § 1, 11-13-2014)

#### Sec. 34-87. - Notice of violation; methods of service.

##### (a) Notice of violation.

(1) Fire inspectors of the fire marshal's office shall issue notices of violation when such fire inspectors have reasonable cause to believe that any person has violated any provision of this Code.

(2) The notice of violation shall include specific factual information setting out the nature of the violation, the code section violated, the date of the violation and an order to immediately cease the violation or, if the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, stating a reasonable period of time in which the violation must be abated. The notice of violation shall specify that failure to comply with the code shall incur a civil penalty. The notice shall include appropriate information regarding how to schedule a hearing or other appropriate procedure to appeal the violation.

(3) Any other provisions of this Code notwithstanding, the following types of violations are hereby declared to constitute an imminent threat to the health, safety and general welfare of the inhabitants of the city and may result in the immediate citation for civil penalties without the necessity of any prior notice of the violation:

a. Violation of any provision of [Chapter 10](#) of the Fire Code provisions of the North Carolina Building Code;

b. Any violation related to removal, tampering with or otherwise disturbing any fire hydrant, fire detection and alarm system, fire suppression system, or other fire appliance required by this Code except for the purpose of extinguishing fire, training purposes, recharging or making necessary repairs, or when approved by the code official;

c. Any overcrowding violations;

d. Any assault on a city official;

e. Any violation of the North Carolina Fire and Building Codes that in the opinion of the fire official constitutes an imminent fire or life safety hazard to the inhabitants of the city.

(4) Any second violation of the same section of this Code or of the North Carolina Fire Code portion of the North Carolina International Building Code shall result in an immediate citation for civil penalties without the necessity of any prior notice of the violation.

##### (b) Methods of service.

(1) The service of notices, citations, orders or any other document related to violations of the code shall be made in accordance with the requirements set forth in [section 1-6](#).

(2) When buildings or other premises are occupied by one other than the owner under a lease or other agreement, the orders or notices issued to correct violations of the code shall apply to and shall be served upon the occupant; provided, however, that the record owner shall be served with a copy of the document served upon the tenant. Where the order or notice requires corrective actions that do not involve additions or changes to the premises themselves which may become

part of the real property of the owner, then, failure to deliver an order or notice to the owner, if other than the occupant, shall not invalidate such order or notice. Where the order or notices require the making of additions to or changes in the premises themselves which may become part of the real property of the owner, then, in such cases, the orders or notices shall be issued to the owner of the premises or real property, and may also be issued to the occupant.

(c) If the violator does not pay the penalty within the time frame set forth in the notice of violation, a civil citation may be issued to the violator or person responsible assessing a civil penalty in accordance with subsection (b). The civil citation shall meet the requirements set forth in [section 1-6](#).

(d) If the violation is not corrected and/or the civil penalty is not paid within the time allowed, the fire marshal may proceed with any of the remedies listed above **including, but not limited to, criminal charges against the violator.**  
(Ord. No. 14-117, § 1, 11-13-2014)

#### Sec. 34-88. - Permits.

(a) It shall be the duty of the fire marshal's office to evaluate applications and issue, if approved, all special use permits as listed on the fire inspection fee schedule. This schedule may be revised upon approval of the city council. Applications for special use permits shall be made on forms provided by the city.

(b) Fees for inspections, special use permits and other fire department services shall be set out in a fee schedule. Printed schedules of the fees shall be available to the public at the fire marshal's office, city website and the city clerk's office. A billing statement for charges listed on the schedule may be sent to the owner/occupant by the city finance department.

(c) Applications for permits required pursuant to the North Carolina Fire Code shall be made to the fire marshal's office on forms provided by the city. The applicable permit fee as established by the city shall accompany all applications. The required permit fees shall be set out in a fee schedule. Printed schedules of the permit fees shall be available to the public at the fire marshal's office, city website and city clerk's office. The bureau chief is authorized to waive the permit fee for governmental, religious or charitable organizations.

(d) The following optional permits as listed in Section 105.6 of the North Carolina Fire Code are adopted as mandatory within the city:

Hazardous materials 105.6.20, and  
Hazardous materials facilities 105.6.21.

(Ord. No. 14-117, § 1, 11-13-2014)

#### Sec. 34-89. - Water supply—General.

(a) Required fire flow. Fire flow requirements for new occupancies and additions shall be determined by utilizing one of the following approved methods:

(1) ISO — Guide for the Determination of Needed Fire Flow.

(2) North Carolina Fire Code Appendix B.

(b) Fire hydrants. Fire hydrant coverage shall not exceed the limits established in Chapter 5 and Appendix C of the North Carolina Fire Code to the most remote point of any building covered by the state fire prevention code. The distance shall be measured along an approved path of travel for the fire apparatus.

(c) Modification of distance requirements. Where warranted, the fire official shall have the authority to modify the distance requirements in subsection (b) based on the nature, construction and square footage of the occupancy.

(Ord. No. 14-117, § 1, 11-13-2014)

Sec. 34-90. - Code requirements for fire service water mains, fire hydrants and fire connections on private property.

(a) Fire service water mains.

(1) Fire service water mains shall be installed in accordance with approved plans and the city engineering and water resources department requirements and specifications for water main construction. Fire service mains shall also be installed in accordance with the National Fire Protection Association standard for the installation of private fire service mains and their appurtenances, NFPA 24. Conflicting provisions of the city engineering and water resources department specifications and NFPA 24 requirements should be reported to the city fire marshal's office.

(2) Fire service water mains, water meters and other appurtenances shall be designed to provide the minimum combined required sprinkler demand (if applicable) and needed fire flow at 20 pounds per square inch residual pressure at the hydraulically most difficult fire hydrant.

a. It is assumed that other fire hydrants, if provided, will provide a greater quantity of water at the same residual pressure.

(3) Required fire flow will be determined utilizing one of the following approved methods:

a. ISO — Guide for the Determination of Needed Fire Flow.

b. North Carolina Fire Code Appendix B.

(4) Water flow testing will be conducted at the time of the Certificate of Occupancy to determine that the water system meets the water supply quantities determined in subsection (a)(2). Failure to meet the water flow requirements in item number [subsection (a)](2) will result in denial of certificate of occupancy.

(b) Fire hydrants. Fire hydrant coverage shall not exceed the limits established in Chapter 5 and Appendix C of the North Carolina Fire Code, to the most remote point of any building covered by the state fire prevention code.

(1) For proper measurement, start at the fire hydrant and measure along the same path of travel as a fire truck would use. Do not measure according to the term "as the crow flies."

(2) The approach route of firefighting apparatus should be kept in mind as fire hydrant locations are determined. Fire hydrants should be located so that the fire apparatus will not have to go past the fire to catch a fire hydrant, then double back to the fire.

(3) Fire hydrants shall be installed and painted according to the city engineering and water resources department specifications.

(4) Each fire hydrant must be readily visible and within six feet of the curblin. No obstructions are permitted between the hydrant and the curblin.

(5) All obstructions, such as fences, trees, shrubs, signs, etc., shall be at least three feet from the fire hydrant in all directions. The city shall have the right to cut, trim or remove obstructions to the extent and for the purpose of correcting such hazards.

(6) The five-inch storz connection of the fire hydrant shall always face the curb.

(7) The nut of the storz connection cap shall be no less than 18 inches nor more than four feet above grade.

(c) Fire department connections. The fire department connections for standpipe or sprinkler systems are important supplements to normal water supplies. Under fire conditions, these devices permit the fire department to increase the water supply and pressure to fire protection systems which may be materially reduced by a larger number of sprinklers operating or by the use of hose streams from standpipe risers.

(1) Minimum size pipe shall be four-inch diameter.

(2) All fire department inlet pumper connections for commercial buildings shall have, at least, one five-inch storz connection and protective cap.

(3) The fire department connections at buildings provided with more than two standpipe risers shall have one five-inch storz connection and protective cap, for each additional standpipe riser.

(4) Fire department connections on residential structures with residential sprinkler systems shall have one single two and one-half-inch National Standard threads swivel connection.

(5) All fire department connections shall be located not less than 18 inches, nor more than five feet above finished grade.

(6) All fire department connections shall be provided a clear space of ten feet horizontally and vertically in all directions.

(7) All fire department connections shall be readily visible and not more than 50 feet from a street, fire lane or similar area providing access to fire department apparatus. The area between the connection and vehicular access shall be free of obstructions.

(8) There shall be an approved pumper fire hydrant within 200 feet of the fire department connection measured along an approved path of travel for the fire apparatus.

(Ord. No. 14-117, § 1, 11-13-2014)

Sec. 34-91. - Installation, inspection and maintenance of private fire hydrants and private water system components.

(a) Installation. All newly installed private fire hydrants and private water systems shall be installed in accordance with and subject to the city's ordinances, policies, and standard specifications; NCAC Title 15A, Subchapter 18C Water Supplies ; and NFPA 24 Standard for the Installation of Private Fire Service Mains and Their Appurtenances .

(b) Inspection and maintenance. The owner of a private water system shall have all fire hydrants and water system components tested and inspected by a contractor licensed by the state or a certified operator as defined in NCAC Title 15A, Subchapter 18C. Testing and inspection shall occur within the required maintenance periods specified in NFPA 25 Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems .

(c) Repairs. The owner of a private water system shall be responsible for the repairs or replacement of any damaged, broken, and/or inoperable hydrants and/or water system components; and shall have all fire hydrant and/or water system component repairs or replacements conducted by a contractor licensed by the state in accordance with NCAC Title 15A, Subchapter 18C and NFPA 25 Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems .

(d) Violations. Any person who fails to comply with the provisions of this section shall be subject to penalties in accordance with [section 34-86](#).

(Ord. No. 14-117, § 1, 11-13-2014)

Sec. 34-92. - Reserved.

**Editor's note**— Ord. No. 14-117, § 1, adopted November 13, 2014, repealed [§ 34-92](#) in its entirety. Former [§ 34-92](#) pertained to airport fire protection and was derived from Code 1987, § 6-57; Ord. No. 06-85, § 1, adopted September 14, 2006 and Ord. No. 13-73, § 1, adopted August 8, 2013.

**Sec. 34-93. - Fire lanes.**

- (a) Fire lanes shall be designated at all locations within the authority and jurisdiction of the city in accordance with the North Carolina Fire Code and as approved by the fire code official.
  - (b) Fire lanes installed shall conform to the requirements of the North Carolina Fire Code and shall be approved by the fire code official prior to installation.
  - (c) Fire lanes shall be installed in accordance with the specifications on file at the fire marshal's office.
  - (d) Roadways, driveways and access ways shall not be marked as fire lanes without first obtaining approval from the fire department. Detailed plans showing the location of the lanes may be required to determine whether or not any proposed markings meet specifications established and on file at the fire marshal's office.
- (Ord. No. 14-117, § 1, 11-13-2014)

**Sec. 34-94. - Signs and marking.**

- (a) All fire lanes and access roads must be marked with signs indicating "no parking fire lane" as described in the specifications on file at the fire marshal's office.
  - (b) Existing non-compliant fire lanes shall continue in effect as installed until such time as they are in need of re-stripping due to wear or re-paving. When re-striped, existing fire lanes shall be installed to current specifications.
- (Ord. No. 14-117, § 1, 11-13-2014)

**Sec. 34-95. - Violations and enforcement.**

- (a) Any person who parks a vehicle in, obstructs, or allows the obstruction of a designated fire lane shall be liable for a civil penalty of \$100.00 upon receipt of a citation issued by the fire or police chief or any designee of either.
  - (b) Any vehicle or object obstructing a designated fire lane, whether public or private, may be towed or removed without prior notification of the owner, and at the owner's expense.
  - (c) The registered owner of the vehicle parked in the fire lane shall be responsible for all civil penalties issued and any towing or related charges accruing hereunder.
  - (d) Civil penalties due hereunder shall be collected under the provisions set forth in [section 1-6](#).
- (Ord. No. 14-117, § 1, 11-13-2014)

**Secs. 34-96—34-100. - Reserved.**

## **Chapter 38 - LAW ENFORCEMENT**

**Sec. 38-2. - Enforcement of trespass regulations.**

The members of the police department including reserve police officers may act as agents for property owners and tenants to enforce regulations against trespassing on private property located within the corporate limits of the city upon specific request by such property owners or tenants, in accordance with the terms of an approved agreement.

(Code 1987, § 9-15)

## **Chapter 42 - OFFENSES AND MISCELLANEOUS PROVISIONS**

Sec. 42-2. - Beer and wine prohibited in certain areas.

Except where the city is the lessor and crossing a sidewalk with malt beverages or unfortified wine is necessary to reach the leasehold or an encroachment permitted under [section 50-50](#) et seq., it shall be unlawful for any person to consume malt beverages or unfortified wine on any city street, sidewalk or alley, any municipal parking lot, or on the grounds of any public building of the city; or any real estate owned or controlled by the city including, but not limited to, public parks, playgrounds, tot lots, recreational fields, tennis courts or other athletic field, or in any buildings owned or rented by the city, except those buildings where appropriate ABC permits have been issued by the state. **In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in G.S. § 14-4.**

(Code 1987, § 9-4; Ord. No. 02-44, § 1, 7-11-02; Ord. No. 12-113, § 1, 10-11-12)

Sec. 42-3. - Damaging electrical apparatus; unlawful entry into meters.

Any person who shall purposely damage any meter, meter box, meter seal, meter lock, electric lightpole, lamp, wire, electric switch or installation, any electrically lighted sign or decoration, or any other apparatus or appurtenances belonging to or maintained by the city, or enter without authorization any meter, meter box, meter seal or meter lock, shall be subject to such penalty as set forth in state law and the service regulations of the city public utilities department. **In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in G.S. § 14-4.**

(Code 1987, § 9-6; Ord. No. 02-44, § 1, 7-11-02)

**Cross reference**— Utilities, [ch. 62](#).

**State Law reference**— Injuring electric power fixtures, etc., G.S. 14-154, 14-156; willful injury to property of public utility a misdemeanor, G.S. 62-323.

Sec. 42-4. - Discharging air-operated or gas-operated guns.

It shall be unlawful for any person to shoot or discharge in any manner any type of pistol, revolver or rifle operated by use of air or gas, whether compressed or otherwise, within the corporate limits of the city. **In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in G.S. 14-4.**

(Code 1987, § 9-7; Ord. No. 02-44, § 1, 7-11-02)

**State Law reference**— Permitting young children to use dangerous firearms, G.S. 14-316; authority to regulate pellet guns, G.S. 160A-190.

Sec. 42-5. - Discharging firearms, bows-and-arrows, crossbows and other projectile weapons.

(a) It shall be unlawful for any person to shoot or discharge by bow-and-arrow(s), crossbow, gun, pistol or other firearm, BB gun, air compression gun, spring gun or other similar device which propels with force a shot, pellet or other projectile within the municipal corporate limits of the city.

(b) Nothing in this section shall be construed so as to prohibit:

- (1) Any person from discharging any firearm in the lawful defense of his person, family or property or pursuant to lawful directions of law enforcement officers;
- (2) Any sworn law enforcement officer from discharging a firearm in the performance of official duties;
- (3) Any person, corporation or organization operating a rifle, pistol, skeet or trap range or other firing range including turkey shoots, which range is substantially in accordance with specifications promulgated by the National Rifle Association or by an equivalent nationally recognized firearms safety authority for the type and caliber of firearm being fired;
- (4) Any person using, as intended, any device used for the firing of stud cartridges, explosive rivets or similar ammunition;
- (5) Any person using model rockets designed to propel a model vehicle in a vertical direction;
- (6) Any person using a weapon or other instrument used to fire blank ammunition for a lawful purpose;
- (7) Any person from discharging a firearm as part of a funeral ceremony under section 26-6 of this Code;
- (8) A person hunting with a firearm on his own property or with the property owner, or on another's property in their absence if he has on his person a valid state hunting license and written permission from the property owner; and:
  - a. The firearm discharged by the person hunting is a shotgun employing number four or higher shot or is steel shot labeled "T, BBB, or F" for taking geese;
  - b. There is a valid hunting season in effect at the time the shotgun is discharged;
  - c. The shotgun is not discharged within 500 feet of a dwelling house, school, church, or any other occupied building, street or road, park or recreation area or other type of public gathering place;
  - d. The parcel or tract of land which the hunter owns or has permission to hunt upon is greater than 20 acres in area; and
  - e. The person discharging the shotgun exhibits reasonable regard for the safety and property of other persons;
- (9) A person hunting only by bow-and-arrow or crossbow on his own property, or with the property owner, or on another's property in their absence if he has on his person a valid North Carolina hunting license (or who qualifies for an exemption from licensing by the state wildlife commission) and written permission from the property owner or the property owner's authorized agent or manager; and:
  - a. There is a valid hunting season in effect for which the hunting license applies at the time the crossbow or bow-and-arrow is discharged;
  - b. The bow-and-arrow or crossbow is not discharged within 250 feet of a dwelling house, school, church, or any other occupied building, street or road, park or recreation area or other type of public gathering place;
  - c. The parcel or tract of land which the hunter owns or has permission to hunt upon is equal to or greater than 2.0 acres in area; and
  - d. The crossbow or bow-and-arrow is discharged only from an elevated platform or stand located at least ten feet above the level of the surrounding grade or the target, whichever is less;
  - e. The person operating the bow or crossbow exhibits reasonable regard for the safety and property of other persons;
- (10) Any person engaged in a commercial livestock operation from using a firearm or other weapon in defending any commercial animal against any other animal.



(c) Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor and shall be fined \$500.00 or imprisoned 30 days, or both. Violators may be subject to a civil penalty of \$500.00 to be recovered in the nature of a debt.

(Code 1987, § 9-8; Ord. No. 10-95, § 1, 9-9-2010)

**State Law reference**— Discharging certain weapons into occupied property, G.S. 14-34.1; authority to regulate firearms, G.S. 160A-189.

Sec. 42-8. - Trespass on railroad tracks.

(a) No person shall, without written authorization from the owner, enter or remain on the graveled portion of the railroad bed, otherwise known as the ballast line, or upon any cross-tie or rail.

(b) The following persons are exempt from subsection (a) of this section:

(1) Any railroad employee.

(2) Any person employed to load or unload railroad cars.

(3) Any person employed by the state, the county, city or a utility company to maintain, install or service roads or utilities intersecting the railroad right-of-way.

(4) Any law enforcement officer.

(5) Any motor vehicle passenger or pedestrian crossing at an established railroad crossing when the warning signals are not activated.

(c) Any person who shall violate subsection (a) of this section shall be guilty of a misdemeanor. Any such violation shall be punishable by a fine not to exceed \$500.00 or 30 days in jail, or both in the discretion of the court. Violators may be subject to a \$500.00 civil penalty to be recovered in the nature of a debt. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 9-15.1; Ord. No. 02-44, § 1, 7-11-02)

Sec. 42-9. - Loitering for the purpose of engaging in illegal drug-related activity.

(a) It shall be unlawful for any person to remain or wander about in a public place for the purpose of engaging in a violation of any provisions of the North Carolina Controlled Substances Act (G.S. Ch. 90, Art. 5).

(b) For the purposes of this section, "public place" shall mean any area generally accessible to the public for common usage and access, including any public street, public sidewalk, public vehicular area (as defined in G.S. 20-4.01), any city park or park property, any other publicly owned or leased property, public transportation facility, school and school grounds or property, any common area of any apartment complex, condominium community or public housing project to which the public has ready access, any place of business or amusement which is open to the public, any private property which adjoins any of the above described areas and to which the public has ready access, any other property which is open to the public, whether publicly or privately owned, and any motor vehicle in or on the above described areas.

(c) For the purposes of this section, a "known unlawful drug user, possessor, or seller" is a person who has been convicted in any court within this state of any crime involving the use, possession or sale of any substance included in the North Carolina Controlled Substances Act (G.S. Ch. 90, Art. 5) or who has been convicted of a violation of any substantially similar law of another state or of the United States.

(d) For the purposes of this section, "repeatedly" means three or more times.



(e) The following conduct or factors may be considered in determining whether a person is remaining or wandering about in a public place for the purpose of violating any provision of G.S. Ch. 90, Art. 5:

- (1) Repeatedly beckoning to, stopping, or attempting to stop passers-by, or repeatedly attempting to engage passers-by in conversation; or
- (2) Repeatedly stopping or attempting to stop motor vehicles; or
- (3) Repeatedly obstructing or interfering with the free passage of other persons; or
- (4) Repeatedly passing to or receiving from passers-by, whether on foot or in a vehicle, money or objects; or
- (5) Being a known unlawful drug user; possessor, or seller; or
- (6) Attempting to flee or evade a police officer; or
- (7) Being at a location frequented by persons who use, possess, or sell controlled substances; or
- (8) Occupying a vehicle which is registered to a known unlawful drug user, possessor, or seller or which has been recently involved in illegal drug related activity; or
- (9) Stopping, conversing with the occupant(s) of, handling money or any object to the occupant(s) of, or receiving money or any object from the occupant(s) of a vehicle which is registered to a known unlawful drug user, possessor, or seller or which has been recently involved in illegal drug related activity.

(f) No arrest or charge is permitted hereunder unless the circumstances establish probable cause to believe that the person intended to violate one or more of the provisions of the North Carolina Controlled Substances Act, G.S. Ch. 90, Art. 5.

(g) If any section, subsection, paragraph, sentence, clause, phrase or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severally and such holding shall not affect the validity of the remaining portions thereof.

(h) A violation of any provision of this section shall subject the offender to a \$500.00 misdemeanor fine or a \$500.00 civil penalty to be recovered in the nature of a debt, or both.

(Code 1987, § 9-17; Ord. No. 10-46, § 1, 5-13-2010)

Sec. 42-10. - Soliciting and begging.

(a) No person shall solicit or beg for money or property from any other person in any public place by:

- (1) Forcing himself upon the company of another.
- (2) Making repeated requests of the same person after his request has been denied.
- (3) Cursing or shouting at or otherwise rudely insulting others in conjunction with any request for money or property.
- (4) Blocking or otherwise interfering with access to any public or private place or passage across or along any sidewalk in conjunction with any request for money or property.

(b) The penalty for violation of subsection (a) of this section shall be a misdemeanor punishable by a \$500.00 fine under [section 1-6](#) of this Code. Violators may be subject to a civil penalty of \$500.00 to be recovered in the nature of a debt. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in G.S. 14-4.

(Code 1987, § 9-18; Ord. No. 02-44, § 1, 7-11-02)

**State Law reference**— Regulation of begging, G.S. 160A-179.

Sec. 42-11. - Weapons prohibited on city property.

(a) Except as provided in subsection (b) of this section, all persons are prohibited from the display or discharge of weapons as defined in G.S. 14-269 in city-owned nonresidential buildings as defined in G.S. [14-54](#)(C), their appurtenant premises and at any recreational facilities including but not limited to swimming pools, playgrounds and athletic fields or athletic facilities as defined in G.S. 14-415.23(c) and (d).

(b) This prohibition shall not apply to the following persons:

(1) Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;

(2) Civil officers of the United States while in the discharge of their official duties;

(3) Officers and soldiers of the militia and the National Guard when called into actual service;

(4) Sworn law enforcement officers;

(5) Persons in transit at the city regional airport may possess tools or hunting or fishing implements, including firearms, if unloaded and in compliance with applicable standards of the Federal Aviation Administration;

(6) Employees of the city, a utility company, or a contractor to the city, may possess tools approved by their employer so long as such tools are not used as a weapon;

(7) Persons possessing a written permit from the chief of police to possess weapons for ceremonial purposes or funerals.

(8) Persons legally permitted to carry a concealed handgun are prohibited from such concealed carry in or on all city property identified above, except where specifically allowed by G.S. 14-415.23(d).

(c) A conspicuous notice shall be posted at each entrance to any property set forth in subsection (a) of this section indicating that: "Possession of weapons or carrying a concealed handgun is prohibited." This indication may be given by use of a symbol. Such symbol is available for inspection at the office of the city clerk.

(d) Any person in violation of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined \$500.00 or imprisoned for 30 days, or both.

(e) Weapons possessed in violation of this section are hereby declared to be contraband. The chief of police or his designee shall hold such weapon for disposal pursuant to court order. In the absence of any court order, the weapon shall be destroyed.

(Code 1987, § 9-20; Ord. No. 11-29, § 1, 4-14-2011; Ord. No. 11-107, § 1, 12-8-2011; Ord. No. 13-93, §§ 1, 2, 10-10-2013)

**State Law reference**— Authority to regulate firearms, G.S. 160A-189 et seq., G.S. 14-415.23.

Sec. 42-12. - Vegetation interfering with electrical lines and equipment.

(a) No tree, bush or shrub shall be permitted to grow against or near any electrical wire or any electrical equipment owned by the city so as to create a fire hazard and endanger life or property.

(b) The city shall have the right to cut or trim such trees, bushes or shrubbery to the extent and for the purpose of correcting such hazard.

(c) Any person interfering with the city or its agents in carrying out the provisions of this section shall be guilty of a misdemeanor and subject to a \$500.00 fine. Violators may be subject to a \$500.00 civil penalty, to be recovered in the nature of a debt.

(Code 1987, § 6-4)

Cross reference— Utilities, ch. 62.

State Law reference— Felling trees on telephone and electric power wires, G.S. 14-157; inspection of premises, remedy of dangerous conditions, G.S. 69-4.

Sec. 42-13. - Unauthorized use of city property and facilities.

(a) Definitions.

(1) Camp or camping for purposes of this section, shall mean the use of city property for living accommodation purposes such as sleeping, or making preparations to sleep (including the laying down of bedding for the purposes of sleeping), or storing personal belongings, or placing any tent or a temporary shelter on city property for living accommodation purposes.

(2) Temporary shelter means any tent, any tarp, or any type of structure or cover that provides complete or partial shelter from the elements.

(3) Canopy means a partial shelter consisting of poles supporting a roof made of nylon, fabric or similar material.

(4) City property means any parcel of real property owned by the City of Concord including property located within public rights-of-way and sidewalks and any personal property owned by the City of Concord.

(b) Prohibited activity.

(1) It is unlawful for any person to camp on any city property including property located within public rights-of-way and sidewalks.

(2) Tents, temporary shelters or other camping gear are prohibited on city property regardless of whether the tents are occupied and/or contain bedding or camping gear, except in locations designated in writing for camping and established or permitted for such activity. It is unlawful for any person to place or leave any tent, any temporary shelter, or any bedding on city property.

(3) It is unlawful for any person to light or use a campfire or bonfire on city property.

(4) It is unlawful to erect, station, hang, fasten, or attach any rope, wire, chain, sign, banner, or electrical device or power cord to any city property, including buildings, bridges, or overpasses, or to any city owned personal property including vehicles, construction equipment, memorials, utility poles or artwork unless express permission has been granted in writing by the city manager or his designee or a license or permit has been issued pursuant to the ordinances and policies of the city.

(5) Canopies may be allowed under parade and/or festival permits issued in accordance with the terms of chapter 50, article VII of this Code and any additional terms that may be included in a particular permit.

(c) Enforcement and penalties.

(1) Camping on city property, including property located within public rights-of-way and sidewalks, is a public nuisance. Anyone camping, attempting to camp, or placing any tent or temporary shelter on city property or making preparations to sleep, or store personal belongings, shall be directed by any duly sworn law enforcement officer to cease such activity and to remove any camping gear or personal belongings from city property. Any duly sworn law enforcement officer may summarily cause any tent, temporary shelter, bedding or personal belongings to be removed from city property.

(2) Lighting or using a campfire or bonfire on city property poses a potential danger to the public, any person lighting or using a bonfire on city property shall be directed to stop, to extinguish any burning material, and to remove same once that can be safely done. Any duly sworn law enforcement officer may summarily cause any burning material to be extinguished.

(3) Items affixed to city property in violation of subsection (b)(4) above are deemed to be a public nuisance. Any duly sworn law enforcement officer may summarily cause any items affixed to be removed.

(4) Upon violation of any provision of this section, violators are subject to one or more of the following enforcement actions:

(i) Duly sworn law enforcement officers with jurisdiction within the city shall have the duty and responsibility to enforce this section by charging the violator with a misdemeanor and shall also be empowered to issue citations for civil penalties for violations of this section.

(ii) The violator may be charged with a misdemeanor punishable in accordance with the provisions of G.S. 14-4 with a fine of up to \$500.00 or any other sanctions allowed by law.

(iii) Each such person receiving a citation for a civil penalty is subject to a civil penalty pursuant to section 1-6 which may be collected by civil action in the nature of debt if not paid within 72 hours after being issued.

(iv) This section may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

(Ord. No. 12-38, § 2, 4-12-2012)

## ARTICLE II. - PUBLIC PARKS

Sec. 42-21. - Sex offenders prohibited in public parks.

(a) For purposes of this section the following definitions shall apply:

(1) Registered sex offender. An individual who is registered by any state or federal agency as a sex offender and whose name is published on any state or federal registered sex offender listing, including but not limited to the sex offender registry established in G.S. Ch. 4, Art. 27A.

(2) Public park. Any publicly owned, leased, operated or maintained land which is designated by the City of Concord as a park, greenway or recreational facility.

(b) No registered sex offender shall enter into or upon any public park operated by the City of Concord. Each entry into a public park, regardless of the time period between such entries, shall constitute a separate offense under this section.

(c) A violation of this section is a misdemeanor as set forth in G.S. 14-4.

(d) The city manager or his or her designee shall post this regulation at the main entrance of each public park within 30 days of passage of this section.

(Ord. No. 09-08, §,1 2-12-2009)

Sec. 42-22. - Smoking and the use of tobacco products prohibited on the grounds of the city's parks system and in buildings located in the city's parks system.

(a) Definitions. The following definitions are applicable to this section:

(1) Grounds. An unenclosed area owned, leased, or occupied by the city. [G.S. 130A-492]

(2) Parks system. Any tract of land or body of water comprising part of the city's parks, playgrounds, natural areas, recreation areas, trails and greenways, and streams or other bodies of water.

(3) Universal 'No Smoking and Use of Tobacco Products Prohibited' Symbol. Symbol consisting of a pictorial representation of a burning cigarette and a tobacco product enclosed in a red circle with a red bar across it.

(4) Smoking. The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product. [G.S. 130A-492]

(5) Tobacco product. Any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component part or accessory of a tobacco product, including, but not limited to, cigarettes; cigars; little cigars; cheroots; stogies; periques; granulated, plug-cut, crimp-cut, ready-rubbed, and other smoking tobacco; snuff; snuff flour;

Cavendish; plug-and-twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cutting and sweepings of tobacco; and other kinds and forms of tobacco. A tobacco product excludes any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

(b) Areas in which smoking and tobacco products are prohibited.

(1) Smoking and the use of tobacco products are prohibited:

a. On city grounds of the city's parks system.

b. In city buildings located in the city's parks system.

(2) Smoking and the use of tobacco products are prohibited on grounds of the city's parks system and in buildings located in the city's parks system being used for private events.

(c) Actions to implement required.

(1) The city shall post signs that meet all the requirements in subsection (d) of this section.

(2) The city shall remove all ashtrays and other smoking receptacles from the grounds of the city's parks system and the buildings located in the city's parks system.

(3) The person in charge of the grounds of the city's parks system or the buildings located in the city's parks system, or his or her designee, shall direct a person who is smoking or using a tobacco product in a prohibited area to cease and, if the person does not comply, shall contact the city police department.

(d) Signage. The signs required by subsection (c) must:

(1) State in English and Spanish that smoking and the use of tobacco products are prohibited and include the universal "No Smoking and Use of Tobacco Products Prohibited" symbol.

(3) Be of sufficient size to be clearly legible to a person of normal vision, and be conspicuously posted.

(4) Be posted at each entrance of the buildings located in the city's parks system and in other locations within the buildings reasonably calculated to inform employees and the public of the prohibition.

(5) Be posted on the grounds of the city's parks system in locations and at intervals reasonably calculated to inform employees and the public of the prohibition.

(e) Enforcement and penalties.

(1) Penalty for violation. Following oral or written notice by the person in charge of an area described in subsection (b), or his or her designee, failure to cease smoking or using tobacco products constitutes an infraction punishable by a fine of not more than \$50.00. A citation may be issued by a sworn law enforcement officer. Conviction of an infraction under this section has no consequence other than payment of a penalty, and no court costs may be assessed.

(f) Public education. The City of Concord shall engage in a continuing program to explain and clarify the purposes and requirements of this section to citizens affected by it, and to guide operators and managers in their compliance with it. In doing so, the City of Concord may rely upon materials and information provided by the local health department.

(g) Severability; conflict of laws. If this section or application thereof to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of the section that can be given separate effect and to that end the provisions of this section are declared to be severable.

Whenever the provisions of this section conflict with other ordinances of the City of Concord, this section shall govern.

(Ord. No. 11-105, §§ 2—7, 12-8-2011)

Chapter 50 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES<sup>[1]</sup>  
ARTICLE I. - IN GENERAL

Sec. 50-1. - Constructing street or sidewalk.

(a) Driving over unfinished work. It shall be unlawful for any person to drive any vehicle or animal on or across any street or sidewalk under construction before the work is finished and the street is officially opened for public use.

(b) Removing barriers. It shall be unlawful for any person to remove any obstruction placed across any of the streets or sidewalks of the city to prevent people driving upon the finished work of streets and sidewalks while such work is in progress.

(c) Penalty. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, §§ 11-1, 11-2; Ord. No. 02-44, § 1, 7-11-02)

Sec. 50-2. - Acids, oils and other harmful substances upon streets.

(a) It shall be unlawful for any person to drop, spill, sweep, empty, deposit, throw or place acid or any other substance, harmful or injurious to streets or pipelines, into or on any of the streets within the corporate limits of the city.

(b) It shall be unlawful for any person to drop or spill or cause to be dropped or spilled, whether from a vessel or conveyance, any lubricating oils, grease, kerosene, gasoline or similar light oils on any of the permanently paved streets of the city.

(c) In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 11-3; Ord. No. 02-44, § 1, 7-11-02; Ord. No. 11-108, § 1, 12-8-2011)

**Cross reference**— Environment, [ch. 30](#).

Sec. 50-3. - Auctions.

It shall be unlawful for any person to sell at public auction upon any street of the city any dry goods, wares or merchandise of any kind or description. This section shall not apply to any sale under execution or under mortgage. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 11-4; Ord. No. 02-44, § 1, 7-11-02)

**State Law reference**— Activities governed by law of auctions and auctioneers, G.S. 85B-2.

Sec. 50-5. - Hauling certain materials; precautions.

It shall be unlawful for any person to haul or carry any dirt, rock, trash or other material over any part of the streets of the city, unless such material shall be hauled or carried in a suitable bed or container to prevent it from being spilled or blown on any of the streets. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 11-7; Ord. No. 02-44, § 1, 7-11-02)

**Cross reference**— Traffic and vehicles, [ch. 58](#).

Sec. 50-6. - Skating.

It shall be unlawful to skate, roller blade, inline skate or skateboard on any street within the corporate limits of the city or on the sidewalks within the fire limits and within the Traditional Neighborhood Development Zoning districts of the city. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. § 14-4.

(Code 1987, § 11-10; Ord. No. 02-44, § 1, 7-11-02; Ord. No. 05-30, § 1, 4-14-2005)

Sec. 50-7. - Slingshots.

It shall be unlawful for any person to shoot or use any slingshot upon any street within the corporate limits of the city. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 11-11; Ord. No. 02-44, § 1, 7-11-02)

Sec. 50-8. - Use for drainage generally.

It shall be unlawful for any person to use any street or sidewalk within the corporate limits of the city, or the gutter of any street or sidewalk, as a drainage to carry off kitchen slops or other fluid or soapsuds or any liquid or excrement from any privy, water closet or urinal. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 11-12; Ord. No. 02-44, § 1, 7-11-02)

Sec. 50-9. - Roof water drainage.

It shall be unlawful for the owner of any premises to permit or allow any roof to partly project or extend over the sidewalk so as to turn the water thereon, unless the roof is properly guttered. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 11-13; Ord. No. 02-44, § 1, 7-11-02)

Sec. 50-10. - Time limit for the use of sidewalk benches within the streetscape area.

(a) No person shall occupy any bench on the public sidewalk within the streetscape area of the city for more than 30 minutes in any 24-hour period or for more than 20 consecutive minutes.

(b) As used in subsection (a) of this section, the term "streetscape area" shall mean and include: lying and being in Number 12 Township, the central business district streetscape area and being described as follows: beginning at a point, such point being the northwest corner of Spring Street and Cabarrus Avenue, west; thence, east on the north right-of-way of Cabarrus Avenue, west to the northwest corner of Union Street, north; thence, on the west corner of Union Street, north; thence, on the west right-of-way of Union Street, north to the northwest corner of the intersection of Holly Lane, northeast and Union Street, north; thence, east on the north right-of-way of Holly Lane, northeast crossing Church Street to a point on the east right-of-way of Church Street, north; thence, south on the east right-of-way of Church Street to the northeast corner of Cabarrus Avenue, east; thence, on the north right-of-way of Cabarrus Avenue, east to the northeast corner of the intersection of McCachern Boulevard, southeast; thence, south, on the east right-of-way of McCachern Boulevard to the southeast corner of the intersection of McCachern Boulevard and Corban Avenue, southwest; thence, west on the south right-of-way of Corban Avenue,



southwest, crossing Union Street, south and continuing to the southwest corner of the intersection of Corban Avenue, southwest and Spring Street; thence, north, on the west right-of-way of Spring Street, southwest, continuing to the point of beginning.

(c) The violation of subsection (a) of this section is a misdemeanor punishable by a fine of up to \$500.00 or imprisonment for up to 30 days, or both. Violators may be subject to a \$50.00 civil penalty, to be recovered in the nature of a debt. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 11-14; Ord. No. 02-44, § 1, 7-11-02)

#### Sec. 50-11. - Street cleanliness.

(a) No person owning a lot shall allow dirt, mud or other material to be eroded or deposited on the paved or unpaved portion of any state highway or city street or sidewalk so as to create a hazard to the traveling public or impede the storm drainage system. Any person who causes or permits dirt, mud or other material to be tracked or deposited shall immediately remove the same or cause it to be removed within 24 hours of receipt of notice of violation. Any person or corporation violating this section shall be subject to the procedures as prescribed under subsection (b) of this section.

(b) If the property owner fails to comply with the notice of violation within the 24-hour time period, the city shall proceed to have the offensive matter removed, and such owner shall be responsible to the city for the reasonable cost of removal, as specified in [section 1-6](#) of this Code and as referenced in G.S. 160A-175 and 160A-193. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 11-15; Ord. No. 02-44, § 1, 7-11-2002)

#### Sec. 50-12. - Helmets required for use with wheeled apparatus.

(a) Wheeled apparatus shall mean any and all forms of wheeled devices used to transport any person, except those specifically excluded in subsection (c) of this section. This definition shall include, but not be limited to, roller skates, inline skates, skateboards, bicycles, go-karts, minibikes, motorized bicycles and scooters.

(b) Every person operating any form of wheeled apparatus shall wear a helmet or hard shell head cover secured to the head by a strap or retention device. The failure to wear a helmet or hard shell head cover shall not be considered to be negligence per se.

(c) Notwithstanding subsection (a) of this section, wheeled apparatus designed and used for the transportation of persons with disabilities or infants and motor vehicles as defined in G.S. 20-4.01(49) are specifically exempted and may be used at any place within the city limits.

(d) Wheeled apparatus operated in violation of any portion of this section is hereby deemed to be contraband and subject to seizure by the city police department.

(e) If any person shall injure another or cause damage to the property of another by violation of this section or due to the use of wheeled apparatus on property where prohibited, the person causing injury or damage shall be liable for a civil penalty of \$100.00, to be recovered in the nature of a debt. If the person causing injury or damage should be a minor less than 18 years of age, his parent, guardian or custodian shall be strictly liable for actual damages under G.S. 1-538.1.



(f) If any person shall violate subsection (b) of this section, he shall be liable for an infraction and shall pay a penalty of \$25.00. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 11-16; Ord. No. 02-44, § 1, 7-11-2002)

## ARTICLE II. - OBSTRUCTIONS

Sec. 50-41. - Prohibited generally; notice; failure to comply.

Except as permitted in accordance with this article, it shall be unlawful to erect, locate or permit to remain in, on, or under any public street, right-of-way, easement or sidewalk any obstruction that will interfere with the use of the public street, right-of-way, easement or sidewalk by the public traveling on foot or in vehicles or by the city for the use of the right-of-way or easement. Any obstruction which shall remain in any public street, right-of-way, easement or sidewalk after notice or demand for its removal by the city shall be deemed a public nuisance. The city shall abate such nuisance by the summary removal of the obstruction, and charge the cost to the person responsible for its existence. Such cost shall constitute a lien on the real property of the responsible person and shall be filed with the city tax collector or as lis pendens with the office of the register of deeds of the county. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in G.S. 14-4.

(Code 1987, § 11-31(a); Ord. No. 02-44, § 1, 7-11-2002; Ord. No. 16-08, § 1, 2-11-2016)

**State Law reference**— Municipal abatement of public health and public safety nuisances, G.S. 160A-193.

Sec. 50-43. - Trimmings from trees, bushes and plants.

It shall be unlawful for any person engaged in the business of trimming, cutting or treating trees, bushes or plants to leave any part of the trees, bushes or plants on any sidewalk or street within the corporate limits of the city. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 11-33; Ord. No. 02-44, § 1, 7-11-2002)

Sec. 50-44. - Display and sale of merchandise.

It shall be unlawful for any person to obstruct entirely or in part any sidewalk or street of the city by displaying, offering for sale or selling at auction or otherwise any goods, wares or merchandise. This section shall not apply to restaurants erecting temporary tables on portions of the sidewalk adjacent to their business provided that:

- (1) Sufficient space of three feet from the curb shall remain for pedestrians to pass without stepping into the portion of the street used by motor vehicles;
- (2) Sales are limited to food, specifically not including alcoholic beverages;
- (3) Outside seating area shall be cordoned off.

In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 11-34; Ord. No. 02-44, § 1, 7-11-2002)

Sec. 50-45. - Open doors.

It shall be unlawful for any person to allow any door to stand open or to stand out beyond the door facing so as to obstruct the sidewalk. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 11-35; Ord. No. 02-44, § 1, 7-11-2002)

Sec. 50-46. - Placing of farm articles restricted.

(a) It shall be unlawful for any person to obstruct any of the streets within the corporate limits of the city by placing on them any machinery or farming utensils. It shall be the duty of every person placing machinery or farming utensils on any street to remove them at once upon being notified.

(b) It shall also be unlawful for any person to obstruct any sidewalk within the corporate limits of the city by placing on exhibition thereon in such a manner as to cover a space wider than two feet from the inside, or in such manner as to occupy more than two feet at the outside of such sidewalk, any farming utensils, machinery, article of merchandise, beef or article of country produce.

(c) In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 11-36; Ord. No. 02-44, § 1, 7-11-2002)

ARTICLE III. - EXCAVATIONS<sup>[2]</sup>

Sec. 50-81. - Aiding and abetting violations.

Any person who shall aid or abet in the violation of any of the provisions of this article shall be guilty of a misdemeanor punishable by a fine of \$500.00 pursuant to [section 1-6](#) of this Code.

Violators may be subject to a \$500.00 civil penalty, to be recovered in the nature of a debt.

(Code 1987, § 11-56)

Sec. 50-84. - Failure to restore and repair.

Any person having authority to make an excavation who shall fail for more than five days after having been notified by the city traffic engineer to begin to fill and repair any excavation made by such person, or who having begun shall fail to continuously prosecute the work of filling and repairing the excavation with reasonable diligence until it is completed and the street or alley is in as good a condition as it was before the excavation was made, shall be guilty of a misdemeanor punishable by a fine of \$500.00 pursuant to [section 1-6](#) of this Code. Violators may be subject to a \$500.00 civil penalty, to be recovered in the nature of a debt.

(Code 1987, § 11-59)

Sec. 50-85. - Safety measures required.

Any owner of any premises or lot upon which there is any cellar, sink or excavation near or next to a sidewalk or pavement who shall fail within 24 hours after having been notified by the city traffic engineer in writing to surround such sink or cellar so as to prevent injury to persons or stock, and in such manner as the city traffic engineer may direct, shall be deemed guilty of a

misdemeanor punishable by a fine of \$500.00 pursuant to [section 1-6](#) of this Code. Violators may be subject to a \$500.00 civil penalty, to be recovered in the nature of a debt.  
(Code 1987, § 11-60)

Sec. 50-86. - Resurfacing.

(a) Requirements. Any person having authority to make an excavation who shall have agreed or shall agree to put the street or alley in as good a condition after such excavation as it was prior thereto, and shall have excavated or shall excavate any such street, alley or any part thereof which has been macadamized and shall fill or attempt to fill, without the written permission of the city council, the excavation or any part thereof when such street or alley was macadamized, with a material other than that of a like kind, quality and size of which the macadamized part was composed, shall be guilty of a misdemeanor punishable by a fine of \$500.00 pursuant to [section 1-6](#) of this Code. Violators may be subject to a \$500.00 civil penalty, to be recovered in the nature of a debt. The provisions of this section shall apply also to excavations under the street pavement or cement sidewalks, and the same charges shall be made for excavations as if the street pavement or cement sidewalk was actually cut.

(b) City to repair; payment of costs. It shall be the duty of the city to repair any holes cut in the streets or sidewalks. Payment of the cost of repairs shall be paid to the finance director and deposited in the general fund of the city. Failure to pay costs shall be grounds for denial of such permits in the future.

(Code 1987, §§ 11-61, 11-62)

ARTICLE V. - POLES AND WIRES

Sec. 50-152. - Unsound or unsafe pole removal; notice; penalty.

(a) Any person who shall allow any unsound or unsafe pole to remain within the corporate limits of the city in such condition for five days after notice from the city manager to remove such pole shall be punishable by a fine of \$500.00 pursuant to [section 1-6](#) of this Code. Violators may be subject to a \$500.00 civil penalty, to be recovered in the nature of a debt for each day such pole shall remain unremoved.

(b) For the purpose of this section, each day shall constitute a separate cause of action, and notice to any agent or employee of the company shall be deemed notice to the principal.

(Code 1987, § 11-102)

Sec. 50-154. - Placement regulation; compliance.

(a) It shall be unlawful for any person to place or plant any pole within the corporate limits of the city except on the curbing of the sidewalks.

(b) Any person who may have poles planted other than as designated in this section shall remove such poles to the curbing of the sidewalk under and in accordance with the directions of the city manager.

(c) Any person planting poles contrary to the provisions of this section, or any person refusing to remove poles already planted to the curbing when directed to do so by the city manager, shall be guilty of a misdemeanor punishable by a fine of \$500.00 pursuant to [section 1-6](#) of this Code.

Violators may be subject to a \$500.00 civil penalty, to be recovered in the nature of a debt.

(Code 1987, § 11-104)

Sec. 50-195. - Display of road address numbers.

(a) Road address numbers shall be clearly displayed in accordance with U.S. postal requirements so that the location can be identified easily from the road.

(1) The official address number shall be displayed on the front of a building, or at the entrance to a building, whichever is most clearly visible from the street or road during day and night.

(2) If a building is more than 100 feet from any road, the address number shall be displayed within a three-foot perimeter at the end of the driveway or easement nearest the road which provides access to the building.

(3) Numerals indicating the address number of a single-family dwelling shall be at least three inches in height and shall be posted and maintained so as to be legible from the road.

(4) Numerals for multiple dwelling units and nonresidential buildings shall be at least six inches in height and shall be placed on the front of the building facing the road or at the end of the building nearest the road.

(5) Mobile home lots shall have sequential address numbers throughout the park. Each lot shall have a separate address number assigned. The address number of each lot shall be clearly displayed on the lot so as to be legible from the road, or it may be mounted on the mobile home unit provided that it is removed if the home is transported to a new location.

(6) Numerals shall be of contrasting color to the background.

(b) The city planning and community development department shall have the right to authorize and approve alternate methods of displaying house numbers which meet the intent of this article when strict adherence to these standards cannot be reasonably met.

(c) In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 11-115; Ord. No. 02-44, § 1, 7-11-2002)

## ARTICLE VIII. - PUBLIC ASSEMBLY AND PICKETING<sup>[5]</sup>

### Sec. 50-250. - Definitions.

The following words, terms or 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. Appeals official means the city manager, or his designee who shall be a deputy or assistant city manager.

Athletic event means any event involving the conduct of exercises, sports or games.

Business days means those days in which city offices are open for conducting city business.

Chief of police means the Chief of Police of the City of Concord, or his designee.

Festival means an outdoor concert, fair, exhibition, promotion, community event, block party or similar event.

Parade means any athletic event, ceremony, pageant, march, picket, procession, motorcade or other similar activity consisting of persons, animals, vehicles or things, or a combination thereof proceeding along any sidewalk or along the traveled portion of any street within the city in such a manner as to interfere with the normal flow of vehicular or pedestrian traffic upon such sidewalk or street. A procession in which individuals move single-file along a sidewalk shall not be regarded as interfering with the normal flow of pedestrian traffic along such sidewalk.

Parade/assembly permit means a permit as required by this article in order to conduct a parade or public street or sidewalk assembly regulated by this article.

Picket or picketing means the stationing of one or more persons by standing, walking, lying, sitting, kneeling, bending, or in any other similar manner, at a particular place within the city

with the purpose of persuading or otherwise influencing another person's actions or conduct or of apprising the public of any opinion or message, excluding purely casual, random, or other everyday forms of communication or conduct.

Public assembly means

(i) Any festival held generally in one location upon any sidewalk or upon the traveled portion of any street within the city in such a manner as to interfere with the normal flow of vehicular or pedestrian traffic upon such sidewalk or street, or

(ii) Any organized company of persons, or a picket, for a common purpose as a result of prior planning that is collected together generally in one location upon any sidewalk or upon the traveled portion of any street within the city in such a manner as to interfere with the normal flow of vehicular or pedestrian traffic upon such sidewalk or street. For purposes of this definition, the phrase "held generally in one location" or "collected together generally in one location" means that such festival or activity is conducted generally in a fixed area as opposed to proceeding along the street or sidewalk in such a manner as to constitute a parade. A festival or other organized company of persons or a picket in which the participants do not obstruct or occupy more than one-half of a sidewalk, such that other pedestrians may use the sidewalk for its intended purpose, shall not be regarded as interfering with the normal flow of pedestrian traffic along such sidewalk.

Sidewalk means that portion of the street right-of-way that is designated for the use of pedestrians and that is paved.

Street means any place or way set aside or open to the general public for purposes of vehicular traffic, including any curb, berm, shoulder, right-of-way, or median strip, but not including the sidewalk.

(Ord. No. 06-10, § 1, 1-12-2006; Ord. No. 12-38, § 5, 4-12-2012)

Sec. 50-251. - Regulations for pickets and picketing.

(a) For purposes of this section, the following definitions shall apply:

(1) Private residence means a single-family dwelling, duplex, or multi-family dwelling within the city;

(2) Directed, focused, or targeted at means that a particular private residence is being made the sole object of picketing, and the picketing takes place solely on that portion of the street or sidewalk that abuts on the property upon which the targeted residence is located or solely on that portion of any street or sidewalk that abuts on property within 50 feet (measured from the lot line) of the property upon which the particular private residence is located, except the sidewalk on the opposite side of the street from the targeted residence.

(b) It shall be unlawful for any person to engage in picketing that is directed, focused, or targeted at a particular private residence.

(c) It shall be unlawful for any person participating in any picket to carry or possess any staff or pole for purposes of displaying any sign, poster, flag, banner, plaque or notice unless the staff or pole (i) is made of corrugated material, plastic, or wood (and not made of metal or metal alloy); (ii) is less than 41 inches in length; (iii) is one-fourth inch or less in thickness and two inches or less in width, or if not generally rectangular in shape, does not exceed three-fourths inch in its thickest dimension; and (iv) is blunt at both ends.

(d) It shall be unlawful for any person participating in any picket to carry or possess any sign, poster, flag, banner, plaque or notice, whether or not mounted on a length of material as specified

in paragraph (c) of this section, unless such sign, poster, flag, banner, plaque, or notice is constructed or made of a cloth, paper, cardboard, rubber, or plastic material.

(e) Picketers, pickets, and picketing shall be subject to all other applicable local, state and federal laws.

(f) Picketing shall not take place within any "safety zone" as defined in N.C.G.S. § 20-4.01(39), nor within any portion of a street right-of-way that lies between the travel lanes of a single street or highway.

(g) A picket or picketing that is not prohibited by this section and that otherwise fits the definition of a parade or public assembly shall be subject to the regulations for parades and public assemblies in sections [50-252](#) through [50-262](#) of this article.

(Ord. No. 06-10, § 1, 1-12-2006)

#### Sec. 50-252. - Permit required for parades and public assemblies.

(a) No parade or public assembly is permitted unless a permit has been first obtained from the chief of police allowing the parade or public assembly pursuant to this article.

(b) A person seeking to obtain a parade/assembly permit shall file an application with the chief of police on forms provided by such official.

(c) A person seeking to obtain a parade/ assembly permit which requires a street closing or otherwise requires police officers to stop or reroute vehicular traffic upon any street because the participants will not comply with normal traffic regulations or controls shall file an application with the chief of police at least 72 hours before the time for which the parade or public assembly is proposed to commence. A person seeking to obtain a permit for any other parade or public assembly shall file an application with the chief of police at least 48 hours before the time for which the parade or public assembly is proposed to commence. Notwithstanding the preceding sentences, the chief of police shall consider an application for a parade/assembly permit which is filed within any shorter time-frames from those prescribed above where the purpose of the parade or public assembly is a spontaneous response to a current event, or where other good and compelling causes are shown.

(d) The application for a parade/assembly permit shall include the following:

(1) The name, address, and telephone number (and pager number, facsimile number, and email address, if available) of the person seeking to conduct the parade or public assembly, and the name, address, and telephone number (and facsimile number and email address, if available) of the organization with which the person is affiliated or on whose behalf the person is applying to conduct the parade or public assembly (collectively "applicant");

(2) The name, address, and telephone number (and pager number, facsimile number, and email address, if available) for an individual who shall be designated as the "responsible planner and on-site manager" of the parade or public assembly;

(3) The requested date, time, place, and route (from starting point to ending point) of the parade or public assembly, including the location where and time when the parade or public assembly will assemble and disband, and any requested sidewalk or street closings;

(4) The anticipated number of persons, vehicles, and things that will constitute the parade or public assembly (including the basis on which this estimate is made), and a description of the vehicles and things that will be part of the parade or public assembly;

(5) A list of the number and type of animals that will be part of the parade or public assembly;

(6) A description of the extent to which the parade or public assembly will occupy all or a portion of any street or sidewalk;

- (7) A general description of the activities planned during the parade or public assembly;
  - (8) A general description of any recording equipment and sound amplification equipment, along with a general description of the size and composition of any banners, signs, flags, or other attention-getting devices to be used in connection with the parade or public assembly;
  - (9) Arrangements for additional police protection and additional emergency medical services, if required under subsection [50-253\(b\)](#);
  - (10) The approximate number of anticipated spectators of the parade or public assembly;
  - (11) For festivals, whether alcohol will be served, live music offered or retail sales stations provided, and the number and location of alcohol service stands, music stages and retail stands; and
  - (12) Any additional information, attachments and submissions that are requested on the application form.
- (e) A parade/assembly permit issued under this article shall include the information set out in paragraph (d) of this section, which information shall constitute conditions of the permit to the extent such information sets out the time, place, and manner of the parade or public assembly. (Ord. No. 06-10, § 1, 1-12-2006; Ord. No. 08-123, § 1, 12-11-2008)

Sec. 50-253. - Police protection.

- (a) The chief of police shall determine whether and to what extent additional police protection (including additional emergency medical services) may reasonably be necessary for the parade or public assembly for traffic control and public health and safety. The chief of police shall make this determination based on an objective consideration of the following factors (and in no case upon the speech content of the proposed parade or public assembly or upon any anticipated public reaction to such speech content):
- (1) The size, location, duration, time and date, composition, format, configuration, and number of anticipated participants in and anticipated spectators of the proposed parade or public assembly;
  - (2) The expected sale of goods or services at the proposed parade or public assembly;
  - (3) The extent to which the parade or public assembly requires the closing of any street or sidewalk or portion thereof, taking into account the general traffic conditions in the area and existing traffic control devices;
  - (4) The need to detour, reroute, or otherwise preempt normal vehicular or pedestrian traffic upon any street or sidewalk or portion thereof to accommodate the proposed parade or public assembly;
  - (5) The anticipated weather conditions at the time of the proposed parade or public assembly; and
  - (6) The extent to which the proposed parade or public assembly is reasonably likely to require emergency medical services or police protection in areas contiguous to or in the surrounding vicinity of the proposed parade or public assembly.
- (b) Regularly scheduled on-duty police officers and regularly scheduled on-duty emergency medical technicians of the city will police and provide medical services for the parade or public assembly if the use of these resources would not impair or disrupt ordinary police and emergency medical services throughout the city or otherwise compromise the public's health or safety. However, if additional police officers or additional emergency medical services are deemed necessary by the chief of police for the proposed parade or public assembly in light of his/her objective assessment of the factors in paragraph (a) of this section, the chief of police shall



inform the applicant for the parade/assembly permit of (i) the number of additional police officers and/or additional emergency medical technicians needed for the event, (ii) the time-period when those services will be needed, and (iii) the specific reasons for why the additional police protection and/or emergency medical services are deemed necessary. The applicant then shall have the duty to hire and pay for the additional police protection and/or additional emergency medical services, or reimburse the city for the actual costs of providing those additional services, and that duty or the obligation to reimburse the city shall become part of the conditions of the parade/assembly permit.

(c) Persons engaging in parades or public assemblies conducted primarily for the purpose of speech protected under the First Amendment are not required to pay for the additional police protection or additional emergency medical services set out in paragraph (b) of this section.

(d) Notwithstanding the foregoing, the city may provide the additional police and/or emergency medical services required by paragraph (b) of this section at no cost, or at a reduced cost, to the applicant should the city desire to provide such support to the parade or public assembly.

(Ord. No. 06-10, § 1, 1-12-2006)

#### Sec. 50-254. - Permitting criteria.

(a) The chief of police shall issue a parade/public assembly permit when, from a consideration of the application and from such other information as may otherwise be obtained, he/she makes all of the following findings:

(1) The conduct of the parade or public assembly will not substantially or unnecessarily interfere with the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its route or location; and, if such interference is likely to occur, that there are available at the time of the parade or public assembly sufficient police resources to mitigate the interference;

(2) There will be available at the time of the parade or public assembly a sufficient number of police officers and traffic control aids to police and protect participants and non-participants at the parade or public assembly and in areas contiguous to the event from traffic-related hazards in light of other demands for police protection in the city at the time of the proposed parade or public assembly;

(3) The concentration of persons, animals, vehicles, or things at the parade or public assembly will not prevent proper fire and police protection or emergency medical services at the event or in areas contiguous to the parade or public assembly;

(4) The parade or public assembly will not interfere with the use of a sidewalk or street requested by another applicant to whom a valid parade/assembly permit application has already been granted or has been received and will be granted;

(5) The applicant has secured the additional police protection or additional emergency medical services required under subsection [50-253\(b\)](#);

(6) No parade/public assembly permit application for the same time but at a different location has already been granted or has been received and will be granted, and the police resources required for the prior parade or public assembly are not so great that, in combination with the subsequent proposed application, the resulting deployment of police services would have an immediate and adverse effect upon the health or safety of persons or property;

(7) No other public event is scheduled elsewhere in the city where the police resources required for that event are so great that the deployment of police services for the proposed parade or public assembly would have an immediate and adverse effect upon the health or safety of persons or property; and



- (8) The application is fully and completely executed; and
  - (9) The application contains no material falsehood or misrepresentation.
- (Ord. No. 06-10, § 1, 1-12-2006)

Sec. 50-255. - Non-discrimination.

Applications for parade/assembly permits shall be processed and decided upon on a first-in-time basis, and the chief of police shall consider each application upon its merits and shall not discriminate in granting or denying any permit based upon political, religious, ethnic, race, disability, sexual orientation or gender related grounds, or upon the content of any speech protected by the First Amendment or upon any anticipated public reaction to such speech content.

(Ord. No. 06-10, § 1, 1-12-2006)

Sec. 50-256. - Notice of decision on application.

(a) The chief of police shall make his/her written decision granting or denying a fully completed and executed parade/assembly permit application (or granting an alternative permit under [section 50-257](#)) within three business days after the application has been received by him/her, but in no event less than 24 hours before the time for which the parade or public assembly is proposed to commence. If the application under [section 50-252](#) is filed within any shorter time-frames than those prescribed in subsection [50-252\(c\)](#), then the chief of police shall make a decision on the application before the time for which the parade or public assembly is proposed to commence.

(b) As soon as practicable after the written decision on the permit application has been made, the chief of police shall notify the applicant of the decision (i) by the most expeditious means practicable (i.e., by telephone, facsimile, or email), and (ii) by mailing a copy of the decision to the applicant by registered or certified mail, return receipt requested, which mailing shall be posted no later than the first business day after the decision has been made. If the decision is to deny the application or grant an alternative permit, the notification to the applicant shall include the written reasons for the denial of the permit or for the grant of an alternative permit.

(Ord. No. 06-10, § 1, 1-12-2006)

Sec. 50-257. - Alternative permit.

(a) If the chief of police denies an application for a parade/assembly permit because he/she decides against one or more of the required findings in subparagraphs (a)(1) through (7) of [section 50-254](#), the chief of police shall authorize the conduct of a parade or public assembly on a date, at a time, at a location or over a different route from that named by the applicant. This alternative permit shall, to the extent practicable, authorize a parade or public assembly that will have comparable public visibility and a similar date, time, location, or route to that of the proposed event. An applicant desiring to accept an alternative parade/assembly permit shall, within at least 24 hours before the time for which the alternative parade or public assembly will commence, file a written notice of acceptance with the chief of police.

(b) An alternative parade/assembly permit shall contain the information set out in paragraph (d) of [section 50-252](#), which information shall constitute conditions of the alternative parade/assembly permit to the extent such information sets out the time, place, and manner of the alternative parade or public assembly.

(Ord. No. 06-10, § 1, 1-12-2006)

Sec. 50-258. - Appeal procedure.

(a) An applicant may appeal the denial of a parade/assembly permit in writing to the city manager's office within ten business days after notice of the denial has been received by the applicant. Within five business days (or such longer period of time agreed to by the applicant) after the city has received the written appeal, the appeals official shall hold a quasi-judicial hearing on whether to issue the permit or uphold the denial. The applicant shall have the right to present evidence at this hearing. The decision to issue the permit or uphold the denial shall be based solely on the approval criteria set forth in [section 50-255](#), and the burden of proof to uphold the denial shall be on the chief of police by a preponderance of the evidence. The appeals official shall render a written decision on the appeal within five business days after the date of the hearing. Where the purpose of the proposed parade or public assembly is a spontaneous response to a current event, or where other good and compelling causes are shown, the appeals official shall reasonably attempt to conduct the hearing and render a decision on the appeal as expeditiously as is practicable.

(b) The decision of the appeals official is subject to review in the Superior Court of Cabarrus County by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the clerk of superior court within 30 days after the applicant has received notice of the decision of the appeals official. Unless good cause exists to contest a petition for writ of certiorari, the city shall stipulate to certiorari no later than five business days after the petitioner requests such a stipulation. The city shall transmit the record to the court no later than five business days after receiving the order allowing certiorari. Notwithstanding the provisions of any local rule of the reviewing court that allows for a longer time period, the city shall serve its brief upon the petitioner within 15 days after it is served with the petitioner's brief. If the petitioner serves his or her brief by mail, the city shall add three days to this time limit, in accordance with N.C.G.S. 1A-1, Rule 5. If the local rule is subsequently amended to provide for a shorter time period for serving any brief, then the shorter time period shall control.

(Ord. No. 06-10, § 1, 1-12-2006)

Sec. 50-259. - Duties of applicant and responsible planner and on-site manager.

(a) The applicant and responsible planner and on-site manager of the parade or public assembly shall comply with all conditions of the parade/public assembly permit issued pursuant to this article and with all other applicable local, state, and federal laws.

(b) The individual designated as the responsible planner and on-site manager of the parade or public assembly shall carry the parade/assembly permit upon his person during the conduct of the parade or public assembly.

(Ord. No. 06-10, § 1, 1-12-2006)

Sec. 50-260. - Prohibitions.

The following prohibitions shall apply to all parades and public assemblies:

(1) It shall be unlawful for any person to stage, present, or conduct any parade or public assembly without first having obtained a permit under this article.

(2) It shall be unlawful for any person to participate in a parade or public assembly for which the person knows a permit has not been granted.

(3) It shall be unlawful for any participant in a parade or public assembly to knowingly fail to comply with any conditions of the parade/assembly permit.

(4) It shall be unlawful for any person participating in any parade or public assembly to carry or possess any staff or pole for purposes of displaying any sign, poster, flag, banner, plaque or notice unless the staff or pole (i) is made of corrugated material, plastic, or wood (and not made of metal or metal alloy); (ii) is less than 41 inches in length; (iii) is one-fourth inch or less in thickness and two inches or less in width, or if not generally rectangular in shape, does not exceed three-fourths inch in its thickest dimension; and (iv) is blunt at both ends.

(5) It shall be unlawful for any person participating in any parade or public assembly to carry or possess any sign, poster, flag, banner, plaque or notice, whether or not mounted on a length of material as specified in paragraph (d) of this section, unless such sign, poster, flag, banner, plaque, or notice is constructed or made of a cloth, paper, cardboard, rubber, or plastic material.

(6) It shall be unlawful to assign or sell any parade/assembly permit granted under this article.

(7) It shall be unlawful to conduct alcohol sales at a festival unless and until:

(a) The chief of police has been presented with an insurance certificate stating that the applicant and its alcohol vendor have at least \$1,000,000.00 in both comprehensive general liability and liquor liability coverage and that the city is named as an insured on the certificate.

(b) The festival is sponsored or co-sponsored by the City.

(c) Proof that the vendor is either licensed by the North Carolina Alcoholic Beverage Control Board or has attended the North Carolina Alcohol Law Enforcement Agency's BARS School.

(d) The alcohol sales area is located on the public rights-of-way of Union Street, S. between Cabarrus Avenue, W. and Corban Avenue, SW, Means Avenue, SE, between Church St. SE and Union Street, SE, and Barbrick Avenue, SW, between Union Street, S. and Spring Street, SW, or on unroofed surface level public vehicular use areas contiguous with these areas, and the Bicentennial Parking Lot.

(e) Proof that the area in which alcohol is sold is clearly demarked from the rest of the festival.

(f) Proof that the applicant is able to pay for the extra city support services required and that the applicant has entered into an agreement with the city to pay for those services.

(8) All participants in any parade or public assembly shall be subject to all other applicable local, state and federal laws.

(Ord. No. 06-10, § 1, 1-12-2006; Ord. No. 08-123, § 2, 12-11-2008)

#### Sec. 50-261. - Public conduct during parades or public assemblies.

(a) No person shall unreasonably hamper, obstruct, impede, or interfere with any parade or public assembly or with any person, vehicle, animal, or thing participating or used in a parade or public assembly.

(b) The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street constituting a part of the route of a parade or public assembly. The chief of police shall post signs to that effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation of such signs.

(Ord. No. 06-10, § 1, 1-12-2006)

#### Sec. 50-262. - Revocation of permit.

(a) The chief of police shall have the authority to revoke a parade or public assembly permit instantly upon violation of any conditions of the permit or when a public emergency arises where the police resources required for that emergency are so great that deployment of police services for the parade or public assembly would have an immediate and adverse effect upon the health or safety of persons or property.

(b) After a permit is revoked under paragraph (a) this section, the chief of police shall notify the applicant of the reasons for the revocation in writing by mailing a copy of the revocation to the applicant by registered or certified mail, return receipt requested, which mailing shall be posted no later than the first business day after the revocation.  
(Ord. No. 06-10, § 1, 1-12-2006)

**Sec. 50-263. - Penalties.**

A violation of any section or subsection of this article shall be subject to a civil penalty of \$500.00 to be recovered in the nature of a debt as allowed in [section 1-6](#) of this Code or by a misdemeanor punishable by up to a \$500.00 fine as provided in G.S. 14-4.  
(Ord. No. 06-10, § 1, 1-12-2006)

**Chapter 58 - TRAFFIC AND VEHICLES**

**Sec. 58-2. - One-way streets and alleys.**

(a) Whenever any ordinance of this city designates any one-way street or alley the city traffic engineer shall place and maintain signs giving notice thereof and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

(b) Upon those streets and parts of streets and in those alleys described in schedule I, adopted and on file with the city clerk, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

(c) In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.  
(Code 1987, § 8-4; Ord. No. 02-44, § 1, 7-11-2002)

**Cross reference**— Streets, sidewalks and other public places, [ch. 50](#).

**State Law reference**— Power of city to prohibit other than one-way traffic, G.S. 20-169.

**Sec. 58-3. - Bicycles and motorized transport on sidewalks or greenways.**

(a) It shall be unlawful to operate any motorized transport device, including but not limited to mopeds, "pocket motorcycles", motorized scooters, or motorized skateboards on any sidewalk or greenway within the corporate limits of the city except those devices designed and used by persons with disabilities. As used herein, motorized transport devices shall include any transport device so equipped as to be self-propelled, without regard to the method of power or size of the motor.

(b) It shall be unlawful for any person to ride a bicycle on any sidewalk within the corporate limits of the city except:

(1) In those areas zoned residential; or

(2) Within 300 feet of any school building or the Boys and Girls Club while school is in session or when the Boys and Girls Club is open for operation.

All persons operating a bicycle in permitted areas shall yield the right-of-way to pedestrians using the sidewalk or greenway.

(c) In addition to the civil penalties provided for in [section 1-6](#) of this Code, violation of this section shall be a misdemeanor punishable by a fine as provided for in NCGS 14-4.  
(Code 1987, § 8-5; Ord. No. 02-44, § 1, 7-11-2002; Ord. No. 04-89, §§ 1, 2, 9-9-2004)

Sec. 58-4. - Use of coasters, roller skates and similar devices.

No person upon roller skates, or riding in or by means of any coaster, skateboard, toy vehicle or similar device shall go upon any roadway except while crossing a street on a crosswalk, and, when so crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 8-30; Ord. No. 02-44, § 1, 7-11-2002)

Sec. 58-41. - Authority of police and fire department officials.

(a) The officers of the police department or such officers as are assigned by the chief of police shall enforce all street traffic laws of this city and all of the state vehicle laws applicable to street traffic in this city.

(b) Officers of the police and fire departments or such officers as are assigned by the chief of police may direct all traffic by voice, hand or signal in conformance with traffic laws, provided that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) The chief of police shall establish a rotation list for wrecker services to be used by the police department when wrecker services are required by the police department for any reason and shall adopt reasonable rules and regulations for admission of applicant wrecker services to the list and for operation of such services while performing any act requested by members of the police department.

(Code 1987, § 8-26; Ord. No. 08-01, § 1, 1-10-2008)

Sec. 58-42. - Obedience to police and fire department officials.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer, firefighter, school crossing guard or traffic officer designated by the chief of police. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$250.00 as provided for in N.C.G.S. 14-4(a).

(Code 1987, § 8-27; Ord. No. 02-44, § 2, 7-11-2002)

Sec. 58-43. - Violations; notice and procedure.

(a) The city shall provide suitable serially numbered forms for notifying violators to appear and answer to charges of violating traffic laws and ordinances.

(b) Except when authorized or directed under state law to immediately take a person arrested for a violation of any of the traffic laws before a magistrate, any police officer, upon making an arrest for violation of the state traffic laws or traffic ordinances of this city, shall take the name, address and state and city license number of the alleged violator of the motor vehicle involved and shall issue a uniform traffic citation provided by the state.

(Code 1987, § 8-32)

Sec. 58-83. - Obedience to.

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the traffic ordinances of this city, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized

emergency vehicle in this chapter. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 8-53; Ord. No. 02-44, § 1, 7-11-02)

Sec. 58-85. - Unauthorized display declared nuisance.

(a) No person shall place, maintain or display upon or in view of any street any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.

(b) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign, signal or utility pole bearing thereon any commercial advertising except as permitted by the City of Concord. This shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(c) Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the street is hereby empowered to remove it or cause it to be removed without notice.

(d) In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 8-55; Ord. No. 02-44, § 1, 7-11-02; Ord. No. 06-86, § 1, 9-14-2006)

Sec. 58-86. - Unauthorized interference.

No person without lawful authority shall attempt to or in fact alter, deface, injure, knock down or remove any official traffic control device or any railroad sign or signal or any inscription, shield or insignia thereon or any other part. In addition to the civil penalties provided for in [section 1-6](#), violation of this section shall be a misdemeanor punishable by a fine not to exceed \$50.00 as provided for in N.C.G.S. 14-4.

(Code 1987, § 8-56; Ord. No. 02-44, § 1, 7-11-02)

## ARTICLE V. - VEHICLE OPERATION<sup>[3]</sup>

Sec. 58-161. - Processions; funerals.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Vehicle procession means a group of motor vehicles including, but not limited to, funeral processions as defined in G.S. 20-157.1:

(1) Led by a vehicle of a law enforcement agency with territorial jurisdiction whose blue warning lights are in operation;

(2) Traveling in single file with headlights in operation; and

(3) If equipped with emergency flashers, the vehicle's emergency flashers shall be in operation.

(b) Right-of-way. The operator of the lead vehicle in a vehicle procession shall comply with all traffic control signals, but when the lead vehicle in a procession has progressed across an intersection in accordance with the traffic control sign or signal, or when directed to do so by a

law enforcement officer or a designee of a law enforcement officer or the funeral director, all vehicles in the funeral procession may proceed through the intersection without stopping. In no case shall a vehicle stop in the roadway in such a manner as to impede the progress of the procession. All vehicles on intersecting roadways shall yield the right-of-way to the vehicles in the procession even if a traffic control signal turns green in their direction. An operator of a vehicle that is not part of the funeral procession shall not join the funeral procession for the purpose of securing the right-of-way granted by this subsection.

(c) Driving through procession. No vehicle, not a part of the procession, shall be driven through a vehicle procession except the emergency vehicles set forth in G.S. 20-156 and 20-157 when operated in conformity with the provisions of G.S. 20-156 and 20-157.

(d) Speed. In speed zones having a maximum speed limit of 20 miles per hour or less, a vehicle procession may travel at the maximum speed limit. In speed zones having a maximum speed limit of greater than 20 miles per hour, a vehicle procession shall not exceed a speed of ten miles per hour less than the posted speed limit.

(e) Request for escort to constitute indemnification agreement. Any person, firm, corporation, partnership, organization or entity whatsoever who shall request the police department to provide a vehicle to lead a vehicle procession shall be deemed to have agreed to indemnify the city, the chief of police, the police department, and any and all of their officers, agents, servants or employees from any damages, harm or liability whatsoever, which shall arise from their involvement in the vehicle procession as requested.

(f) Authority. This section is adopted pursuant to the authority conferred by G.S. 20-169 and 20-157.1(l).

(g) Penalty. Violation of subsections (a), (b), (c) and (d) of this section shall be an infraction punishable by a fine of \$50.00.

(Ord. No. 00-66, §§ 8-102—8-104.4, 7-13-2000)

#### Sec. 58-166. - Cruising.

(a) No person shall drive or permit a motor vehicle under his care, custody or control to be driven past a traffic control point three or more times within a two-hour period from 6:00 p.m. to 4:00 a.m., Monday through Sunday, in or around a posted no cruising area so as to contribute to traffic congestion, obstruction of streets, sidewalks or parking lots, impediment of access to shopping centers or other buildings open to the public, or interference with the use of property or conduct of business in the area adjacent thereto.

(b) At every point where a public street or alley becomes or provides ingress to a no cruising area, there shall be posted a sign which designates "no cruising" areas and times. An area under the term "no cruising" shall be defined as follows: No cruising. No person shall drive or permit a motor vehicle under his care, custody, or control to be driven past a traffic control point three or more times within a two-hour period in or around this area so as to contribute to traffic impediment of access to shopping centers or other buildings open to the public, or interference with the use of property or the conduct of business in the adjacent area.

(c) A traffic control point, as used in this section, means any point or points within the no cruising area established by the police department for the purposes of monitoring cruising.

(d) No violation shall occur except upon the third passage by the same traffic control point within the two-hour period.



(e) No area shall be designated or posted as a "no cruising" area except upon the passage of a resolution by the city council specifically mandating such designation and posting for a particular area.

(f) This section shall not apply to in-service emergency vehicles, taxicabs for hire, buses and other vehicles being driven for business purposes.

(g) Where there is a violation of any provision of this section, the city shall take the following actions:

(1) A police officer shall issue a citation for such violation, subjecting the violator to a \$25.00 civil penalty to be paid within ten days, which penalty shall provide for an additional \$25.00 delinquency charge upon nonpayment, and which penalty and delinquency may be recovered by the city in a civil action.

(2) Upon any subsequent violation within a seven-day period, a police officer shall issue to the violator a misdemeanor traffic summons in lieu of a civil citation. Violation of this section shall be punishable by a fine of \$500.00.

(Code 1987, § 8-109)

Sec. 58-167. - Truck restricted to certain streets.

(a) Except as otherwise provided in this section, it shall be unlawful to operate a motor vehicle licensed to haul property in excess of 10,000 pounds on the streets within the city.

(b) All designated and numbered state and United States routes are exempt from the prohibition of subsection (a) of this section except when closed to truck traffic by the state division of highways.

(c) The city traffic engineer is authorized to designate other through truck routes throughout the city.

(d) The following vehicles are exempt from this section:

(1) Any motor vehicle owned or operated by the city, county, state or a public utility or cable television service.

(2) Any motor vehicle designed or adopted for the purpose of towing disabled vehicles.

(3) Any motor vehicle owned by a fire department, firefighting organization, rescue squad or lifesaving organization.

(4) Any motor vehicle used for the purpose of collecting, compacting or hauling garbage.

(5) Any motor vehicle owned by a parcel delivery service.

(6) Any person who resides in the city may operate any motor vehicle for the purpose of ingress or egress to his residence.

(7) Any motor vehicle actually engaged in the delivery of property to or from a location which may be accessed only by use of a route not designated a truck route shall be entitled to use the most direct route to such location from the closest designated truck route.

(e) Any violation of this section shall be deemed an infraction and shall be punishable by a fine not to exceed \$100.00.

(Code 1987, § 8-110)

**Cross reference**— Streets, sidewalks and other public places, [ch. 50](#).

Sec. 58-331. - Unattended illegally parked vehicles; affixing notice thereto.

Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by ordinance of the city, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may



identify its user, and shall conspicuously affix to such vehicle a notice in writing, on a form provided by the city, for the driver to answer to the charge against him within 24 hours during the hours and at a place specified in the notice.

(Code 1987, § 8-271)

Sec. 58-332. - Failure to comply with notice; issuance of warrant.

If any person fails to comply with a notice given to such person or attached to a vehicle or fails to pay civil penalties as required and within the time permitted by ordinance, an officer on duty shall forthwith have a complaint entered against such person and secure a warrant for his arrest.

(Code 1987, § 8-272)

Sec. 58-333. - Circumstances warranting impoundment; notice to owner.

(a) Members of the police department may remove a vehicle from a street or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department, or otherwise maintained by the city under the following circumstances:

(1) When any vehicle is left unattended upon any bridge, viaduct or street or in any other place where such vehicle constitutes an obstruction to traffic or is left unattended for 24 hours on any city-owned property;

(2) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal;

(3) When any vehicle is left unattended upon a street or is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic or is left unattended for 24 hours on any city-owned property;

(4) When any vehicle constitutes or contains potential fruits, evidence, or instrumentalities of a crime.

(b) Whenever an officer removes a vehicle from a street as authorized in this section and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner, such officer shall immediately give or cause to be given notice to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed.

(Code 1987, § 8-273)

**State Law reference**— Removal of vehicles from public highways, G.S. 20-161.

## **Chapter 60 - STORMWATER UTILITY CONTROL AND MANAGEMENT**

Sec. 60-23. - Billing method, responsible parties.

(a) Bills for stormwater service shall be sent at regular periodic intervals beginning in January 2006. Stormwater service charges may be billed on a combined utility bill that also contains charges for electric and/or water and/or sanitary sewer and/or solid waste management service or any combination of city-provided utility services, including only stormwater. Stormwater service charges that are shown on a combined utility bill may be for a different service period than that used for the other city utility services.

(b) Stormwater service charges for a property that receives water service or combined sanitary sewer and water service will be sent to the customer receiving such service. However, where multiple water and sewer accounts exist for a single parcel, the bill for stormwater service

charges may for good cause shown at the discretion of the city be sent to the property owner. The city will develop additional policies concerning billing.

(c) The property owner is ultimately responsible for payment of the stormwater service charge for property for which the party billed has not paid the stormwater management service charge.

(d) Owners of property may, with the consent of the city, designate each occupant of the property as the party to receive the bill for stormwater service charge by completing and properly executing a form provided by the city. Such designation shall fairly allocate the impervious surfaces actually used by the billed party, and it shall be binding for the period of time specified by the city. No occupant may be designated as the party to receive the bill for stormwater service charge unless the occupant is also receiving another city utility bill. Such transfer does not relieve either the owner and/or occupant from liability for stormwater service charges if the party billed does not pay them.

(e) All other aspects of billing shall be handled as set forth in the city council adopted utility policies and procedures (Ordinance 97-15, amended and as a city council policy on June 9, 2005) unless specifically described in this section, or the section immediately following.

(Ord. No. 07-108, § 1, 12-13-2007)

#### Sec. 60-24. - Payment provisions; utility termination.

(a) Where stormwater service charges appear on a combined utility bill or a master summary bill, and a customer does not pay the service charges for all the utilities on the bill, the partial payment will be applied to the respective service charges in the order shown in the annual adopted budget ordinance.

(b) Stormwater service charges are due to the city within the time period stated on the bill. Bills not paid within this time shall be charged a late fee as set forth in the city council adopted utility policies and procedures (ordinance 97-15, amended and as a city council policy on June 9, 2005).

(c) Where a property receives other city utility services, if stormwater service charges for that property are not paid, other utility services to that property may be terminated, whether or not the stormwater service charges were included on a combined utility bill. Termination will be handled in accordance with standard operation provisions of the city as set forth in the city council adopted utility policies and procedures (ordinance 97-15 as amended).

(d) No property owner with outstanding stormwater service charges is entitled to receive other city utility services until the outstanding stormwater service charge on that property is paid. No customer with a delinquent stormwater service account is entitled to open another city utility account at the same or different location until the delinquency has been satisfied.

(e) If property is under billed, or not billed, or a bill is sent to the wrong party, the city may back bill up to a three-year period. Payment arrangements are specified in the utility policies and procedures.

(f) Customers with complaints about the accuracy of stormwater service charges are entitled to a review as set forth in the city council adopted utility policies and procedures.

(Ord. No. 07-108, § 1, 12-13-2007)

#### ARTICLE IV. - STORMWATER QUALITY CONTROL AND MANAGEMENT

#### Sec. 60-46. - Duty of owner to comply with National Pollution Discharge Elimination (NPDES) Permit, Phase 2 and utility compliance.

- (a) The city manager or his designee shall not be authorized to approve any development not in compliance with:
- (1) The NPDES Phase 2 Permit granted to the city by the State of North Carolina; or
  - (2) The applicable sections of the North Carolina Administrative Code; or
  - (3) The zoning and development ordinances of the city.
- (b) The city manager or his designee shall not be authorized to approve any connection to city drainage facilities unless he is of the opinion that the size, shape, and location of the newly installed drainage facilities are adequate for handling the anticipated amount of water.
- (c) It shall be the responsibility of the property owner of any parcel of land when making any improvements or changes affecting the land, which alter the existing flow pattern of runoff (storm) water, to install appropriate facilities according to the provisions of subsection (a) immediately above for carrying the runoff (storm) water into a properly approved conveyance, engineered stormwater control structure or via a best management practice approved by the city. No zoning compliance permit shall be issued for any property within the jurisdiction of the city until the conditions of this section are met.
- (d) It shall be illegal for any utility company to allow electricity or public water to be connected to any facility on any land that has not complied with the provisions of this section.
- (e) Any stormwater maintenance agreement shall be approved and accepted by the city council before recordation at the Cabarrus County register of deeds.
- (Ord. No. 07-108, § 1, 12-13-2007; Ord. No. 11-14, § 1, 3-10-2011)

Sec. 60-47. - Non-stormwater discharge controls.

- (a) Illicit discharges. No person shall cause the commencement, conduct, or continuance of any nonstormwater discharge to the stormwater conveyance system except as provided below.
- (1) Nonstormwater discharges associated with the following activities are allowed:
- a. Filter backwash and draining associated with raw water intake screening and filtering devices;
  - b. Potable water line flushing and hydrostatic testing water associated with utility operations;
  - c. Flushing and cleaning of stormwater conveyances with unmodified potable water;
  - d. Uncontaminated pumped groundwater and other discharges from potable water sources such as water line leaks, draining for pipes for repairs, and emptying of potable water storage tanks;
  - e. Landscape irrigation and lawn watering water;
  - f. Diverted stream flows;
  - g. Uncontaminated rising groundwater;
  - h. Groundwater infiltration to the storm drain system;
  - i. Uncontaminated groundwater from foundation and footing drains;
  - j. Uncontaminated groundwater from crawl space pumps;
  - k. Residential or commercial air conditioning condensation;
  - l. Uncontaminated water from roof drains;
  - m. Wash water from the cleaning of the exterior of buildings, including gutters, provided that the discharge does not pose an environmental or health threat;
  - n. Uncontaminated groundwater from springs;
  - o. Individual residential and occasional non-commercial car washing;
  - p. Water from riparian habitats and wetlands;
  - q. Discharges from the pumping or draining of natural watercourses or waterbodies;
  - r. Filter backwash and draining associated with swimming pools provided that water quality is not significantly impacted;;

- s. Street wash water;
  - t. Flows from fire fighting;
  - u. Discharges associated with emergency removal and treatment activities, for hazardous materials, authorized by the federal, state, or local government on-scene coordinator; and
  - v. Other non-stormwater discharges for which a valid NPDES discharge permit, waiver, or waste discharge order has been approved and issued by the State of North Carolina under the authority of the Federal Environmental Protection Agency, provided that:
    1. The discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations;
    2. Written notification of such permitted discharge has been filed with the stormwater administrator, in a form acceptable to the stormwater administrator; and
    3. Discharges to the municipal separate storm sewer system have been authorized by the stormwater administrator.
- (2) Prohibited substances include, but are not limited to:
- a. Oil and grease of petroleum or synthetic hydrocarbon origin;
  - b. Fats, oils, and grease of plant or animal origin;
  - c. Anti-freeze, parts cleaner, and other motor equipment fluids;
  - d. Chemicals, paints, pesticides, and other household hazardous wastes;
  - e. Animal waste, gray water and waste water from RV's and travel trailers;
  - f. Washdown water from concrete trucks, and floor mop water;,,
  - g. Garbage, litter, yard waste, and any other solid waste materials; and
  - h. Contaminated washdown or drainage from dumpster drains.
- (3) With written concurrence of the North Carolina Department of Environment and Natural Resources, the city may exempt in writing other non-stormwater discharges, which are not a source of pollutants to the storm water conveyance system or waters of the state.
- (b) Illicit connections. Note: This regulation first became effective on December 13, 2007.
- (1) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited. Prohibited connections include, but are not limited to:
- a. Floor drains,
  - b. Wastewater from washing machines,
  - c. Wastewater from sanitary sewers,
  - d. Wash water from commercial vehicle washing or steam cleaning, and
  - e. Wastewater from septic systems.
- (2) This prohibition expressly includes, without limitation, illicit connections made prior to the adoption of this provision or any other ordinance prohibiting such connections, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. The property owner or the person using said connection shall remove the connection within one year following the effective date of this regulation; provided that the grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.
- (3) Where it is determined that said connection may result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat; or was made in violation of any applicable regulation or ordinance, the city manager or his designee shall

designate the time within which the connection shall be removed. In setting the time limit for compliance, the city shall take into consideration:

- a. The quantity and complexity of the work;
- b. The consequences of delay;
- c. The potential harm to the environment, to the public health, and to public and private property; and
- d. The cost of remedying the damage.

(c) Waste disposal. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or waters of the state, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

(d) Discharges in violation of industrial or construction activity NPDES stormwater discharge permit. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

(e) Spills. Spills or leaks of polluting substances discharged to, or having the potential to be indirectly transported to the stormwater conveyance system, shall be contained, controlled, collected, and removed promptly. All affected areas shall be restored to their preexisting condition. Persons associated with the spill or leak shall immediately notify the City of Concord Fire Chief or his designee of all spills or leaks of polluting substances. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by state or other law.

(Ord. No. 07-108, § 1, 12-13-2007)

#### Sec. 60-48. - Enforcement of stormwater control and management.

(a) Authority to enter. Any authorized city personnel shall be permitted to enter upon public or private property for the purposes of observation, inspection, sampling, monitoring, testing, surveying, and measuring compliance. Should the owner or occupant of any property refuse to permit such reasonable access, the city manager or his designee shall proceed to obtain an administrative search warrant pursuant to G.S. § 15-27.2 or its successor. No person shall obstruct, hamper or interfere with any such representative while carrying out his official duties.

(b) Civil penalties. Civil penalties may be assessed simultaneously for each kind of violation: discharge, connection, improper BMP, maintenance or other violation.

(1) Illicit discharges. Any designer, engineer, contractor, agent, or any other person who allows, acts in concert, participates, directs, or assists directly or indirectly in the creation of a violation of this chapter shall be subject to civil penalties as follows:

- a. For first time offenders, if the quantity of the discharge is equal to or less than five gallons and consists of domestic or household products in quantities considered ordinary for household purposes, said person shall be assessed a civil penalty not to exceed \$100.00 per violation or per day for any continuing violation, and if the quantity of the discharge is greater than five gallons or contains non-domestic substances, including but not limited to process waste water, or if said

person cannot provide clear and convincing evidence of the volume and nature of the substance discharged, said person shall be assessed a civil penalty not to exceed \$1,000.00 per violation or per day for any continuing violation.

b. For repeat offenders, the amount of the penalty shall be at least double the amount assessed for the previous penalty, not to exceed \$10,000.00 per violation or per day for any continuing violation.

c. In determining the amount of the penalty, the city manager or his designee shall consider:

1. The degree and extent of harm to the environment, the public health, and public and private property;
2. The cost of remedying the damage;
3. The duration of the violation;
4. Whether the violation was willful;
5. The prior record of the person responsible for the violation in complying or failing to comply with this chapter;
6. The costs of enforcement to the public; and
7. The amount of money saved by the violator through his, her, or its noncompliance.

(2) Illicit connections. Any person found with an illicit connection in violation of this chapter and any designer, engineer, contractor, agent, or any other person who allows, acts in concert, participates, directs, or assists directly or indirectly in the establishment of an illicit connection in violation of this chapter, shall be subject to civil penalties as follows:

a. First time offenders shall be subject to a civil penalty not to exceed \$500.00 per day of continuing violation.

b. Repeat offenders shall be subject to a civil penalty not to exceed \$1,000.00 per day of continuing violation.

c. In determining the amount of the penalty, the city manager or his designee shall consider:

1. The degree and extent of harm to the environment, the public health, and public and private property;
2. The cost of remedying the damage;
3. The duration of the violation;
4. Whether the violation was willful;
5. The prior record of the person responsible for the violation in complying or failing to comply with this chapter;
6. The costs of enforcement to the public; and
7. The amount of money saved by the violator through his, her, or its noncompliance.

d. Procedures for assessing penalties pursuant to illicit connections. Said penalties shall be assessed by the city manager or his designee. No penalty shall be assessed until the person alleged to be in violation is served written notice of the violation by registered mail, certified mail-return receipt requested, or personal service. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty. The notice shall describe the violation with particularity and specify the measures needed to come into compliance. The notice shall designate the time within which such measures must be completed. In setting the time limit for compliance, the city shall take into consideration:

1. The quantity and complexity of the work;
2. The consequences of delay;
3. The potential harm to the environment, the public health, and public and private property; and
4. The cost of remedying the damage.

The notice shall warn that failure to correct the violation within the specified time period will result in the assessment of a civil penalty and/or other enforcement action. If after the allotted time period has expired, and the violation has not been corrected, the penalty shall be assessed from the date of receipt of notice of violation and each day of continuing violation thereafter shall constitute a separate violation under this section.

(3) Improper BMP maintenance, inspection and reporting. Any permittee found in violation of the BMP maintenance, inspection and reporting requirements of their maintenance agreement with the city or the conditions of their stormwater conveyance and control system permit shall be subject to a civil penalties as follows:

- a. First time offenders shall be subject to a civil penalty not to exceed \$500.00 per day of continuing violation.
- b. Repeat violators shall be subject to a civil penalty not to exceed one \$1,000.00 per day of continuing violation.
- c. In determining the amount of the penalty, the city manager or his designee shall consider:
  1. The degree and extent of harm to the environment, the public health, and public and private property;
  2. The cost of remedying the damage;
  3. The duration of the violation;
  4. Whether the violation was willful;
  5. The prior record of the person responsible for the violation in complying or failing to comply with this chapter;
  6. The costs of enforcement to the public; and
  7. The amount of money saved by the violator through his, her, or its noncompliance.
- d. Procedures for assessing penalties pursuant to improper BMP maintenance, inspection and reporting. Said penalties shall be assessed by the city manager or his designee. No penalty shall be assessed until the permittee alleged to be in violation is served written notice of the violation by registered mail, certified mail-return receipt requested, or personal service. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty. The notice shall describe the violation with particularity and specify the measures needed to come into compliance. The notice shall designate the time within which such measures must be completed. In setting the time limit for compliance, the city shall take into consideration:
  1. The quantity and complexity of the work;
  2. The consequences of delay;
  3. The potential harm to the environment, the public health, and public and private property; and
  4. The cost of remedying the damage.

The notice shall warn that failure to correct the violation within the specified time period will result in the assessment of a civil penalty and/or other enforcement action. If after the allotted time period has expired, and the violation has not been corrected, the penalty shall be assessed from the date of receipt of notice of violation and each day of continuing violation thereafter shall constitute a separate violation under this section.

(4) Other violations. Any person found in violation of other provisions of this chapter, not specifically enumerated elsewhere, shall be subject to a civil penalty not to exceed \$100.00 per violation or per day for any continuing violation.

(5) Payment/collection procedures. Penalties shall be assessed by the city manager or his designee. No penalty shall be assessed until the person alleged to be in violation is served written notice of the violation by registered mail, certified mail-return receipt requested, or personal

service. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty. The city manager or his designee shall make written demand for payment upon the person in violation. If the payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to the city attorney for institution of a civil action in the name of the city, in the appropriate division of the general court of justice in Cabarrus County for recovering the penalty.

(c) Injunctive relief.

(1) Whenever the city council has a reasonable cause to believe that any person is violating or threatening to violate this chapter, rule, regulation, order duly adopted or issued pursuant to this chapter or making a connection to a stormwater conveyance or stormwater conveyance system other than in accordance with the terms, conditions, and provisions of approval, the city may, either before or after the institution of any other action or proceeding authorized by the Code, institute a civil action in the name of the city for injunctive relief to restrain and abate the violation or threatened violation.

(2) The institution of an action for injunctive relief under subsection (c) shall not relieve any party to such proceeding from any further civil or *criminal* penalty prescribed for violations of this Code.

(d) *Criminal* penalties. Any person who knowingly or willfully violates any provision of this chapter, rule, regulation, order duly adopted or issued pursuant to this chapter shall be guilty of a misdemeanor, punishable by a fine not to exceed \$500.00 or imprisonment for not longer than 30 days. Each violation shall be a separate offense.

*Criminal* penalties are enforceable through the provisions of G.S. §160A-175 and Code of Ordinances § 1.6

(e) Appeals of this [section 60-48](#) shall follow the procedures outlined in [section 60-49](#). (Ord. No. 07-108, § 1, 12-13-2007)

Sec. 60-49. - Appeals.

(a) Persons entitled to a hearing. The following persons are entitled to a hearing pursuant to this section, for any actions taken by the city pursuant to this Article IV, each of whom is hereafter referred to as "aggrieved person."

(1) Any person whose application for a permit extending city stormwater utility under this article is denied;

(2) Any person against whom the city assesses a penalty pursuant to this article.

(b) Procedures for requesting a hearing. The aggrieved person shall exercise such right to a hearing by making a written demand for a hearing in accordance with this subsection. Any person making a demand for a hearing shall deliver the demand to the stormwater administrator within 30 days of the following:

(1) The date of issuance of the contested permit;

(2) The date of the notice of the denial of permit issuance;

(3) The date of the notice of a revocation, modification, or suspension of an issued permit; or

(4) The date that a penalty was assessed.

(c) Content of hearing request. The written demand for a hearing must identify separately and with particularity the following:

(1) The aggrieved person or persons;

(2) The specific permit provision or condition or other issues contested to be considered;

(3) The reason for the objection; and



- (4) Any alternate provisions, conditions, or terms the aggrieved person proposes.
- (d) Hearing procedures.
- (1) The hearing shall be conducted by the stormwater administrator and shall be subject to such rules as have been approved by the city council or the stormwater administrator as hereinafter set forth.
- (2) If the demand for a hearing is not made in accordance with the provisions of this section, the stormwater administrator shall reject the demand and any right to a hearing shall be terminated.
- (3) If any person demanding a hearing shall fail to comply with an order of the stormwater administrator or with any rules issued by the stormwater administrator or approved by the city council concerning the conduct of the hearing, the stormwater administrator may reject the demand and any right to a hearing shall be terminated.
- (4) Within 90 days of the receipt of the written hearing request, the stormwater administrator shall conduct a hearing and issue a final order or decision. The stormwater administrator shall transmit a copy of the final order or decision to the aggrieved person by registered or certified mail.
- (5) The stormwater administrator is authorized to take any action which is reasonably necessary or convenient in considering a demand for a hearing and in resolving the issues raised therein so long as such action is not contrary to the provisions of this article, or other applicable law.
- (6) The stormwater administrator may appoint a hearing officer to conduct any hearing authorized by this section. A hearing officer shall have the same authority to conduct a hearing and reach a decision as is provided to the stormwater administrator, provided that the decision of the hearing officer shall not be final, but shall be a recommended decision for consideration by the stormwater administrator.
- (7) The stormwater administrator may approve such decision without change, reject the decision that is supported by evidence presented at the hearing, or issue a different or revised decision that is supported by evidence presented at the hearing.
- (8) The decision of the stormwater administrator shall be final.
- (9) A final order may provide that the action that is the basis for the demand for a hearing is approved without change or may modify such action in any manner that is supported by the evidence presented at the hearing.
- (10) The stormwater administrator may, but is not required to, provide for any part of the hearing to be recorded by any reasonable means including, but not limited to, audio and/or video recording, stenographer, or court reporter. A transcript of any hearing, part thereof, which is recorded need not be prepared unless requested. The original of a requested transcript shall be filed with the stormwater department. Each person shall bear the cost of the transcript which such person requests, including any copy thereof. The decision of the stormwater administrator shall be reviewable only by seeking a writ of mandamus from the superior court within 30 days of the entry of the final order set forth herein.
- (Ord. No. 07-108, § 1, 12-13-2007)

## **Chapter 62 - WATER AND WASTEWATER UTILITIES**

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

#### **Sec. 62-1. - Introduction and purpose.**

The purpose of this chapter is to provide rules and standards for the distribution of potable water provided by the city, the collection of wastewater by the city, and the extension of the water and sewer utilities infrastructure. A separate ordinance entitled "utility policies and procedures"

contains the rules and requirements for the provision of all utilities, including water distribution and wastewater collection to consumers. For information on establishing or terminating existing utility services, billing, and the rights and responsibilities of customers, please refer to the "utility policies and procedures." The "utility policies and procedures" are incorporated herein by reference as if printed in this chapter. The specific rates and charges are stated in the budget ordinance, which is adopted annually by the city council. Other federal and state statutes and regulations incorporated in this chapter by reference are cited below at the section of this chapter to which they apply.

(Ord. No. 04-17, § 1, 3-11-2004)

#### Sec. 62-2. - Definitions.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

Act and the Act mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Air gap means unobstructed vertical distance through the atmosphere between the lowest opening from any pipe or faucet supplying water from any source to a tank, plumbing fixture or other device and the flood level rim of the receptacle. An approved air gap separation shall be at least two times the diameter of the supply pipe. In no case shall the air gap separation be less than one inch. An approved air gap separation is an effective method to prevent backflow and shall be considered as a backflow prevention assembly.

Alliance. The Public Health Authority of Cabarrus County d.b.a. Cabarrus Health Alliance.

Application means the most recent version of the appropriate form provided by the city, upon which utility services or other city approvals may be required.

Approval authority. The Director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources or his designee.

Area of consideration means any area adjacent to the municipal limit of the city that is being considered for annexation, as delineated in the city's latest adopted five-year annexation plan.

Atmospheric vacuum breaker means a device not subject to static line pressure used to prevent backsiphonage.

Authorized representative of the industrial user:

(1) If the industrial user is a corporation, an authorized representative means:

a. The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the industrial user is a partnership or sole proprietorship, an authorized representative means a general partner or the proprietor, respectively.

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

(4) The individuals described in subsections (1)—(3) may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to WSACC.

Back pressure means any elevation of pressure in the downstream piping system caused by pumps, elevation of piping, or steam and/or air pressure above the supply pressure at the point of consideration, which would cause a reversal of the normal direction of flow.

Backflow means any reverse flow of water, gas, or any other liquid substance or combination into the city utilities water system from any source due to an unprotected cross connection.

Backflow prevention administrator means an employee of the city designated by the director of water resources to administer and enforce the provisions of [section 62-161](#).

Backflow prevention assembly, approved, means an assembly that has been investigated and approved by the backflow prevention administrator and has been approved to meet the design and performance standards of the American Society of Sanitary Engineers (ASSE), the American Water Works Association (AWWA), or the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California.

Backsiphonage means a reversal of the normal direction of flow in the pipeline due to a negative pressure (vacuum) being created in the supply line with the backflow source subject to atmospheric pressure.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius; usually expressed as a concentration (milligrams per liter).

Boundaries of WSACC or service area . The service area includes the county and that portion of the City of Kannapolis located within Rowan County.

Building means any structure or part of a structure built for the separate shelter or enclosure of persons, animals, chattels, or property of any kind and which has enclosing walls for at least 50 percent of its perimeter. Each unit separated from other units by a four-hour firewall shall be considered as a separate building.

Building drain means that portion of the horizontal piping of a drainage system that receives waste from inside the building and conveys it to the building sewer that begins ten feet outside the building wall.

Building sewer means that part of the horizontal piping of a drainage system that receives the discharge from a single building drain and conveys it directly to a public wastewater collection system.

Bypass means the intentional diversion of water stream around a water meter or wastewater stream around a sewer meter or any portion of a treatment facility.

Categorical standard and National categorical pretreatment standard mean any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with Sections 307(b) and (c) of the Act (33 USC 1347) which applies to a specific category of industrial users and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-through 471.

Certified tester means any individual person who has proven his competency to test, repair, and overhaul backflow prevention assemblies. This person must hold a certificate of completion from a certified training program in the testing and repair of backflow prevention assemblies and cross connection control.

Chemical oxygen demand (COD) means the quantity of equivalent oxygen utilized in the chemical oxidation of organic matter as measured by standard laboratory methods as set out in this chapter, expressed in parts per million.

Chemical toilets means the structures used to collect human wastes at mass gatherings, construction sites, and labor work camps that do not discharge to a wastewater collection system.

City means and includes the City of Concord, its departments, entities, agents, and employees.

City of Concord Director of Engineering or director of engineering means the administrator of the engineering department duly appointed by the city manager of the city pursuant to NCGS 160A-148(1). This term shall also include any designee of the director of engineering. Notice of a change in the position of director of engineering; shall be given to state DENR. Either the director of engineering or a designee shall be licensed pursuant to G.S. Ch. 89C.

City planner shall mean the City of Concord Director of Planning and Community Development.

Collection system shall mean pipelines or conduits, pumping stations, specialized modes of conveyance, and appliances appurtenant thereto, used for conveying wastewater to a point of ultimate disposal.

Color means the true color due to substances in solution which cause any variation in the hue of the receiving stream and is expressed in parts per million.

Concord utility(ies) means the city's water resources department and the city's wastewater resources (sewer) department singularly or collectively and/or those facilities owned and maintained by the city for the purpose of providing potable water and/or sanitary sewer services. Concord means the City of Concord, a state municipal corporation, which includes the "Concord Utilities" as defined above.

Consumer or customer mean any person using or receiving service from city utilities.

Containment means the prevention of backflow from a private water system by an approved, properly-functioning backflow prevention assembly which is installed, operated, and maintained in accordance with the provisions of [section 62-161](#).

Contaminant means any concentration of a physical, chemical, biological, or radiological matter in water that exceeds the state's water quality standards.

Contamination means an impairment of the quality of the water to a degree, which creates an actual hazard to the public health through poisoning or through the spread of disease.

Control authority . Refers to the POTW organization if the POTW organization's pretreatment program approval has not been withdrawn.

Cooling water means the water discharged from any use such as air conditioning, cooling, or refrigeration during which the only pollutant added to the water is heat.

Cross connection means any actual or potential connection or piping arrangement between a public and/or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluids, gas, or substance which could be harmful or hazardous to the potable water system. Cross connection includes connection of tankers and other mobile storage devices to valves, including but not limited to fire hydrants.

Developed property means property developed to its highest and best permitted use according to the development (zoning) ordinance applicable to the property. For example a 12,000-square-foot lot zoned RM-2 in the city containing a single family residence is "developed" for the purposes of this chapter.

Developer means any person, firm, partnership, joint venture, association, corporation, group, or organization who shall participate as owner, promoter, developer, or sales agent in the planning,

platting, development, promotion, sale, or lease of a development. The owner of land proposed to be subdivided or developed or its authorized agent who is responsible for any undertaking that requires review and/or approval.

Developer contract means a document used for the purposes of obligating a developer to adhere to the development standards and conditions of the city if the developer utilizes either water or sewer service from the city, regardless of the development's location.

Development means any portion of land that is altered so that it becomes suitable for construction or the act of making a portion of land suitable for construction.

(1) Commercial development means any portion of land that is being altered for a use other than industrial or residential purposes, relating to the retail or wholesale of products or services provided with the intent for monetary gain.

(2) Industrial development means any portion of land that is being altered for a use other than commercial or residential purposes, relating to any manufacturing or processing with the intent for monetary gain.

(3) Residential development means any portion of land being altered so that it is suitable for a residence or a residential subdivision.

Domestic wastes means liquid wastes from the noncommercial preparation, cooking, and handling of food; or containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities, and institutions.

Double check valve assembly means an assembly composed of two single, independently-acting, approved check valves, including tightly-closing shutoff valves located at each end of the device and suitable connections for testing the water tightness of each check valve.

Drainage area or watershed mean an entire area contributing surface runoff to a single point as set forth in 15A N.C.A.C. 2H.1002.

Dual check valve means a device composed of two single, independently-acting, approved check valves.

Dwelling means any building which contains one or more dwelling units used, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied, or which are occupied for living purposes as set forth in the North Carolina State Building Code, Vol. 1, 201.1 and Vol. VII, 202.

Easement(s) or right(s)-of-way mean an affirmative easement that is a portion of land granted or conveyed by deeded property owner(s) for a specified purpose and use by the general public, the city, a corporation, or specific persons. The entity that is granted an easement or to whom an easement is conveyed, even though not the deeded land owner, is entitled to a specific, irrevocable, limited use or enjoyment.

Engineer means a professional engineer licensed pursuant to G.S. Ch. 89C.

Environmental Protection Agency (EPA) means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Executive director means the chief administrative officer of control authority or his/her delegate.

Extension means any publicly- or privately-owned attachment to the city utilities system that has the potential to distribute potable water to or receive wastewater from one or more service lines.

Force majeure means a superior or irresistible force outside of human control such as flood, fire, earthquake, lightning and similar natural occurrences. Also referred to as "Acts of God."

Grab sample means a sample that is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

Hazard, degree, means the evaluation of a hazard within a private water system as moderate or high.

Hazard, high, means an actual or potential threat of contamination to the city utilities water system or to a customer's potable water system that could cause serious illness or death.

Hazard, imminent, means an actual threat of contamination to the city utilities water system that could cause serious illness or death.

Hazard, moderate, means an actual or potential threat of damage to the physical components comprising the city utilities water system or a customer's potable water system, or of pollution to the city utilities water system or to a customer's potable water system.

Hearing authority. The WSACC Executive Director, WSACC Attorney, and facilities director or duly appointed deputies, agents or representatives thereof.

Holding tank waste means any waste from holding tanks including, but not limited to, such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Immediate oxygen demand (IOD) means the quantity of oxygen utilized by an industrial waste in excess of that normally attributable to sewage as measured by using standard laboratory methods, as set out in this chapter, expressed in parts per million.

Impervious surface means any artificially created surface which cannot be penetrated by water or which causes water to run off the surface including streets, driveways, sidewalks, and rooftops.

Indirect discharge or Discharge means the discharge or the introduction from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act, (33 USC 1317), into the POTW, including holding tank waste discharged into the system.

Industrial user mean any person who is a source of indirect discharge.

Industrial waste means the liquid and waterborne pollutants resulting from processes or operations employed in industrial establishments.

Infiltration means the water entering a sewer system including sewer service connections from the ground through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls.

Inflow means the water discharged into a sewer system including service connections from such sources as, but not limited to, roof leaders, cellars, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catchbasins, stormwaters, surface runoff, street washwaters, or drainage. Inflow does not include, and is distinguished from, infiltration.

Insignificant industrial user means a facility that discharges non-domestic wastewater into a publicly-owned treatment works and does not meet the criteria of a significant industrial user.

Interceptor means a main or line that receives wastewater from several different collection mains and outfall lines.

Interference means the inhibition or disruption of the POTW collection system, operations, or its sludge process, use, or disposal that causes or contributes to a violation of any requirement of the POTW's Control Authority's NPDES, collection system, or non-discharge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. This definition includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, (33 USC 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 USC 6901 et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA), or more stringent than state criteria, including those contained in any

state sludge management plan prepared pursuant to Title IV of SWDA, applicable to the method of disposal or use employed by the POTW.

Irrigation system means any device or combination of devices having a hose, pipe, or other conduit installed in the landscape which transmits water from the city utilities to residential or commercial lawns, landscapes or green space.

Lateral shall mean a conduit conveying water or wastewater that extends from the water distribution or wastewater collection main(s) to and including the water meter, water meter box, corporation stop, and cleanout at the end of the sewer service line, in addition to all associated appurtenances.

Local permit. A permit issued by WSACC allowing wastewater discharge into the POTW pursuant to requirements in this ordinance for users that do not meet the criteria of an SIU or propose to discharge pump and haul wastes.

Lot shall mean a single parcel of land described by metes and bounds recognized as a separate legal entity for purposes of transfer of title with boundaries that have been established by some legal instrument such as a recorded deed, deed of trust, or a recorded map.

Maximum daily discharge means the total concentration or mass of a pollutant discharged from all production periods during a 24-hour calendar day.

Medical waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

N.C. DENR or DENR means the North Carolina Department of Environment and Natural Resources.

National pollutant discharge elimination system (NPDES) means the permit issued pursuant to Section 402 of the Act (33 USC 1342), or pursuant to G.S. § 143-215.1 by the state under delegation from EPA.

National prohibitive discharge standard or prohibitive discharge standard means the absolute prohibitions against the discharge of certain substances; these prohibitions appear in [section 62-191](#) and are developed under the authority of Section 307(b) of the Act and 40 CFR 403.5.

New source means:

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

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

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

(2) Construction on a site where an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation

meeting the criteria of subsection (1) a. or b. but otherwise alters, replaces, or adds to existing process or production equipment.

(3) For purposes of this definition, construction of a new source has commenced if the owner or operator has:

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

1. Any placement, assembly, or installation of facilities or equipment; or
2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities necessary for the replacement, assembly, or installation of new source facilities or equipment; or

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

Nitrogen as ammonia means the initial product in the decomposition of nitrogenous organic matter as measured by using standard laboratory methods, as set out in this chapter, expressed in mg/l.

Non-contact cooling water or wastewater. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Non-discharge permit means a permit issued by the state pursuant to G.S. § 143-215.1(d) for a waste which is not discharged directly to surface waters of the state or for a wastewater treatment works which does not discharge directly to surface waters of the state.

Non-domestic wastewater sewage means the liquid wastes resulting from the processes employed in industrial, manufacturing, trade, or business establishments, as distinct from domestic wastes.

Oversized main means a main extension that, because of estimated future demands or other reasons, is larger than required for serving the immediate demand of the adjacent property.

Owner means any person, agent, firm, or corporation having a legal equitable interest in the property.

Parcel means an area of land defined by a legal description and recorded with the register of deeds.

Pass-through means a discharge that exits the POTW into waters of the state in quantities or concentrations which, alone or within discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the control authority's NPDES, collection system, or non-discharge permit or a downstream water quality standard even if not included in the permit.

Permit means a written permission issued by a person or persons in authority, empowering the grantee to do some act not forbidden by law, but not allowable without such authority.

Person means any individual, group of individuals, firm, partnership, co-partnership, association, corporation, joint stock company, trust, estate, governmental entity, limited liability company or partnership, legal representative, or other recognized legal entity.

pH means a measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base ten) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution. A pH value of 7.0 is neutral, above 7.0 is alkaline and below 7.0 is acid.



Plan, engineering. Plans submitted as required in order to obtain a water and/or sewer extension permit. Engineering plans may also be referred to as "construction plans" in this ordinance and the unified development ordinance.

Pollutant means any waste as defined in G.S. § 143-213(13) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor). Pollutant of concern (POC). Any pollutant which might reasonably be expected to be discharged to the POTW in quantities which could pass through or interfere with the POTW, contaminate the sludge, or jeopardize any POTW worker's health and/or safety.

Pollution means an impairment of the quality of the water to a degree that does not create an actual hazard to the public health, but does adversely and unreasonably affect such water for domestic use.

Potable water means water from any source that has been approved for human consumption by the appropriate agency of the state, city and/or local health agencies.

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater.

Pretreatment or treatment mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, and biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard, and/or except as prohibited by 40 CFR Part 403.6(d).

Pretreatment program means the program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the authority in compliance with 40 CFR 403.8 and approved by the state in accordance with 40 CFR 403.11.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

Pretreatment standards means the prohibited discharge standards, categorical pretreatment standards, or local limits which applies to an industrial user.

Pressure vacuum breaker means an assembly suitable for continuous pressure, to be used to provide protection against backsiphonage.

Private water system means any water system located on the customer's premises, whether supplied by public potable water or an auxiliary water supply, which serves less than 15 service connections or regularly serves less than an average of 25 individuals daily at least 60 days out of the year and does not require permitting from the city. The system or systems may be either a potable water system or an industrial piping system.

Process wastewater means any water that during manufacturing or processing, comes into direct contact with or results from the production of or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Properly shredded garbage means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Public water system means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances of such system serves at least 15 service connections or regularly serves an average of 25 individuals daily at least 60 days out of the year. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system.

Publicly owned treatment works (POTW) means a treatment works as defined by Section 212 of the Act, (33 USC 1292). This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this chapter, the term POTW shall also include any sewers that convey wastewaters to the POTW from persons outside the county who are, by contract or agreement with the owner of the POTW, or in any other way, users of the POTW.

Rain sensor means an electric device that measures rainfall and will override the irrigation cycle of the irrigation system, thus turning the system off when a predetermined amount of rain has fallen.

Reduced pressure zone assembly means an approved, properly-functioning assembly containing two, independently-acting check valves with a hydraulically-operating, mechanically-independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The assembly must include properly located test cocks and tightly closing shutoff valves at each end of the assembly. This assembly is designed to protect against a high hazard.

Residential unit means each dwelling separately owned, sold, or leased, regardless if the unit is metered individually or if the residential development is master-metered. Residential units include but are not limited to every apartment unit, both units of a duplex, single-family home, and mobile homes.

Sanitary sewer means a sewer intended to receive domestic sewage and industrial waste, except that of type expressly prohibited by this chapter, without the admixture of surface water and stormwater.

Septage and septic tank sludge mean the liquid and/or solids from septic tanks which contain no wastewater other than domestic.

Service area means the area inside the city's municipal limits and an area outside the city's municipal limits established for planning purposes that is used for utility alignment and sizing, and the determination of utility cost comparisons with other governmental units.

Service connection means the terminal end of a lateral from the public potable water system or wastewater collection system, i.e., the point where ownership and maintenance responsibility shifts from the utility provider to the customer.

Service line shall mean a conduit conveying water or wastewater that extends from a structure served with water or sewer service to the water meter, water meter box, corporation stop or cleanout at the end of the lateral, in addition to all associated appurtenances.

Severe property damage means substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Sewage shall mean any liquid and solid human waste and liquid waste generated by domestic water-using fixtures and appliances from any residence, place of business, or place of public

assembly. Sewage does not include wastewater that is totally or partially industrial in nature, or any other wastewater not considered to be domestic in nature.

Sewer collection main or sewer collection line shall mean any portion of the collection system with the primary purpose of receiving flow from the customers' service lines and conveying it to a sewer outfall line or interceptor main.

Sewer outfall main or sewer outfall line shall mean any portion of the collection system with the primary purpose of receiving flow from collection mains and conveying the contents to an interceptor main or pump station for transmission to a treatment facility.

Sewer system shall mean collection system.

Significant industrial user (SIU) means an industrial user that discharges non-domestic wastewater into a POTW and that:

- (1) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewaters); or
  - (2) Contributes process wastewater which makes up five percent or more of the NPDES or non-discharge permitted flow limit or five percent or more of the maximum allowable headworks loading of the POTW treatment plant for any POTW pollutant of concern; or
  - (3) Is subject to categorical pretreatment standards under 40 CFR Part 403.6 and 40 CFR chapter I, Subchapter N, Parts 405-471; or
  - (4) Is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any pretreatment standard or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for limiting the POTW's sludge disposal options.
- (5) Subject to division approval under 15A N.C.A.C. 02H .0907(b), the control authority may determine that an industrial user meeting the criteria in subsections (1) and (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standards or requirement, the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for limiting the POTW's sludge disposal options, and thus is not a significant industrial user.
- (6) Subject to division approval under 15A NC ADC 02H.0907, the control authority may determine that an industrial user meeting the criteria in subsection (3) meets the requirements of 40 CFR Part 403.3(v)(2) and thus is a non-significant categorical industrial user.
- (7) Subject to division approval under 15A N.C.A.C. 02H .0907(b), the control authority may determine that an industrial user meeting the criteria in subsections (1), (2) or (3) meets the requirements of 40 CFR Part 403.12(e)(3) and thus is a middle tier significant industrial user. Sampling and inspection requirements may be cut in half as per 40 CFR Parts 403.8 (f)(2)(v)(C).and 403.12 (e)(3).

Significant noncompliance or SNC, or reportable noncompliance mean a status of noncompliance defined as follows: The status of noncompliance of a significant industrial user when one or more of the following criteria are met. Additionally, any industrial user which meets the criteria in Subparagraph (b)(35), Parts (C), (D), or (H) shall also be SNC.

(1) Violations of wastewater discharge limits.

a. Chronic violations . 66 percent or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six-month period. Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six-month

period exceed (by any magnitude) a numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);

b. Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oil and grease, [1.2](#) for all other pollutants (except flow and pH);

c. Any other violations of an effluent limit (average or daily maximum) that the POTW owner believes has caused, alone, or in combination with other discharges, interference or pass-through; or endangered the health of the sewage treatment plant personnel or the public. Any other violation of a pretreatment standard or requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

d. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge. Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the control authority's or the POTW's, if different from the control authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and Section [8.1(e)] of this SUO to halt or prevent such a discharge;

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

(3) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 45 days from the due date.

(4) Failure to accurately report noncompliance.

(5) Any other violation or group of violations that control authority and/or POTW determines will adversely affect the operation or implementation of the local pretreatment program.

Slug load means any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards in sections [62-191](#) and/or [62-192](#).

Specifications means the material and construction standards for a specific project, including the standard specifications adopted and revised by the city and the water and sewer authority of the county.

Standard industrial classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Subdivision means the division of one parcel of land into more than one parcel of land as defined in G.S. § 160A-376.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and is removable by laboratory filtering.

Unpolluted water means water not containing any pollutants limited or prohibited by the effluent standards in effect, or water whose discharge will not cause any violation of receiving water quality standards.

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

Used water means any water supplied by a water purveyor from a public water system to a consumer's water system after it has passed through the point of delivery and is no longer under the control of the water purveyor.

Utilities means services and facilities provided by public agencies such as electrical, water (domestic and irrigation), wastewater disposal, and drainage systems.

Wastewater means the liquid and water carrying industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, contributed into or permitted to enter the POTW.

Water and Sewer Authority of Cabarrus County (WSACC) means the entity previously established by the local governments in the county to do the following:

- (1) Operate and maintain a regional interceptor sewer system,
- (2) Operate and maintain a regional wastewater treatment plant, and
- (3) Provide wholesale wastewater treatment for all publicly owned and operated wastewater collection systems within the county.

Water distribution main or water distribution line mean a main with a minimum diameter of two inches but less than 12 inches in diameter with the primary purpose of supplying potable water to consumers.

Water emergency means any condition or situation that threatens the safety or supply of either treated or potable water within the water supply, treatment and distribution systems of the city or within the systems of the municipal, commercial, and industrial customers. Determination of whether specific situations are considered to be water emergencies shall be made by the city manager or his designee after consultation with the director of water resources. Water emergency situations shall include, but are not limited to, drought, or periods of insufficient raw water supply, and fires of a magnitude, such that system integrity is threatened.

Water purveyor means owner or operator of a public potable water system providing an approved water supply to the public.

Water supply, auxiliary, means any water supply on or available to the customer's premises other than the purveyor's approved public potable water supply. The auxiliary water may include water from another purveyor's public potable water supply or any natural source such as a well, spring, river, stream, etc., and used or objectionable.

Water supply, unapproved, means any water supply that has not been approved for human consumption by any governmental authority having jurisdiction.

Water system or water distribution system mean and include the network of pipes, valves, hydrants, meters, and related appurtenances used to distribute potable water within the city's utility service area, but does not include pumps, storage tanks, treatment devices, wells or other facilities. The express intent of the city council is that this definition be interpreted to be the

same as the definitions contained within G.S. § 130A-317(d) and 15A N.C.A.C. 18C.1801 or any subsequent successor legislation.

Water transmission main or water transmission line shall mean a main 12 inches or greater in diameter with the primary purpose of transporting water from a public water supply source to water distribution mains in an area with a potable water demand.

Waters of the state means all streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion of the state.

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 05-13, § 8, 3-10-2005; Ord. No. 08-93, § 1, 9-11-2008; Ord. No. 12-122, § 1, 12-13-2012)

**Cross reference**— Definitions generally, [§ 1-2](#).

#### Sec. 62-3. - Abbreviations.

The following abbreviations, when used in this ordinance shall have the designated meanings:

BOD means biochemical oxygen demand.

CFR means Code of Federal Regulations.

COD means chemical oxygen demand.

EPA means Environmental Protection Agency.

gpd means gallons per day.

mgd means million gallons per day.

mg/l means milligrams per liter.

N.C.A.C. means North Carolina Administrative Code.

NCDENR means North Carolina Department of Environment and Natural Resources.

N.C.G.S. means North Carolina General Statutes.

NH<sub>3</sub> means nitrogen ammonia.

NOV means notice of violation.

NPDES means National Pollution Discharge Elimination System.

O&M means operation and maintenance.

POTW means publicly-owned treatment works.

RCRA means Resource Conservation and Recovery Act.

SIC means Standard Industrial Classification.

SIU means significant industrial user.

SWDA means Solid Waste Disposal Act, [42](#) U.S.C. 6701, et. seq.

TSS means total suspended solids.

USC means United States Code.

**Cross reference**— Definitions generally, [§ 1-2](#).

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 12-122, § 2, 12-13-2012)

**Cross reference**— Definitions generally, [§ 1-2](#).

#### Sec. 62-4. - Service inside the municipal limits.

Potable water and wastewater collection services shall be provided to customers inside the City limits pursuant to a contract executed by the customer and the City. Services shall be provided according to the rules and standards established by the appropriate governing authorities, including the governments of the United States, the State of North Carolina, and the City of Concord.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-5. - Service outside the municipal limits.

Potable water and wastewater collection services shall be provided to customers outside the City limits pursuant to a contract executed by the customer and the City. Services shall be provided according to the rules and standards established by the appropriate governing authorities, including the governments of the United States, the State of North Carolina, and the City of Concord. Extensions of the water and wastewater infrastructures shall be in accordance with article III below, pursuant to an approved contract.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-6. - Service to other local units of governments.

Potable water and wastewater collection services shall be provided to other local governments pursuant to a contract executed by the local government and the City. Services shall be provided according to the rules and standards established by the appropriate governing authorities, including the governments of the United States, the State of North Carolina, and the City of Concord.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-7. - Service to other public utilities.

(a) Water may only be sold to systems permitted by the State of North Carolina. Wastewater may only be accepted from systems permitted by the State of North Carolina. Utilities not owned by a local unit of government shall adhere to all regulations of the North Carolina Utilities Commission. Each system shall provide the City with a copy of an active, state-issued system identification number and permit, a copy of the operator's license number, the operator's level of certification, contact information, and execute a holds-harmless/indemnification agreement with the City.

(b) A water meter shall be installed to separate the City's water system from the water system of the other public utility. The water meter is the point of demarcation between Concord Utilities and the other public water system.

(c) The utility desiring service shall pay all applicable costs for the installation of a meter and backflow prevention device as specified by sections [62-35](#), [62-88](#), [62-98](#) and [62-161](#) of this chapter and/or as specified in the annual adopted budget ordinance and/or in the "utilities policies and procedures" (Ord. No. 97-15 or latest amendment thereto).

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-8. - Unauthorized uses of the water and wastewater utilities and associated facilities—  
Procedures and penalties for violations.

(a) Procedures for notices of violation . The following procedure shall apply to all violations of this chapter, unless otherwise stated in the following sections of this chapter.

(1) A written notice must be presented to any customer/person who has been found to be in violation of any part of this chapter.

(2) Such notice must explain the violation and give the time period within which the violation must be corrected. The time period set to correct a violation shall not exceed 30 days after receiving notice, unless otherwise specified in this chapter. If the violation has been determined

by the City Manager or his designee to be an imminent hazard, the customer shall be required to correct the violation immediately.

(3) If a customer is found in violation of this chapter and fails to correct the violation in a timely manner or to pay any civil penalty or expense assessed under this section, utility service may be terminated.

(b) Penalties—Civil . Each violation of this chapter is a separate violation subject to the established fine. Each day a violation continues is a separate occurrence. All violations of this chapter are subject to the civil penalty specified in the Code of Ordinances [section 1-6](#). Civil penalties may be recovered as debts.

(c) Penalties—*Criminal* . All violations of this chapter are subject to a *criminal* penalty of \$500.00 per occurrence in the nature of a misdemeanor unless a greater penalty is described in this chapter. Each violation of this chapter is a separate violation subject to the established fine. Each day a violation continues is a separate occurrence.

(d) Acts specifically prohibited . No unauthorized person shall tamper with, work on, or in any way alter or damage any of Concord Utilities' water or wastewater facilities. The following acts not listed elsewhere in this chapter are specifically prohibited.

(1) Unauthorized use of hydrants and valves. No person who shall unlock any hydrant, turn any water cock or valve and thereby cause the water to escape from any standpipe, hydrant, or other part of Concord Utilities, except any person(s) acting by order of the City Manager, or to any person in charge of Concord Utilities or officer of the City or, in case of fire or practice, to any member of the fire and life safety department.

(2) Climbing waterworks elevated storage tank. No person other than a bona fide employee of the City shall climb or attempt to climb up the elevated storage tank of Concord Utilities.

(3) Bypasses . No person shall bypass any metering points or treatment process without the written consent from Concord Utilities.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-9. - Additional applicable regulatory agencies.

All properties in Cabarrus County shall be governed by the requirements of the U.S. Environmental Protection Agency, N.C. Department of Health and Human Services, N.C. Department of Environment and Natural Resources, Cabarrus County, and the sewer use ordinance of the Water and Sewer Authority of Cabarrus County.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-10. - Conflicts in regulatory requirements.

In the event of a conflict between federal, state, and local regulatory requirements, the stricter standard shall control. The City's Director of Engineering shall initially determine any dispute regarding the controlling standard. Decisions of the Director of Engineering may be appealed in writing to the City Manager within 30 days.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-11. - Ownership and control of concord utilities properties.

All water and sewer facilities and appurtenances installed by or accepted by Concord Utilities shall become and remain the sole property of the City of Concord including, but not limited to, all meters, meter boxes, laterals, pipes, and appurtenances. The City reserves the right to alter and improve water and sewer facilities as needed. If the City suspects that deficiencies in a



customer's service line or separately-owned system are endangering the welfare of the public, the City may take whatever action is necessary to protect the welfare of the public.  
(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-12. - Infrastructure reimbursement agreements.

(a) Pursuant to G.S. 160A-499 this section authorizes and sets forth the procedures and terms under which the city may approve reimbursement agreements with private developers and property owners for the design and construction of municipal infrastructure that is included on the city's capital improvement plan and serves the developer or property owner. For the purpose of this section, municipal infrastructure includes, without limitation, water mains, sanitary sewer lines, lift stations, stormwater lines, streets, curb and gutter, sidewalks, traffic control devices, and other associated facilities.

(b) The city manager, or designee, is authorized to negotiate municipal infrastructure reimbursement agreements with private developers and property owners pursuant to this section. In negotiating such agreements, the city manager, or designee, shall determine that:

(1) The cost to the city will not exceed the estimated cost of providing for the municipal infrastructure through either eligible force account qualified labor or through a public contract let pursuant to G.S. 143-128 et seq.; or

(2) The coordination of separately constructed municipal infrastructure with the associated private development would be impracticable.

City approval authority for agreements under this section shall be governed by general city contracting authorizations and delegations.

(c) Such reimbursements, if any, may be paid from any lawful source if approved by the city council.

(d) A municipal infrastructure reimbursement agreement approved pursuant to this section shall not be subject to G.S. Ch. 143, Art. 8 unless the award of a contract for work would have required competitive bidding if the contract had been awarded by the city. If the city would have been required to follow G.S. Ch. 143, Art. 8, then the developer or property owner is required to comply with the requirements of G.S. Ch. 143, Art. 8.

(e) A municipal infrastructure reimbursement agreement approved pursuant to this section shall require the private developer or property owner party to comply with all of the city's rules, regulations and ordinances and be current on all debts, fees or taxes owed to the city.

(Ord. No. 07-11, § 4, 2-8-2007)

Secs. 62-13—62-30. - Reserved.

ARTICLE II. - WATER AND SEWER SERVICE

Sec. 62-31. - Required connection.

(a) Except as provided in subsection (e) on developed property, it shall be unlawful to use or maintain any residential buildings or commercial establishments in the city that are located on a lot abutting on the city water line, such residences or establishments being not more than 200 feet from the water line, unless such residences or establishments are connected with the water line.

(b) On developed property, it shall be unlawful to use or maintain any residential buildings or commercial establishments in the city that are located on a lot abutting on the city sewer line, such residences or establishments being not more than 200 feet from the sewer line, unless such

building is provided with plumbing connected with the sewer, provided that water is available from the city mains within 200 feet of the residences or establishments.

(c) Applicants requesting sewer service shall be required to connect to both the wastewater collection system and the water distribution system if water service is available, except where connection to the city sewer line is required by subsection (b) but not required by subsection (a).

(d) All properties in the city not included under this subsection shall be governed by the requirements of the state departments of health and human services and environment and natural resources.

(e) Effective August 1, 2016, any property owner receiving a permit pursuant to G.S. 97-97.2(a) or (b) shall not be required to connect to the public water system for so long as the permitted private drinking water well remains compliant and in use, except that subsection (a) may apply in any of the following situations:

(1) The private drinking water well serving the property has failed and cannot be repaired.

(2) The property is located in an area where the drinking water removed by the private drinking water well is contaminated or likely to become contaminated due to nearby contamination.

(3) The city is being assisted by the local government commission.

(4) The city is in the process of expanding or repairing the public water system and is actively making progress to having water lines installed directly available to provide water service to that property within the 24 months of the time the property owner applies for the private drinking water well permit.

(f) Nothing in this [section 62-31](#) shall be construed to prevent any owner of developed or undeveloped property from voluntarily requesting connection to a city water or sewer line.

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 16-24, §§ 1, 2, 3-10-2016)

#### Sec. 62-32. - Application process.

Requests for water and sewer service shall be made on the appropriate contract provided by the City. Applications shall be completed in accordance with the "utility policies and procedures" Concord Ordinance No. 97-15 and the procedures established by the customer service division and shall be submitted directly to the customer service division during regular business hours.

(Ord. No. 04-17, § 1, 3-11-2004)

#### Sec. 62-33. - Plumbing permits.

(a) Activities requiring a permit. No person shall receive water or sewer service from the Concord Utilities System, unless such person shall have applied for and shall have received from the appropriate permitting agency a plumbing permit and shall have complied with such conditions, if any, as are prescribed by such permit. Activities prohibited without a plumbing permit include the connection of plumbing not owned by the City to the Concord Utilities System.

(b) Application requirements. Applications and application procedures for plumbing permits shall be obtained from Cabarrus County.

(Ord. No. 04-17, § 1, 3-11-2004)

#### Sec. 62-34. - Service connection requirements.

(a) The following shall be provided for every lot and/or parcel served by the Concord Utilities Systems:

(1) A separate water lateral, water meter, and water service line for each building, and

- (2) A separate sewer lateral and cleanout at the edge of the public right-of-way, and wastewater service line for each individually deeded lot.
- (b) No persons shall make or cause to be made connections to any plumbing fixture; drain; waste, soil, or vent pipe; or water supply system in connection therewith, without first obtaining permission from the City Manager or his/her designee. Such connection shall be made under the supervision of the engineering department, or Concord Utilities Departments as designated by the City Manager.
- (c) Upon the approval of Concord Utilities, irrigation meters shall be available for water used exclusively for irrigation. Water that passes through the irrigation meter shall not be used for any purpose other than irrigation and shall not enter the wastewater collection system.
- (d) If a lot requires multiple water meters (e.g., to serve apartments, condominiums, commercial/industrial process water, etc), the charges in the City's most recently adopted budget ordinance shall apply for each meter. The charge for lots with multiple meters shall equal the cost of one meter times the number of meters provided. No discount shall apply.
- (e) If a lot requires multiple sewer laterals (e.g., to serve apartments, condominiums, commercial/industrial process water, etc), the charges in the City's most recently adopted budget ordinance shall apply for each lateral. The charge for lots with multiple laterals shall equal the cost of one lateral times the number of laterals provided. No discount shall apply.
- (f) Large-capacity service lines. For water service lines with diameters greater than two inches and sewer service lines with diameters greater than four inches, the customer shall:
- (1) Provide Concord Utilities with two copies of all design data, including, but not limited to, the proposed service line diameter, the proposed alignment, and any potential utility conflicts, and
  - (2) Submit service line designs to the City and obtain service line plan approval from the Director of Water Resources, the Director of Wastewater Resources, and the Backflow Prevention Administrator, and
  - (3) Perform all work under the direct supervision of Concord Utilities.
- (g) Connections to mains designated as interceptors shall be made directly into a manhole. If a manhole is not located in the vicinity of the desired connection, the applicant shall do the following:
- (1) Main extensions. The applicant shall follow the requirements described in article III of this chapter.
  - (2) Individual service connections. The applicant shall follow the requirements described in this article.
- (h) The customer shall be responsible for locating onsite plumbing so that it may be connected to the water and/or sewer lateral(s) supplied by Concord Utilities for the customer. The customer shall be responsible for the maintenance of all onsite plumbing.
- (i) The customer shall be responsible for installing the necessary approved device(s) to make any adjustments to the water pressure supplied by Concord Utilities and shall be responsible for the maintenance of all such devices.
- (j) The customer shall be responsible for installing the necessary approved device(s) to discharge wastewater to the elevation of the sewer lateral supplied by Concord Utilities for the customer. The customer shall be responsible for the maintenance of all such devices.
- (Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 04-51, § 1, 6-8-2004)

Sec. 62-35. - Lateral installation.

- (a) Once the City has received an application for service in accordance with [section 62-32](#) for a property adjacent to an existing water or sewer main, Concord Utilities, or their agent, shall excavate, install the lateral, tap the existing main, install a meter or cleanout, fill the excavation, and replace the road surface, if required.
  - (b) Applicants shall be responsible for paying all charges associated with lateral installations in accordance with the City's most recently adopted budget ordinance.
  - (c) Property owners may request estimates for material and labor charges for proposed water service(s) greater than two inches in size and wastewater services greater than four inches in size (pipe diameter). Estimates for lateral installation shall be provided by Concord Utilities within ten working days from the receipt of the estimate request.
  - (d) Property owners may share lateral location preferences with Concord Utilities; however, Concord Utilities shall ultimately determine the placement of the lateral.
  - (e) If a driveway is constructed over an existing meter box, Concord Utilities shall replace the meter box with a traffic-rated box or relocate the meter box and lateral at the customer's expense.
  - (f) Customers shall be responsible for providing an area on their property for the lateral that is accessible to Concord Utilities personnel and free from obstructions. If one does not exist, customers shall provide an easement or right-of-way in which to place the lateral to the City. Easement or right-of-way dedication shall be verified prior to the installation of the lateral.
  - (g) If a property owner requests sewer service and their property is not adjacent to a public sewer right-of-way, the property owner shall obtain an easement from the property owner(s) whose property their service line must cross. These easements shall be recorded on all affected property owners' deeds. The property owner desiring sewer service shall also apply for a sewer extension permit in accordance with Title 15A of the North Carolina Administrative Code, Subchapter 2H. Once the easements and necessary permits are obtained, Concord Utilities shall install a lateral from the main to the edge of the public right-of-way.
  - (h) The customer's plumbing and appurtenances shall be installed at the customer's expense in accordance with all applicable building and plumbing codes. Materials and installation shall also comply with the requirements of the N.C. Department of Health and Human Services and this chapter, in addition to any other requirements deemed necessary by Concord Utilities.
  - (i) Plumbing extending from structures served by the Concord Utilities System shall be configured such that the length of the service line to the lateral is as short as possible. The alignment of the service line shall be as direct as possible to the portion of the public main closest to the structure being served.
- (Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-36. - Service line maintenance.

- (a) The property owner shall be responsible for keeping the building sewer and the service line free from blockages between the structure(s) being served and the cleanout at the edge of the public road or utility right-of-way.
- (b) The customer may employ a licensed plumber or contractor to install a cleanout at the edge of the public road right-of-way or utility right-of-way but within private property for the purpose of keeping the service line clear.
- (c) The location of the building sewer, service line, and its connection to the sewer lateral shall also be the responsibility of the customer.
- (d) If a customer discovers a problem with their sewer connection and/or lateral, the customer may contact Concord Utilities and request that Concord Utilities personnel troubleshoot the

cause of the problem. Concord Utilities shall respond by inspecting the downstream wastewater collection main and the sewer lateral if a cleanout is located at the edge of and within the public road right-of-way or utility right-of-way. If there is no cleanout at the edge of the public road right-of-way or utility right-of-way, Concord Utilities will take action to have a cleanout installed or employ a licensed plumber or contractor to install a cleanout for the purpose of investigating the lateral. Once the cleanout is installed Concord Utilities will investigate the sewer lateral. If a blockage is located in the wastewater collection main or sewer lateral, Concord Utilities shall take action to alleviate the blockage. Otherwise, Concord Utilities shall inform the customer that the blockage is not located within the Concord Utilities System and shall advise the customer of their responsibility to clear the blockage.

(e) If Concord Utilities is unable to clear a blockage due to a defect in the sewer lateral, Concord Utilities shall take action to repair the defect. Concord Utilities shall evaluate the problem in the sewer lateral with a closed circuit television camera and assess the nature of the problem within the service lateral. If the problem did not occur as a result of customer neglect or an illegal discharge, Concord Utilities shall make the necessary repairs to the sewer lateral at no charge. If television monitoring and excavation indicates that the damage or blockage occurred as a result of customer neglect or an illegal discharge, Concord Utilities may repair the lateral and bill the customer for time and materials in accordance with the City's most recently adopted budget ordinance.

(f) If a building is flooded with wastewater as a result of a rain event or a blockage in the Concord Utilities System, the property owner shall notify Concord Utilities. Concord Utilities personnel shall respond and take reasonable measures to stop the flooding or clear the blockage. When the rain event passes or the blockage is cleared, the property owner should contact the City's risk management officer. The Director of Wastewater Resources or his/her designee shall notify the property owner or the occupant of the procedure for making a claim against the City's insurance company. The property owner or occupant may contact a qualified cleaning contractor to clean the damaged area. The property owner or occupant of the building shall make the damaged building available for the contractor so that cleaning services may be rendered. Concord Utilities shall only be responsible for flooding that occurs as a result of a documented problem with the Concord Utilities System. Private sewer systems, systems with more than one building connected to a service line, or service lines with plumbing problems shall be the responsibility of the property owner and shall not be the responsibility of Concord Utilities. It shall be the responsibility of the customer to protect their property from flooding in accordance with this section.

(g) Pursuant to subsection [62-34\(a\)\(2\)](#) of this chapter a separate sewer lateral and cleanout are required for each individually deeded lot. However, there are circumstances where a deeded lot may be subdivided or there may be multiple buildings or lots connected to one sewer lateral. In the event a lot is subdivided or if additional buildings are connected to one service, it shall be the subdivider or owners responsibility to provide additional sewer service connections in accordance with this ordinance. Should a circumstance arise where multiple lots are connected to one single lateral and the lateral becomes blocked, Concord Utilities will attempt to clear the blockage. If the blockage cannot be cleared and the lateral needs to be replaced, Concord Utilities shall install a new lateral for the lot intended to receive service from this lateral. Concord Utilities shall also install lateral(s) for the other lot(s) that had service line(s) connected to the single lateral at no charge to the customer(s) unless it is determined that the multiple service connections were made illegally or done in an effort to circumvent former or current City

policies or ordinances. Concord Utilities shall notify those customers whose service lines were not legally connected in accordance with this chapter and advise them that a lateral has been provided for their lot(s) at the edge of the public right-of-way. In such cases, the customer shall be charged the appropriate connection fee as provided in the City's most recently adopted budget ordinance.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-37. - Right to refuse service.

(a) The City may refuse to provide service to an applicant who is indebted to the City for a service previously furnished by the City to the applicant. Once the applicant has paid all debts to the City or once a legally-binding payment arrangement has been approved by the City, the applicant may reapply for service.

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

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-38. - Service activation.

Customers requesting service activation shall physically inspect and verify that all pipes are properly connected in accordance with North Carolina Plumbing Code so that the building or dwelling will not be flooded. Neither the City nor Concord Utilities shall be liable for any damages caused by flooding when faucets or openings are not closed.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-39. - Application of charges to account.

The City shall apply payments for utility charges in the following order of priority:

Administrative fees and charges; next, water; next wastewater; lastly, electricity.

(Ord. No. 04-17, § 1, 3-11-2004)

Secs. 62-40—62-75. - Reserved.

### ARTICLE III. - WATER DISTRIBUTION SYSTEM AND WASTEWATER COLLECTION SYSTEM EXTENSION AND MODIFICATION

Sec. 62-76. - Purpose of article.

The purpose of this article is to set forth, in a single source, the permitting application requirements and processes for water distribution system and wastewater collection system extension and modification, the construction standards, the design standards, and regulatory requirements that apply to facilities that interconnect with the City's water and sewer systems.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-77. - Activities requiring a permit.

No person shall do any of the things or carry out any of the activities listed in N.C. General Statute § 143-215.1(a), N.C. General Statute § 130A-317(c), or any of the activities in subsections (1)—(3) below for a system which is, or is proposed to become, interconnected to the City's water distribution system or wastewater collection system, unless such person shall have applied for and shall have received from the appropriate permitting agency a permit and

shall have complied with such conditions, if any, as are prescribed by such permit. Activities prohibited without a permit generally include, but are not limited to the following subsections (1) through (3). The City follows the requirements of 15A N.C. Administrative Code 2H in determining which activities require a permit.

- (1) Construction or operation of any water system or sanitary sewer system; or
  - (2) Alteration, extension, or modification of the construction or method of operation of any existing or proposed water distribution system or wastewater collection system; or
  - (3) Execution of a contract for the construction and installation of any water distribution system or wastewater collection system or for the modification, alteration or extension of such a system.
- 15 A NCAC 2H is incorporated herein by reference as if stated fully below.  
(Ord. No. 04-17, § 1, 3-11-2004)

**Sec. 62-78. - Permitting authority.**

(a) The City shall act on all permits so as to prevent, so far as reasonably possible, considering relevant standards under federal, state and local laws, any significant increase in the pollution of the waters of the state from any new or enlarged sources and prevent the violation of water quality standards or drinking water standards due to the cumulative effect of permitting decisions. The City shall have the authority to do the following:

- (1) Grant water distribution system permits with such conditions as the City deems necessary in accordance with § 130A-317(d), 15A NCAC 18C.1800, and the City's approved local permitting program; and
- (2) Grant wastewater collection system permits with such conditions as the City deems necessary in accordance with § 143-215.1(f), 15A NCAC 2H.0218, and the City's approved local permitting program; and
- (3) Require an applicant to satisfactorily prove that the applicant or any parent, subsidiary or other affiliate, is financially qualified to carry out the activity for which the permit is being requested; and
- (4) Modify or revoke any permit upon not less than 14 days' written notice to any person affected. In the event of a developed or developing threat to public health or safety, disconnection may occur immediately without notice. Notice to affected persons shall occur as soon as practicable thereafter.
- (5) Deny any permit. In the event of an illegal connection without an approved permit or a developed or developing threat to public health or safety, disconnection may occur immediately without notice.

(b) Permits issued pursuant to this article are issued to a specific applicant. The applicant may not assign, transfer or sell a permit or any right or obligation in a permit to another person.  
(Ord. No. 04-17, § 1, 3-11-2004)

**Sec. 62-79. - Justification for system extensions and modifications.**

Concord Utilities recognizes four justifications for the extension or modification of the Concord Water Distribution and/or Wastewater Collection Systems.

- (1) Extensions and modifications for the health, safety, and welfare of the public. The Concord Water Distribution or Wastewater Collection System may be extended or modified for the purpose of providing public utility access to persons when their existing system has failed and is resulting in a demonstrated health risk to them and/or the general public.

(2) Extensions and modifications for the fulfillment of the Capital Improvement Plan. The City shall provide and maintain certain basic components of the Concord Utilities. These components include treatment facilities, water booster pump stations, wastewater pump stations, water storage tanks, sewer outfall mains, and water transmission mains. Any extensions or modifications to these components shall be constructed and/or improved according to a Capital Improvement Plan (C.I.P.) that is reviewed and approved by the City Council.

The City may also extend or modify water distribution mains and sewer collection mains within the Concord Utilities for the purpose of serving existing residential dwellings or vacant lots, which are zoned for residential development, within the municipal limits of the City of Concord. Upon approval by the City Council, the City may also extend water transmission and/or distribution lines or sewer collection and/or outfall mains to industrial or commercial properties meeting the criteria of the City's adopted economic development incentive policy. The City's financial participation in utility extension and modification projects is subject to the availability of funds and other qualifications.

(3) Extensions and modifications for involuntary annexation areas. The City shall meet all requirements related to annexations as prescribed by N.C. General Statute Chapter 160A, Article 4A, Part 3. Concord Utilities shall provide the same level of service to newly-annexed areas that is available to the remainder of the City, as provided by the City's adopted ordinances and policies. Therefore, the City may extend or modify the Concord Utilities for the purpose of providing the appropriate level of service to involuntary annexation areas.

(4) Extensions and modifications for subdivisions and private development. The Concord Utilities may be extended or modified for the purpose of providing service to subdivisions and private developments subject to the provisions of this article.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-80. - Procedures and standards for system extensions inside the City limits.

(a) Introduction . The city shall provide water and sewer service to areas incorporated within the municipal limits of the city according to the provisions of this chapter. In an effort to plan for future extensions of the Concord Utilities, the city maintains a Capital Improvement Plan (C.I.P.). The city shall endeavor to provide the extensions and services proposed in the C.I.P. if funded through the city's capital improvements budget. Consideration shall be given to each project's conformance with the Water and Sewer Authority of Cabarrus County (WSACC) "Master Plan," the adopted land use and other plans of the city, and the city's adopted annexation plan. If an extension is authorized, then all city design standards in sections [62-98](#) and [62-99](#) shall be met and the permit application process in this section shall be followed. If an extension is authorized, and a reimbursement agreement is authorized, it shall meet the requirements of [section 62-12](#).

(b) Prior to application submittal. Plats, site plans, engineering plans and specifications shall be approved through the appropriate review process, as required by the city ordinances, including [chapter 62](#) and the Unified Development Ordinance prior to an application package submittal for water distribution system or wastewater collection system extension or modification.

(c) Application requirements .

(1) All persons intending to construct, alter, modify, or expand any Concord Utilities as described in [section 62-79](#) and this section shall make timely and proper application to the City's Director of Engineering and provide such information as may be required by the Director of Engineering. At a minimum, the applicant shall:



- a. Provide a plan that shows the acreage of the area to be served, identifies the type of development (residential, commercial etc.), estimates the maximum potential demands that the development may impose on the existing system, and determine the adequacy of the existing system to meet those demands;
  - b. Provide a proposed schedule for the construction of the development and any proposed development phases;
  - c. Document the intended use of the water and sewer system extension;
  - d. Design and install the infrastructure in accordance with the C.I.P. and/or the city's standard specifications and design standards. If the proposed extension has not been identified in a C.I.P., the design engineer shall evaluate the infrastructure's ability to adequately serve surrounding sites in the area of consideration. This evaluation shall be reviewed and approved by the Director of Engineering or his designee;
  - e. Contract and fund the complete range of design services required for all on-site and off-site utilities. The alignment and design of the utilities shall meet the intent of a project identified in the city's standard specifications and design standards. The design shall meet the design standards of this Ordinance and shall be submitted to the city for review and approval in accordance with this chapter. Designs and alignments that do not comply with the intent of the C.I.P. and/or the city's standard specifications and design standards may be rejected regardless of project's compliance with other portions of this chapter.
  - f. Grant to the city, at no cost, all on-site utility rights-of-way and easements deemed necessary by engineering department and Concord Utilities staff.
- (d) Any application package determined incomplete by the Director of Engineering shall be returned to the applicant. Revised engineering plans and specifications shall constitute a re-submittal, shall be accompanied by a new fee, and shall require additional time for review. A complete application package that contains sufficient information to ascertain reasonable grounds to believe the application package and its contents meet all applicable standards of this chapter shall be acknowledged by a letter setting a date for a pre-construction conference. No discussion at the review conference shall preclude or otherwise bar the city from denying a permit, or issuing a permit that incorporates conditions, based upon changed circumstances or information not previously known by the Director of Engineering or the applicant. In either event, no single submittal of an application package will be held open for review longer than 90 days without the issuance of a letter requesting additional information or an "authorization to construct" permit being issued following a pre-construction conference. Application packages delayed by lack of action by any person or entity other than the city shall be deemed denied and shall require re-submittal.
- (e) It shall be unlawful to begin the construction of a building or project infrastructure until the Director of Engineering has issued an "authorization to construct" permit, and any additional required permits have been issued by either the city, WSACC and/or the State of North Carolina, as needed and required.
- (f) Funding of oversized utilities . The city shall take reasonable steps to ensure that adequate funding is available to accommodate any requested oversizing or upsizing needs, as provided in [section 62-82](#) below, however the city cannot guarantee the funding of specific proposed projects.
- (g) Hearings .
- (1) Persons entitled to a hearing . The following persons are entitled to a hearing pursuant to this section, each of whom is hereafter referred to as "aggrieved person."

- a. Any person whose application for a permit under this article is denied;
- b. Any person whose permit is issued subject to conditions that the applicant finds unacceptable;
- c. Any person whose permit is revoked, modified, or suspended; and
- d. Any person against whom the city assesses a penalty pursuant to this article.

(2) Procedures for requesting a hearing . The aggrieved person shall exercise such right to a hearing by making a written demand for a hearing in accordance with this subsection. Any person making a demand for a hearing shall deliver the demand to the Director of Engineering within 30 days of the following:

- a. The date of issuance of the contested permit;
- b. The date of the notice of the denial of permit issuance;
- c. The date of the notice of a revocation, modification, or suspension of an issued permit; or
- d. The date that a penalty was assessed.

(3) Content of hearing request. The written demand for a hearing must identify separately and with particularity the following:

- a. The aggrieved person or persons;
- b. The specific permit provision or condition or other issues contested to be considered;
- c. The reason for the objection; and
- d. Any alternate provisions, conditions, or terms the aggrieved person proposes.

(4) Hearing procedures .

a. The hearing shall be conducted by the Director of Engineering and shall be subject to such rules as have been approved by the City Council or the Director of Engineering as hereinafter set forth.

b. If the demand for a hearing is not made in accordance with the provisions of this section, the Director of Engineering shall reject the demand and any right to a hearing shall be terminated.

c. If any person demanding a hearing shall fail to comply with an order of the Director of Engineering or with any rules issued by the Director of Engineering or approved by the City Council concerning the conduct of the hearing, the Director of Engineering may reject the demand and any right to a hearing shall be terminated.

d. Within 90 days of the receipt of the written hearing request, the Director of Engineering shall conduct a hearing and issue a final order or decision. The Director of Engineering shall transmit a copy of the final order or decision to the aggrieved person by registered or certified mail.

e. The Director of Engineering is authorized to take any action which is reasonably necessary or convenient in considering a demand for a hearing and in resolving the issues raised therein so long as such action is not contrary to the provisions of this article, or other applicable law.

f. The Director of Engineering may appoint a hearing officer to conduct any hearing authorized by this section. A hearing officer shall have the same authority to conduct a hearing and reach a decision as is provided to the Director of Engineering, provided that the decision of the hearing officer shall not be final, but shall be a recommended decision for consideration by the Director of Engineering.

g. The Director of Engineering may approve such decision without change, reject the decision that is supported by evidence presented at the hearing, or issue a different or revised decision that is supported by evidence presented at the hearing.

h. The decision of the Director of Engineering shall be final.

i. A final order may provide that the action that is the basis for the demand for a hearing is approved without change or may modify such action in any manner that is supported by the evidence presented at the hearing.

j. The Director of Engineering may, but is not required to, provide for any part of the hearing to be recorded by any reasonable means including, but not limited to, audio and/or video recording, stenographer, or court reporter. A transcript of any hearing, part thereof, which is recorded need not be prepared unless requested. The original of a requested transcript shall be filed with the engineering department. Each person shall bear the cost of the transcript which such person requests, including any copy thereof.

k. The decision of the Director of Engineering shall be reviewable only by seeking a writ of mandamus from the superior court within 30 days of the entry of the final order set forth herein.

(h) Standards for Concord Utilities extensions. The standards are divided into three categories. The categories are the standards for extensions to new developments, extensions to existing developments, and extensions to non-contiguous or satellite annexations. In any case, the city shall not participate in the cost of the water distribution mains or sewer collection mains located within the subdivision or private development property, unless upsizing is required by the city in accordance with [section 62-82](#).

(1) Standards for in-city extensions to new subdivisions and other new developments in contiguous portions of the city.

a. Subject to the provisions of this article, the city shall allow extensions to and within new developments upon the request of the developer or property owner. The responsibility for and cost of such extensions to the new development may be borne by the city. The responsibility for and cost of such extension within new developments shall be borne by the requesting party, unless upsizing is required by the city in accordance with [section 62-82](#).

b. Subject to [section 62-79](#), this section and this article, the city shall allow extensions to new developments within the city upon the request of the owner or owner's agent, and the responsibility for and cost of such extensions shall be borne by the requesting party.

1. If the city requires lines to a subdivision or other new development that are larger than those necessary to serve the project, the city shall reimburse the owner or developer for any additional material and installation costs incurred as a result of installing such oversized lines.

2. Where a proposed development of property located within the city necessitates a replacement, upgrade, or expansion in size or capacity of water and/or sewer mains and appurtenant facilities that are already available to serve the property (as opposed to an extension of a line to make service available), and the replacement, upgrade, or expansion for the proposed development cannot be constructed in the time requested by the owner or developer under the city's scheduled and budgeted C.I.P. or capital improvements budget, the city may enter into a contract with the owner or developer of such property pursuant to which the owner or developer shall pay some or all of the cost of the necessary improvements.

(2) Standards for in-city extensions to new subdivisions and other new developments in non-contiguous portions of the city. The city shall allow extensions to and within new developments and/or subdivisions located in annexed property which is non-contiguous to the corporate limits upon request of the property owner or developer; and the entire cost of extending water and/or sewer line(s) shall be borne by the developer/property owner requesting such extension. The city shall pay the proportional share of installing oversized lines that may be required by the city to meet system-wide needs.

(3) Standards for in-city extensions to previously developed property in contiguous portions of the city.

a. The responsibility for extending water and sewer service to developed property within the city shall be borne by the city, unless the property was removed from the city's service plan at the

property owner's request at the time that the property was annexed. The city shall endeavor to extend Concord Utilities to an area adjacent to an edge of the property that minimizes the customer's on-site plumbing needs; however, an extension to a specific edge of the property may not be economically or topographically feasible. The alignment of the extension shall be determined at the sole discretion of the city.

b. Extensions shall generally be made only upon request of the owner of the property or properties to be served. However, the city may make extensions on its own initiative whenever the lack of service poses a threat to public health and/or safety, if service is required by N.C. General Statute and/or N.C. DENR, or for other good and sufficient reasons.

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 05-13, § 1, 3-10-2005; Ord. No. 05-113, § 1, 12-8-2005; Ord. No. 07-11, § 5, 2-8-2007)

Sec. 62-81. - Procedures and standards for extensions of Concord Utilities outside the city limits.

(a) Introduction. The purpose of this section is to provide the criteria for the method of providing utility extensions outside of the incorporated limits of the city as well as the city's area(s) of consideration. Developers, private enterprises, and other entities that wish to extend Concord Utilities shall, in all cases, follow the guidelines established in the specifications and this chapter. The city shall evaluate the overall impact of the proposed extension. The potential negative impact on treatment plant capacity, the hydraulics of the water distribution system, and the capacity of the wastewater collection system will also be considered. In addition, the effect of premature growth and development shall be considered as it relates to the city's adopted plans.

(1) The city has no responsibility to provide water and/or sewer service to property located outside the city limits, except as otherwise provided by law. However, upon request, the city may allow extensions of its water and/or sewer lines to serve properties outside the city when it determines that it is in the city's best interest to do so. Properties located outside the city limits that receive water and/or sewer service from the city may not be entitled to receive other city services.

(2) The city's approval of extensions to property located outside of the city's jurisdiction shall be in conformity with all applicable city, state, and federal laws, policies, and regulations.

(3) In addition, the city may consider providing water and sewer services to unincorporated areas within Cabarrus County that lie within the area of consideration as delineated in the latest adopted annexation plan. In addition, each project shall be evaluated for conformance with the Water and Sewer Authority of Cabarrus County (WSACC) "Master Plan," and any adopted city plans.

(4) The city shall not be responsible for providing water and sewer service in areas located within another entity's jurisdiction or service area defined by contract or inter-local agreement between the city and the entity.

(5) If water or sewer service is requested within a portion of the city's most recently adopted annexation planning area prior to that area's incorporation into the municipal limits of the city, the applicant may be required to either petition for annexation into the city and/or the area may be required to be formally incorporated by an ordinance of the city council prior to the extension of services.

(b) Permit application process.

(1) The city shall consider the approval of extensions outside the city limits under the two-step procedure outlined in this section. The first step is the submission, review, and approval of a preliminary application. If the preliminary application is granted, the then a final application may

be submitted. Both preliminary and final applications are reviewed by the staff and approved by the city council.

(2) All persons intending to construct, alter, modify, or expand any Concord Utilities as described in sections [62-77](#), [62-79](#), and this section, shall make timely and proper application to the city on such form(s) as may be prescribed by the city's director of engineering and provide such information as may be required by the director of engineering. At a minimum, the preliminary applicant shall:

a. Provide a plan that shows the acreage of the area to be served, identifies the type of development (residential, commercial etc.), estimates the maximum potential demands that the development may impose on the existing system, and determine the adequacy of the existing system to meet those demands;

(3) Any application package determined incomplete by the director of engineering shall be returned to the applicant. Revised engineering plans and specifications shall constitute a re-submittal, shall be accompanied by a new fee, and shall require additional time for review. A complete application package that contains sufficient information to ascertain reasonable grounds to believe the application package and its contents meet all applicable standards of this chapter shall be acknowledged by a letter setting a date for review and decision by the city council.

(4) The staff shall review the preliminary application and forward a recommendation to the city council. The staff shall consider and evaluate the amount of remaining capacity of the Concord Utilities, the capacity of the city's existing infrastructure needed to serve the development, the cost to the city of the proposed extensions, and the rate of use of the remaining capacity of the Concord Utilities.

(5) The city staff shall track the capacity of the Concord Utilities and report the results to the city council at least quarterly.

(6) The city council shall consider the preliminary application, the quarterly reports of system capacities, and the recommendation of the staff. The city council may approve, approve with conditions, or deny the preliminary application. If the preliminary application is approved, the property owner may submit an application for final approval.

(7) The final application shall contain, at a minimum, the following:

a. A complete petition for voluntary annexation for all properties located inside the city's most recently adopted annexation planning area and/or all properties proposed to be developed in non-residential uses; and

b. A complete application for zoning approval; and

c. Completed applications for water and sewer system extension approvals; and

d. A developer contract detailing the conditions for the provision of water and sewer service, subject to the requirements of [section 62-12](#), approval of the city council (in lieu of subsections (7)c. and d., a letter of intent to be served by city utilities in a form approved by the city); and

e. Provide a proposed schedule for the construction of the development and any proposed development phases;

f. Document the intended use of the water and sewer system extension;

g. Design and install the infrastructure in accordance with the C.I.P. and/or the city's standard specifications and design standards. If the proposed extension has not been identified in a C.I.P., the design engineer shall evaluate the infrastructure's ability to adequately serve surrounding sites in the area of consideration. This evaluation shall be reviewed and approved by the city's engineering department;

h. Contract and fund the complete range of design services required for all on-site and off-site utilities. (Cross-reference [section 62-12](#).) The alignment and design of the utilities shall meet the intent of a project identified in the city's C.I.P. and/or the city's standard specifications and design standards. The design shall meet the design standards of this chapter and shall be submitted to the city for review and approval in accordance with this chapter. Designs and alignments that do not comply with the intent of the C.I.P. and/or the city's standard specifications and design standards may be rejected regardless of project's compliance with other portions of this chapter; and

i. Grant to the City of Concord, at no cost, all on-site utility rights-of-way and easements deemed necessary by engineering department and Concord Utilities staff.

j. Any other information required by the city in order to evaluate the application.

(8) The city may process each component of the final application simultaneously. The applications will be considered at the same meeting by the city council in this order: (1) annexation, (2) zoning, (3) utility extension(s) and (4) a developer contract.

(c) Standards for Concord Utilities extensions. Subject to city council approval, the city may allow extensions within new developments upon the request of the developer or property owner. The responsibility for and cost of such extensions shall be borne by the requesting party, except as provided below in [section 62-82](#).

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 05-13, § 2, 3-10-2005; Ord. No. 05-113, § 2, 12-8-2005; Ord. No. 07-11, § 6, 2-8-2007)

Sec. 62-82. - Standards for oversizing Concord Utilities extensions.

(a) Subject to city council approval as provided in sections [62-80](#) and [62-81](#), the city shall allow extensions within new developments upon the request of the developer or property owner. The responsibility for and cost of such extensions shall be borne by the requesting party, except as provided below.

(1) If city planning documents and engineering calculations demonstrate that a larger capacity extension or modification to the Concord Utilities will be needed to serve the surrounding area, the city may elect to require the owner or developer to design and install larger diameter pipes than those required to serve the subdivision or private development. The owner or developer shall request and receive bids from at least three contractors for the installation and materials required to serve the subdivision or private development with water and wastewater collection and bid the pipe sizes requested by the city as an alternate. If the city elects to require the developer to up-size pipe diameters to accommodate future Concord Utilities service demands, the city may pay the developer in an amount, as negotiated between the city and owner or developer, based on the difference between the base bid and the alternate bid. Any reimbursement shall be by developer contract. Such developer contract shall be written to provide an equitable distribution of the cost of improvements to the city's system(s) consistent with the policies and fees established in this chapter, or other ordinance(s) and in consideration of the relative burden placed upon the system by the proposed development, the extent to which other city customers may benefit from the improvement, the extent to which fees maybe or have been paid by others for future improvements, the requirements of [section 62-12](#) and other relevant factors.

(2) The total amount to be reimbursed to the developer, owner, or subdivider by the city under this section shall not exceed the costs incurred by the developer, owner, or subdivider in constructing the extension(s).

(3) The terms and conditions of any reimbursement or financial participation by the city pursuant to this article shall be set forth in a written contract between the city and the developer or property owner for which the extension is to be constructed. Failure to reach a reasonable cost for any oversizing size may result in the denial of the extension.  
(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 07-11, § 7, 2-8-2007)

Sec. 62-83. - Pre-construction conference and issuance of permit.

(a) The developer, design engineer, and contractor or a designated representative for each shall attend the pre-construction conference. If a representative for each of the aforementioned parties is not in attendance, the pre-construction conference shall be rescheduled to a later date when each party can be represented.

(b) The developer, design engineer, and contractor or a designated representative for each, shall provide copies of all applicable federal, state, and local permits, easements, rights-of-way and encroachments and the appropriate engineering drawings to the Director of Engineering for approval prior to the pre-construction conference.

(c) The "authorization to construct" permit shall be issued by the Director of Engineering after all applicable federal, state and local permits, recorded easements and encroachments have been received and written approval from the Director of Engineering has been issued for the submitted engineering drawings and the developer, design engineer, and contractor or a designated representative for each has met the pre-construction conference requirements.

(d) Any utility construction activity initiated prior to the receipt of a written "authorization-to-construct" permit from the Director of Engineering shall be prohibited and subject to a civil penalty of up to ten percent per day of the posted bond or letter of credit. If no bond or letter of credit has been posted, any utility construction activity initiated prior to the receipt of a written "authorization-to-construct" permit from the Director of Engineering shall be prohibited and subject to a civil penalty of up to ten percent per day of the amount of the bond or letter of credit that should have been posted if the permitting process set forth in this chapter had been followed as by law provided.

(e) In the event that construction does not commence and complete within 24 months of the issuance of the permit, the permit shall expire and a new permit must be applied for and obtained by the applicant. An active permit must be maintained until full final approval has been issued for the infrastructure defined in the permit. Written requests for an extension of time received prior to expiration of the permit may be granted by the director of engineering for good cause shown.

(f) The denial of the issuance of a permit, subject to the provisions in this section shall be made in writing and shall contain the reasons for the denial and the city's estimate of the general changes in the applicant's proposed activities or plan which will be required in order that the applicant may obtain a permit. Nothing in such estimate shall preclude or otherwise bar the city from denying a permit, which incorporates such changes, based upon changed circumstances or information not previously known by the Director of Engineering or the applicant.

(g) Copies of all applicable federal, state, and local permits shall be submitted to the Director of Engineering prior to the City of Concord's issuance of an "authorization-to-construct" permit.  
(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 05-113, § 3, 12-8-2005; Ord. No. 06-81, § 1, 8-10-2006)

Sec. 62-84. - Modifications and revocations of permits.

Any permit issued by the city pursuant to this article is subject to revocation, suspension or modification, in whole or in part, upon 14 days' written notice to the applicant by the Director of Engineering for good cause including, but not limited to the following:

- (1) Violation of any terms, conditions, or requirements of this article or the permit; or
  - (2) Falsification or misrepresentation of information provided in the permit application and/or in the engineering plans and specifications; or
  - (3) Failure to disclose relevant information; or
  - (4) Refusal of or by the owner/developer or their contractor, agent, and employees to allow authorized officers, employees, or agents of the city, upon presentation of credentials, to inspect or observe any activity, system, or other work approved within the owner/developer's permit.
  - (5) Failure to follow the approved contract documents and engineering plans and specifications without receiving proper authority from the city.
- (Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-85. - Construction process.

- (a) Deviations from the approved engineering plans and specifications or changes in site conditions shall be submitted in writing by the engineer to the Director of Engineering for written approval prior to any further construction or installation activity.
  - (b) Modifications to the approved plans requiring federal, state, and local regulatory approval shall be the responsibility of the developer, contractor, and/or engineer. The developer shall assume full responsibility for acquiring the applicable regulatory permits and approvals, prior to further construction or installation activity.
  - (c) The developer shall hold the city and/or Director of Engineering, their officers and agents harmless of any responsibility or liability, upon the failure of the developer to obtain required regulatory approvals prior to further construction activity and the developers' failure to adhere to regulatory requirements during the construction activities.
- (Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-86. - Inspection.

- (a) The developer shall obtain the services of a competent and experienced engineer. The engineer shall provide the services of project design, surveying and grade control, right-of-way and easement recordation and construction inspection. It shall be the engineers' responsibility to supervise construction, establish grades or to provide solutions to grade, construction, or design problems and to obtain the appropriate federal, state, and local permits, encroachments, easements, and rights-of-way, as applicable.
- (b) The Director of Engineering shall have a field representative periodically observe the work while construction is in progress. This periodic construction observation by the Director of Engineering shall be subject to reasonable development construction observation fees and any other reasonable fees that may be applicable. Failure of the Director of Engineering to discover deficiencies at the time of construction shall not relieve the developer or his/her agent of the responsibility to correct such defects.
- (c) The engineer shall certify that the installation of the extensions is in accordance with all applicable federal, state, and local regulations and standards and constructed in accordance with the approved contract documents and engineering plans.



(d) Contract documents, approved engineering plans and specifications bearing the city's stamp of approval and associated permits shall be present at the project site at all times and made available upon request.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-87. - Video assessment.

The interior of all sewer outfall mains, collection mains, and laterals shall be recorded on a CD, DVD or equivalent successor media after the installation and testing is complete and submitted to the Director of Engineering for review prior to the acceptance and final approval of the extension. All associated costs shall be borne by the developer.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-88. - As-built drawings.

(a) The developer, and his/her engineer and/or contractor or his/her designee shall maintain current as-built drawings and survey the location and elevation of the infrastructure during the construction process. As-built drawings shall be maintained and available for inspection, upon the Director of Engineering's request.

(b) The engineer shall submit and certify a legible copy of the "as-built" drawings for the review, approval, and recordation to the Director of Engineering upon the completion of construction.

(c) As-built drawings shall include, but are not limited to, all of the information submitted on the engineering construction drawings as corrected, as well as the information listed below:

(1) General information .

a. Road names, as approved by the business and neighborhood services department, shall be identified on the plan view.

b. Underground utility location, if not noted, if not identified on the approved engineering plans, or if the exact location not previously identified. Additional information shall be identified on the profile view.

c. Relative features, including but not limited to street addresses, property line, natural features, etc. Additional information shall be identified on the plan view.

(2) Sewer-related information .

a. Mains.

1. Location of mains within right-of-way limits, if changed. Corrections shall be identified on the plan view.

2. Installed distances and slopes. Information shall be identified on the profile view.

3. Pipe type and size, if changed. Corrections shall be identified on the profile view.

4. Bore casing sizes and distances. Information shall be identified on the plan view.

5. Details on aerial creek crossings. Information shall be identified on the plan and profile view as needed.

6. Station location of special devices or appurtenances (e.g., anti-seep collars), measured from the downstream manhole. Information shall be identified on the profile view.

7. Information concerning distance to other utilities shall be identified on the profile view.

8. Station location of laterals, measured from the downstream manhole shall be identified on the plan view.

b. Manholes.

1. Manhole size and type (e.g., inside drop, outside drop). Information shall be identified on the profile view.

2. Elevations. Information shall be identified on the profile view.

i. Inverts in, inverts out, and drop inverts (top and bottom).

ii. Rims and vents. Elevations shall be provided in vertical feet.

(3) Water-related information .

a. Location of mains within right-of-way limits, if changed. Corrections shall be identified on the plan view.

b. Installed distances. Information shall be identified on the plan view.

c. Pipe type and size, if changed. Corrections shall be identified on the plan view.

d. Bore casing sizes and distances. Information shall be identified on the plan view.

e. Station location of hydrants and associated leg lengths. Information shall be identified on the plan view.

f. Station location of valves and distances from the edge of pavement. Information shall be identified on the plan view.

g. Distance to other utilities. Information shall be identified on the plan view.

h. Station location of laterals and distances from the main to the meter box. Information shall be identified on the plan view.

i. Station location of special devices or appurtenances (e.g., backflow prevention devices, air-release valves, etc.) and associated details. Information shall be identified on the profile view.

j. Station location of meter box from the main and distances from the edge of pavement.

Information shall be identified on the plan view.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-89. - Record drawings.

(a) The engineer shall provide to the director of engineering "record" drawings and a digital copy of "record" drawings. Record drawings shall be signed and sealed by a professional engineer licensed to practice in North Carolina. Digital record drawings shall be supplied in format AutoCAD Release 14 or a later release, or in a format as specified by the director of engineering. All surveys shall be referenced to North Carolina grid coordinates. In addition the vertical monuments and datum from which the project was designed shall be designated on the map.

(b) As-built drawings shall be signed and sealed by a professional surveyor licensed to practice in North Carolina and shall reflect actual field location of infrastructure as installed. All information required on the as-built drawings shall be reflected on the record drawings.

(c) Recorded rights-of-way and easements shall be shown on the record drawings, including the required digital record drawings. Utility rights-of-way and easements shall be surveyed and recorded in accordance with the city's current rights-of-way, easements and encroachments policy. All recorded rights-of-way, easements, and encroachments shall be submitted to the director of engineering prior to final approval of the infrastructure.

(d) Record drawings shall be submitted prior to the certification and activation of the extension.

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 05-13, § 3, 3-10-2005; Ord. No. 05-113, § 4, 12-8-2005)

Sec. 62-90. - Certification.

The engineer shall be responsible for sealing and certifying that materials and the construction of the extension and/or modification to the water distribution system and the wastewater collection system have met all the applicable rules, regulations, statutes, and ordinances of the City of Concord, State of North Carolina, the United States of America and the WSACC standards and

is in substantial compliance with the approved engineering plans, specifications, supporting materials, and associated permits. A copy of the certification shall be provided to the Director of Engineering prior to final approval. Projects may be certified in phases.

(Ord. No. 04-17, § 1, 3-11-2004)

**Sec. 62-91. - Application package for final approval.**

Application package for final approval of water distribution system or wastewater collection system extensions and/or modifications (or any phase thereof) shall include but shall not be limited to the following:

(a) Three completed copies of the final certification executed and sealed by an engineer, one copy of the sealed "as-built" drawings, three sets of the sealed "record" drawings, and one digital copy of the "record" drawings, as specified in [section 62-89](#) of this article, shall be submitted to the director of engineering for review and approval.

(b) The applicant shall satisfactorily prove that the applicant, or any parent, subsidiary, or other affiliate, has obtained all necessary permits, encroachments, and rights-of-way required to carry out the activity for which the permit is being requested.

(c) All executed and recorded rights-of-way, easements, and encroachments shall be submitted to the Director of Engineering in a form and content acceptable to the City Attorney prior to final approval of the infrastructure. (Section 62-194)

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 05-13, § 4, 3-10-2005; Ord. No. 05-113, § 5, 12-8-2005)

**Sec. 62-92. - Final approval requirements and conditions.**

(a) Final approval shall not be issued until the construction of the extension and/or modification to the water distribution system and the wastewater collection system have meet all the applicable rules, regulations, statutes, and ordinances of the City, the State of North Carolina, and the United States of America and the WSACC standards.

(b) The engineer shall certify that the installation and the construction of any extension and/or modification to the Concord Utilities System shall meet all regulatory design standards and is in substantial compliance with the approved engineering plans and associated permits.

(c) If the Director of Engineering should find that final approval should be denied, the denial shall be made in writing and shall contain each reason for the denial and the Director of Engineering's estimate of the general changes in the applicant's proposed activities or plan which will be required, in order that the applicant may obtain a final approval. Nothing in such estimate shall preclude or otherwise bar the Director of Engineering from denying final approval, which incorporates such changes, based upon changed circumstances or information not previously known by the Director of Engineering.

(d) A properly executed certification, the "as-built" drawings, the "record" drawings, and the video assessment, as prescribed in [section 62-88](#) of this article, shall be submitted to the Director of Engineering for review and shall be determined complete by the Director of Engineering before final approval is issued.

(e) No construction, alteration, or expansion of the Concord Utilities System shall be placed into final service or made available for human consumption until the applicant has fully complied with all applicable federal, state, and local regulations and standards and has obtained final approval from the Director of Engineering.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-93. - Donation/acceptance of extensions to the City.

(a) Water distribution systems and wastewater collection systems and associated rights-of-way and other appurtenances as required that interconnect with the Concord Utilities System and intended for public use shall be granted and conveyed to and become the property of the City upon the final written approval of the Director of Engineering and acceptance by the City Council.

(b) The City Council shall not accept the ownership, operation, or maintenance responsibility of modifications or extensions that do not meet the requirements of this article or other applicable law and regulation.

(c) Following the developer's donation and the City's acceptance of a modification or extension, the City shall have sole ownership and rights to the modification or extension and shall assume all operation and maintenance responsibilities.

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 05-13, § 5, 3-10-2005)

Sec. 62-94. - Warranty.

(a) The developer shall be responsible for the material and craftsmanship of all donated infrastructure for a period of one year from the date of certification of the project or the phase of the project. The City has the right to increase the warranty period for atypical construction materials or construction techniques. The warranty period shall begin on the date that the City accepts ownership of the modification or extension.

(b) In accordance with Article 6, Section 6.4.16 of the City of Concord Unified Development Ordinance, this warranty shall include any damages that may arise from construction by other utility companies or homebuilders.

(c) The City shall relieve the developer of their obligation under the warranty period by performing a one-year warranty inspection shall include, but is not limited to, a recording of the interior of all sewer outfall mains, collection mains, and laterals on a CD, DVD or equivalent successor media. Any and all defects found at this time that do not conform to the City's standards or this article shall be repaired or replaced at the developer's expense.

(d) The City shall, upon final acceptance at the end of the applicable warranty period, release the developer's bond of surety or letter of credit.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-95. - Enforcement.

(a) Except as set forth in [section 62-8](#), any person or entity that violates, fails to comply with or continues to violate any provision of this article III or the terms or conditions of any permit issued under this article, shall be liable to the City for a civil penalty up to \$10,000.00 per violation per day for as long as each violation continues. Each day on which a violation shall occur or continue to occur shall be deemed a separate and distinct violation. In determining the amount of the civil penalty, the Director of Engineering and City Manager shall take into account all relevant circumstances including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, efforts to correct the violation, the compliance history of the person against whom the violation is assessed, associated enforcement costs to the City, whether the violation was committed willfully or intentionally, and any other factor as justice requires.

(b) Any person or entity who shall undertake any activity requiring a permit under [section 62-77](#) without first having obtained said required permit shall be guilty of a misdemeanor and upon conviction thereof, shall be subject to the fine established in [section 62-8](#) or imprisoned for up to 30 days or both in the discretion of the court.

(c) If any person violates the provisions of this article or the terms or conditions of any permit issued hereunder, a civil action may be commenced in the general court of justice in the name of the City for such legal and equitable relief as maybe appropriate.

(d) The City reserves the right to:

(1) Notify federal, state, and local agencies of any and all violations of regulations pertinent to their respective agencies and request that those agencies initiate enforcement actions; and

(2) Notify the North Carolina Board of Examiners for Engineers and Surveyors of any violations to the Engineering and Land Surveying Act (N.C. General Statute Chapter 89C), which includes promoting the general welfare and protecting the public by safeguarding life, health, and property. The City shall submit evidence of fraud, deceit, gross negligence, incompetence, misconduct, or violations of the board rules against any unlicensed individual performing functions that require a license, against any individual licensee, or against any corporation holding a certificate of authorization.

(3) The remedies provided herein are not exclusive. The City may take any one, all, or any combination of these actions against any person in violation of the provisions of this article or the terms or conditions of any permit issued hereunder. The City may also seek an injunction against any person in violation of the provisions of this article or the terms or conditions of any permit issued hereunder.

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 05-13, § 6, 3-10-2005)

Sec. 62-96. - Notification of changes to the permitting process.

The City's approved permitting program, as set forth herein, shall be established pursuant to the authority contained in N.C. General Statutes §§ 130A-317 and 143-215.1(f) and rules promulgated thereunder. Amendments to N.C. General Statutes §§ 130A-317 and 143-215.1(f) and rules promulgated thereunder that affect the City's approved permitting program shall be incorporated into the City's permitting program within 60 days of the effective date of such amendments, or as otherwise required by law, provided that the City is provided timely written notification of such changes.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-97. - Design standards.

(a) Water distribution system and wastewater collection system extensions and/or modifications shall be designed in accordance with all applicable federal, state, and local regulations and standards.

(b) All engineering plans that are generated for water distribution system extensions/modifications and all engineering plans that are generated for wastewater collection system extensions/modifications that are, or are proposed to be, under the ownership of the City shall meet the following design standards:

(1) Engineering plans shall be submitted on 24-inch by 36-inch sheets with the approved City border and logo.

(2) The horizontal scale shall be one inch equals 40 feet and the vertical scale shall be one inch equals four feet.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-98. - Minimum design criteria.

The following design criteria shall be adhered to for all public and private extensions to or modifications to the city's water distribution system and wastewater collection system. All utilities requiring a permit pursuant to this article shall be designed following good engineering practices. All engineering plans shall include but not be limited to the following information:

(1) General requirements for engineering plans .

- a. A general location map, a north arrow, a scale, a plan view of all proposed water and sanitary sewer lines (including gravity lines and force mains), a center-of-pipe profile view of all proposed sanitary sewer lines (including gravity lines and force mains), and a center-of-pipe profile view of all waterlines with diameters 12 inches and greater. The plan and profile view of the same portion of line shall be provided on the same engineering plan sheet.
- b. Road names and state road numbers, existing and proposed utilities, existing names and location of water-bodies, the 100-year flood elevation, existing and proposed rights-of-way and easements, elevation control markers and monuments, utility stationing, existing and proposed topography at two-foot increments, and the proximity of the proposed infrastructure to all other utilities and natural features within 200 feet.
- c. Water distribution line and wastewater collection line stationing shall be separate from roadway stationing.
- d. Engineering plans shall be signed, sealed, and dated by the engineer.

(2) Applicable standards . Designs shall conform to the following minimum design standards:

- a. The North Carolina Administrative Code;
- b. The design standards in the Standard Specifications for Wastewater Collection and Water Distribution Construction for Cabarrus County;
- c. Any additional standards as determined by this article or the director of engineering;
- d. Cross connection control, in accordance with the Backflow Prevention and Cross Connection Control Manual and [section 62-161](#), shall be provided.

(3) Rights-of-way/easements . All utility rights-of-way/easements shall meet the following standards:

- a. Rights-of-way and easements shall be granted, dedicated, and recorded in accordance with the city's current rights-of-way, easements, and encroachments policy.
- b. Water distribution lines and wastewater collection lines that are not located within a road right-of-way shall be located within a public utility right-of-way/easement
  1. The minimum utility right-of-way/easement width shall be 30 feet.
  2. Rights-of-way greater than 30 feet shall be provided when required by the director of engineering.
  3. Every portion of the water distribution system extension and wastewater collection system extension or modification shall be accessible by city maintenance crews and equipment within the utility rights-of-way/easement. An all weather travel surface and a minimum slope of eight percent or flatter and side slopes of two percent or flatter must be provided within the utility rights-of-way/easement. When access through the utility rights-of-way/easement is not possible, the director of engineering may approve a maintenance/access easement. All maintenance/access easements must be clearly indicated on the plans and legally conveyed to the city. The maintenance/access easement shall have an all weather travel surface with a minimum slope of

eight percent or flatter and side slopes of two percent or flatter with a horizontal curve radius that does not exceed the turning capabilities of the city equipment.

(4) Locations and separations . The location of all utilities shall meet the following standards and the required horizontal and/or vertical separation distance shall be noted at the appropriate station on the engineering plans.

a. A minimum horizontal separation of five feet shall be maintained between any type of maintenance obstruction and the city's water distribution lines, wastewater collection lines, and associated appurtenances, unless an exception is granted as outlined in [section 62-100](#). Greater separation distances may be required as specified by federal, state, or local regulations.

b. A minimum vertical separation of two feet shall be maintained between any type of maintenance obstruction, including but not limited to any other utility provider's lines or equipment, and the city water distribution lines, wastewater collection lines, and associated appurtenances, unless an exception is granted as outlined in [section 62-100](#). If an exception is granted, a minimum vertical separation of one foot must be maintained and the city water distribution lines, wastewater collection lines, and associated appurtenances shall be constructed of ductile iron pipe or an approved ferrous material with joints that are equivalent to potable water main standards for a distance of ten feet on either side of the point of crossing. Greater separation distances may be required as specified by federal, state, or local regulations.

c. A minimum horizontal separation of ten feet shall be maintained between the city water distribution system and wastewater collection lines, and associated appurtenances, unless an exception is granted as outlined in [section 62-100](#).

d. In areas where utilities are proposed along new roadways subject to the city's development ordinances, water distribution lines and wastewater collection lines shall be located in accordance with the city's current utility corridor plan, or as specified by the director of engineering.

e. Manholes and cleanouts shall not be located within any feature conveying or pooling stormwater.

f. Water meters and valve vaults shall not be located within any feature conveying or pooling stormwater.

(5) Cover and material standards . The water and sewer system extensions shall meet or exceed the following depth standards:

a. Three feet minimum cover shall be provided for water distribution systems and wastewater collection systems extensions and/or modifications unless an exception is granted as outlined in [section 62-100](#). If an exception is granted, the water distribution systems and wastewater collection systems extensions and/or modifications must maintain at least 30 inches of cover and be constructed of ductile iron pipe or an approved ferrous material.

b. Maximum depth of cover for non-ferrous pipe shall be limited to 18 feet. Non-ferrous pipe with a proposed depth of cover exceeding 12 feet shall require the submission of bearing capacity documentation and the supporting design calculations and shall be subject to approval by the director of engineering. The documentation and design calculations shall address the bearing capacity of the proposed pipe and its ability to withstand the dead and live loads. The design shall include adequate documentation and a standard detail, which adequately addresses the bedding requirements for the pipe.

c. Ferrous material shall be provided for all proposed water and sewer system extensions that have a depth of cover exceeding 18 feet. All ferrous pipe with a proposed depth of cover exceeding 18 feet shall require the submission of bearing capacity documentation and the



supporting design calculations and shall be subject to approval by the director of engineering. The documentation and design calculations shall adequately address the bearing capacity of the proposed ferrous pipe and its ability to withstand the dead and live loads. The design shall include adequate documentation and the proposed standard detail, which adequately satisfies the bedding requirements for the pipe.

(6) Pipe standards .

- a. All wastewater collection system mains shall be sized to accommodate potential wastewater flow from the entire drainage basin based on current zoning and/or land use designations.
- b. Water distribution system extensions or modifications that are 12 inches or greater in diameter and the associated appurtenants that are to be located within or adjacent to industrial or commercial zoned property and will serve industrial or commercial zoned property shall be constructed of ductile iron pipe with joints that are equivalent to potable water main standards.
- c. Fire hydrant legs shall be constructed of six inch ductile iron pipe with restrained joints that are equivalent to potable water main standards.

(7) Slope standards . Eight-inch diameter wastewater collection system lines shall be designed and installed at a slope equal to or exceeding six-tenths of one percent except on dead-end lines and lines where low flows are expected. Minimum slope on such lines that are 18 inch or less in diameter shall be one percent.

(8) Manhole standards .

- a. If the sanitary sewer lines entering and exiting a manhole are separated by  $225^{\circ}$ — $270^{\circ}$  or  $90^{\circ}$ — $135^{\circ}$ , the invert-in and invert-out elevations shall have a vertical separation of at least five-tenths of one foot.
- b. Five-foot diameter inside drop manholes shall be provided where invert separations equal two feet or greater and a 12-inch diameter pipe or smaller is proposed. If three 12-inch diameter or smaller drops are needed at a manhole, a six-foot inside drop manhole shall be provided. If the invert separation is two feet or greater and a pipe diameter larger than 12-inches is proposed, an outside drop manhole shall be provided.
- c. Wastewater collection system manhole rim elevations must be set to conform to the street and shoulder final grade elevation within public or private road rights-of-way. All other wastewater collection system manhole rim elevations shall be at least two feet above final grade. Wastewater collection system manholes located within the 100-year flood elevation shall be set such that the rim elevation is either one foot above the 100-year flood elevation but not more than three feet above final grade or two feet above final grade and watertight with sealed manhole covers and screened vent pipes set at least one foot above the 100-year flood elevation.
- d. Wastewater collection system manholes shall be vented every 1,000 feet or at every other manhole, whichever yields the greater number of vents.

(9) Wastewater pump station standard . All wastewater pump stations shall be designed according to the city's standard wastewater pump station specification. In addition, the wastewater wet well/storage basins shall be designed for an emergency storage capacity of two hours of peak flow in the event of pump failure. The required storage volume shall be measured between the pump-off elevation and six inches from the elevation where wastewater could escape to daylight. Since this specification allows for wastewater storage for almost the full depth of the wet well, wastewater will be allowed to back up in the sanitary sewer system. However, wastewater storage in the sanitary sewer system may not be counted toward the wet well/storage basin two hour requirement. Approval of staged capacities based on phased development may be allowed, but provisions, requirements, facilities, and costs shall be



delineated and accounted for in the initial design. If staged capacity is under consideration, the design engineer shall furnish a development construction schedule that explains the construction sequence for time when additional capacity is added. Staged capacity projects shall not adversely affect the city's ability to operate the pump station. The wastewater wet well/storage basins shall be six feet in diameter or greater. If a pump station is requested in lieu of a gravity system, the city manager or his designee may allow the pump station if it is determined the discharge point for the force main will not adversely impact the current or future capacity of the downstream sewer to serve the drainage basin of the receiving sewer and a one-time fee is paid to the city at the time of city acceptance of the pump station calculated by the city based on the present worth of the cost for the city to operate and maintain, rehabilitate, and repair the pump station and force main in perpetuity under industry standards for reasonable care.

(10) Service laterals . Service laterals shall meet the following standards.

- a. Sewer service cleanouts shall be located at the edge of the right-of-way.
- b. Sewer service cleanouts shall have brass caps with glued bi-threaded couplings.
- c. Sewer service laterals that discharge directly into a manhole shall discharge into the manhole trough via direct piping that extends to the main trough or via a manufactured service trough at a one percent grade.
- d. When water and sewer service laterals are extended from mains within the road right-of-way, sewer service laterals shall be located at the center of the lot and water service laterals shall be located five feet to the right of the sewer service lateral.

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 05-13, § 7, 3-10-2005; Ord. No. 05-95, § 1, 10-13-2005; Ord. No. 05-113, § 6, 12-8-2005; Ord. No. 12-117, § 1, 11-8-2012)

Sec. 62-99. - Required design calculations.

The engineer shall provide the following evaluations, justifications, and calculations to the City's Engineering Department in addition to any other calculations deemed necessary to meet the requirements of all federal, state, and local requirements and to ensure that the design conforms to good engineering practice.

(1) Water. The proposed extension shall be able to produce the required fire flows, including but not limited to any necessary pumping or storage throughout the proposed extension without negatively impacting the existing system. Documentation of this ability shall be submitted to the Director of Engineering for approval. The use of multiple connections to achieve the required fire flows, in lieu of upsizing the pipe, shall not be permitted.

(2) Wastewater.

a. The design capacity and available capacity of each of the City's sanitary sewer lines and pump stations downstream of the proposed connection point shall be evaluated. This evaluation shall include a map of the City's wastewater collection system from the proposed project location to the point where the City's system connects to WSACC's wastewater collection system. Using good engineering judgment, the design engineer shall estimate existing and potential (build out) flows using the acreage of the drainage area served and zoning information (type of allowable development) in conjunction with the daily design flows provided in the North Carolina Administrative Code.

b. The diameters of downstream sanitary sewers and the capacities of downstream pump stations shall be verified. Downstream sanitary sewer lines shall have diameters equal to or greater than those upstream. If downstream sanitary sewer lines and pump stations do not have adequate capacity to accommodate the peak flow of the existing wastewater (along with the potential build

out) and the estimated peak flow of the project served by the extension, then all necessary downstream sewer lines, pump stations, and appurtenances shall be upsized. The developer shall be responsible for their proportional share of the costs to increase the size of the downstream infrastructure. The costs shall be determined and or verified by the Director of Engineering or her/his designee.

c. The hydraulics of the proposed manhole with the greatest slope differential (i.e., steep line entering the manhole and a flat line exiting the manhole) and the tie-in point of the existing system shall be evaluated to determine whether or not the wastewater will surcharge during peak flow conditions.

d. Wastewater pump station .

1. Total dynamic head calculations for all applicable pumping conditions shall be provided.

2. The pump curve of each proposed pump shall be provided. A pump curve/system curve analysis, plotting total dynamic head versus capacity, shall be used to determine the pump selection and the operating range. System curves for the following conditions shall also be provided: system at the point of initial service (new), system at the end of service (aged), at the pump-on condition, at the pump-off condition, one pump operating, multiple pumps operating. The efficiency of the pump(s) shall be at least 40 percent throughout the operating range.

3. The number of times that the pump is activated during average daily flow and peak flow conditions shall be evaluated. The pump run time shall also be evaluated.

4. Buoyancy protection calculations shall be provided for wastewater pump stations. Flotation calculations shall assume that the elevation of the groundwater is equivalent to the ground elevation and shall not include the weight of the pumps, internal piping and appurtenances, or wastewater.

5. The available storage capacity of the wet well shall be calculated for the volume measured between the pump-off elevation and six inches from the elevation where wastewater could escape to daylight. Wastewater storage in the sanitary sewer system may not be counted toward the wet well/storage basin two hour requirement.

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 05-113, § 7, 12-8-2005)

Sec. 62-100. - Exceptions.

Exceptions to the City's design standards shall only be granted upon meeting the applicable regulations of other governmental authorities for water distribution systems and wastewater collection systems extensions and/or modifications by obtaining the approval and concurrence of the Director of Engineering and the Director of Water Resources and/or Director of Wastewater Resources, as applicable. Further, this approval shall only be granted in cases where the applicant can demonstrate that an alternative design standard will provide the following:

(1) Equal or better system performance,

(2) Equal or better system operation and maintenance, and

(3) No increased potential for nuisance conditions.

(Ord. No. 04-17, § 1, 3-11-2004)

Secs. 62-101—62-130. - Reserved.

ARTICLE IV. - FEES, CHARGES, AND BILLS

Sec. 62-131. - Amounts.

The City shall assign fees, charges, and bills in accordance with the amounts provided in City's adopted budget ordinance applicable at the time that services are rendered. Billing rates shall be based upon land use, regardless of the zoning designation. Established residences shall be billed in accordance with the current residential rate. Water and sewer rates are provided in the City's most recently adopted budget ordinance.  
(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-132. - Types of fees and charges.

(a) Water treatment and distribution system use fees. These fees are intended to provide for the recovery of costs from customers for the use of the water treatment facilities and the distribution system. These fees offset Concord Utilities' debt on the existing water treatment facilities and distribution system, the cost of routine operation and maintenance, and related administrative costs. Rates vary by water meter type, size, and customer class. The specific authorized rates are listed below. Rates are established in the adopted annual budget ordinance and are incorporated herein by reference.

(1) Base charges . Each customer shall pay a minimum charge based on the customer's water meter type, size, and location.

a. Inside City . A base charge shall apply to all customers within the municipal limits of the City as identified in the approved annual budget ordinance.

b. Outside City . A base charge shall apply to all customers outside of the municipal limits of the City as identified in the approved annual budget ordinance.

c. Fire service availability . A base charge shall apply to all customers of the City with separate water services dedicated to fire protection systems.

(2) Volume charges. In addition to the base charges listed in subsection [62-132\(a\)\(1\)](#) above, each customer shall pay for the volume of water used from Concord Utilities.

a. Residential volume charges inside City. These volume charges apply to the "residential inside City" customer class. The "residential inside City" customer class includes customers living within the municipal limits of the City with a water service that supplies a single-family home (detached, attached, modular, or manufactured), home occupation, or multi-family dwelling with separately-metered units.

1. Residential service. Water that passes through Concord Utilities' water meter shall be billed at three different block rates based on the volume that passes through the meter during the billing cycle. Each block shall be billed at the rate designated in the approved annual budget ordinance.

i. Block 1. A Block 1 rate shall apply to customers that have zero to 6,000 gallons pass through the water meter during the billing cycle.

ii. Block 2. A Block 2 rate shall apply to customers that are 6,001 to 8,999 gallons pass through the water meter during the billing cycle.

iii. Block 3. A Block 3 rate shall apply to customers that have 9,000 or more gallons pass through the water meter during the billing cycle.

2. Irrigation service. Water that passes through a residential irrigation meter shall be billed at the rate designated in the approved annual budget ordinance.

b. Residential volume charges outside City. These volume charges apply to the "residential outside City" customer class. The "residential outside City" customer class includes customers living outside the municipal limits of the City with a water service that supplies a single-family home (detached, attached, modular, or manufactured), home occupation, or multi-family dwelling with separately-metered units.

1. Residential service. Water that passes through Concord Utilities' water meter shall be billed at three different block rates based on the volume that passes through the meter during the billing cycle. Each block shall be billed at the rate designated in the approved annual budget ordinance.
  - i. Block 1. A Block 1 rate shall apply to customers that have zero to 6,000 gallons pass through the water meter during the billing cycle.
  - ii. Block 2. A Block 2 rate shall apply to customers that are 6,001 to 8,999 gallons pass through the water meter during the billing cycle.
  - iii. Block 3. A Block 3 rate shall apply to customers that have 9,000 or more gallons pass through the water meter during the billing cycle.
2. Irrigation service. Water that passes through a residential irrigation meter shall be billed at the rate designated in the approved annual budget ordinance.
- c. Commercial and institutional volume charges. These volume charges apply to the "commercial/institutional" customer class. The "commercial/institutional" customer class includes customers with a water service that supplies an establishment that is engaged in the business of exchanging, buying, or selling goods and services; or supplies an establishment or office that promotes a governmental, educational, or organizational function. Commercial/institutional customers do not include customers that fit the definition of a "residential" or "industrial" customer.
  1. Commercial/institutional service . Water that passes through Concord Utilities' water meter shall be billed based on the volume that passes through the meter during the billing cycle at the rate designated in the approved annual budget ordinance.
  2. Commercial/institutional irrigation service. Water that passes through a commercial/institutional irrigation meter shall be billed at the rate designated in the approved annual budget ordinance.
- d. Industrial volume charges. These volume charges apply to the "industrial" customer class. The "industrial" customer class includes customers with a water service that supplies an establishment that is engaged in the business of manufacturing or processing products. Industrial customers are classified by the North American Industry Classification System (NAICS), formerly the U.S. Standard Industrial Classification (SIC) system.
  1. Industrial service . Water that passes through Concord Utilities' water meter shall be billed based on the volume that passes through the meter during the billing cycle at the rate designated in the approved annual budget ordinance.
  2. Industrial irrigation service. Water that passes through a commercial/institutional irrigation meter shall be billed at the rate designated in the approved annual budget ordinance.
- e. Local government volume charges. These charges apply to select local governments that have water supply agreements with the City.
  1. Town of Harrisburg service . Water that passes through the Concord Utilities' system to the Town of Harrisburg's water system shall be billed based on the volume that passes through the designated meter(s) during the billing cycle at the rate identified in the approved annual budget ordinance.
  2. City of Kannapolis service . Water that passes through the Concord Utilities' system to the City of Kannapolis's water system shall be billed based on the volume that passes through the designated meter(s) during the billing cycle at the rate identified in the approved annual budget ordinance.
  3. Town of Mount Pleasant service . Water that passes through the Concord Utilities' system to the Town of Mount Pleasant's Water System shall be billed based on the volume that passes

through the designated meter(s) during the billing cycle at the rate identified in the approved annual budget ordinance.

f. Fire hydrant volume charges . These charges apply to customers that withdraw water from Concord Utilities through a connection to a fire hydrant. These customers shall hold a valid permit in accordance with [section 62-163](#) and are only authorized to connect to fire hydrants identified by Concord Utilities.

(b) Water connection charges. These fees are intended to provide for the recovery of costs from customers for the labor and equipment associated with the installation of connections to the existing water distribution system and offset the cost of major capital improvements. Each residential customer shall pay an amount based on the number of residential units, customer's water meter size and the installer of the connection. Each non-residential customer shall pay an amount based on the customer's water meter size and the installer of the connection.

Owners/developers shall pay connection charges prior to recording a final plat or, if a preliminary plat is not required, then prior to the issuance of a zoning clearance permit.

This fee applies to each residential unit, commercial and industrial lot or unit requiring water and/or sewer utility service.

(1) Water service meters two inches and smaller.

a. Installed by Concord Utilities. The customer shall pay the amount identified in the approved annual budget ordinance based on the water meter size and number of residential units if applicable.

b. Installed by others. If connections are not installed by the City and are installed by others in accordance with the requirements of this chapter, a portion of the water connection charge shall be waived and the customer shall only pay the amount identified in the approved annual budget ordinance as the "capacity fee."

(2) Water service meters greater than two inches.

a. Installed by Concord Utilities. The customer shall pay the amount identified in the approved annual budget ordinance based on the water meter size.

b. Installed by others. If connections are not installed by the city and are installed by others in accordance with the requirements of this chapter, the customer shall only pay the amount identified in the approved annual budget ordinance based on the water meter size.

(3) Irrigation service meters. The customer shall pay the amount identified in the approved annual budget ordinance based on the irrigation meter size.

(c) Wastewater collection system use fees. These fees are intended to provide for the recovery of costs from customers for the use of the wastewater collection system. These fees offset Concord Utilities' debt on the existing wastewater collection system, the cost of routine operation and maintenance, and related administrative costs. Additionally, this fee shall include the recovery of costs required to pay the interceptor use and wastewater treatment fees. The specific authorized rates are listed below. Rates are established in the adopted annual budget ordinance and are incorporated herein by reference.

(1) Base charges . Each customer shall pay a minimum charge based on the customer's sewer service size and location.

a. Inside City . A base charge shall apply to all customers within the municipal limits of the City as identified in the approved annual budget ordinance.

b. Outside City . A base charge shall apply to all customers outside of the municipal limits of the City as identified in the approved annual budget ordinance.

(2) Volume charges . In addition to the base charges listed in subsection [62-132\(c\)\(1\)](#) above, each customer shall pay for the volume of wastewater discharged to Concord Utilities. Wastewater discharge volume charges shall be based on the volume of water that passes through the customer's water meter with the following exceptions. Industrial customers with significant discrepancies between water consumption and wastewater discharge may determine wastewater volumes in accordance with [section 62-136](#). Residential customers that do not receive metered water service from Concord Utilities shall be billed a flat volume charge based on the average residential water consumption of Concord Utilities residential customers.

a. Inside City . Customers shall be billed at the rate designated in the approved annual budget ordinance.

b. Outside City . Customers shall be billed at the rate designated in the approved annual budget ordinance.

c. Flat volume charge . Customers shall be billed at the rate designated in the approved annual budget ordinance.

(d) Wastewater connection charges. These fees are intended to provide for the recovery of costs from customers for the labor and equipment associated with the installation of connections to the existing wastewater collection system and offset the cost of major capital improvements. Each residential customer shall pay an amount based on the number of residential units, customer's sewer service size and the installer of the connection. Each non-residential customer shall pay an amount based on the customer's water meter size and the installer of the connection.

Owners/developers shall pay connection charges prior to recording a final plat or, if a preliminary plat is not required, then prior to the issuance of a zoning clearance permit.

This fee applies to each residential unit, commercial and industrial lot or unit requiring water and/or sewer utility service.

(1) Sewer services four inches.

a. Installed by Concord Utilities. The customer shall pay the amount identified in the approved annual budget ordinance based on the sewer service size and number of residential units for residential customers and water meter size for non-residential customers.

b. Installed by others. If connections are not installed by the city and are installed by others in accordance with the requirements of this chapter, a portion of the wastewater connection charge shall be waived and the customer shall only pay the amount identified in the approved annual budget ordinance as the "capacity fee."

(2) Sewer services greater than four inches.

a. Installed by Concord Utilities. The customer shall pay the amount identified in the approved annual budget ordinance based on the sewer service size and number of residential units for residential customers and water meter size for non-residential customers.

b. Installed by others. If connections are not installed by the city and are installed by others in accordance with the requirements of this chapter, a portion of the wastewater connection charge shall be waived and the customer shall only pay the amount identified in the approved annual budget ordinance as the capacity fee.

(e) Concord Utilities extension and modification permit fees. These fees are intended to provide for the recovery of costs associated with the administration of processing permit applications and permits for the extension and modification of Concord Utilities.

(1) Water permit application review . Customers shall pay the amount designated in the approved annual budget ordinance.

(2) Wastewater permit application review . Customers shall pay the amount designated in the approved annual budget ordinance.

(f) Labor and equipment charges. These charges are intended to provide for the recovery of costs associated with labor performed by Concord Utilities on the behalf of a customer. Rates are listed in the approved annual budget ordinance by equipment type and time. Labor and equipment charges also include all applicable trip charges. Customers shall pay all required labor and equipment charges.

(g) Water meter testing fees. These fees are intended to provide for the recovery of costs associated with labor performed by Concord Utilities on the behalf of a customer. These fees may be reimbursable to the customer if the appropriate provisions of [section 62-135](#) are met. Customers shall pay all required water meter testing fees.

(h) Fees for violations of mandatory water restrictions. These fees are intended to be a punitive consequence for the violation of [section 62-165](#). The amount of this fee is based on customer class and the number of offenses of a specific customer. Customers shall pay all required fees for violations of mandatory water restrictions.

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 04-36, 5-13-2004; Ord. No. 08-93, § 1, 9-11-2008; Ord. No. 08-93, § 2, 9-11-2008; Ord. No. 16-23, §§ 1—4, 3-10-2016; Ord. No. 16-116, §§ 1—4, 10-13-2016; Ord. No. 17-99, §§ 1—4, 9-14-2017)

#### Sec. 62-133. - Payment procedures.

The City shall collect and the customer shall pay the appropriate fees, charges, and bills in accordance with the procedures established by Ordinance 97-15, utility policies and procedures.

(Ord. No. 04-17, § 1, 3-11-2004)

#### Sec. 62-134. - Responsibility for payment.

(a) Metered services . On metered services, the applicant for water or sewer service shall be responsible for the payment of the bill.

(b) Master-metered services . If multiple dwelling units are served from the same meter, the property owner or landlord shall be responsible for payment of the bill.

(c) Flat rate services . On flat rate services, the property owner shall be responsible for the payment of the bill.

(Ord. No. 04-17, § 1, 3-11-2004)

#### Sec. 62-135. - Billed water usage versus actual water consumption.

(a) Verifying water meter accuracy . If a customer believes that a water meter on their premises is not registering their water consumption accurately, they may request a meter test. Charges shall be collected for this service in accordance with the procedures established by the Customer Service division in the amount identified in the City's most recently adopted Budget Ordinance. If staff determines that the meter was not properly calibrated or that previous readings were inaccurate, not meeting the standard accuracy +/- 2.5%, the meter testing fee shall be credited to the customer's account and the faulty meter shall be repaired or replaced at no cost to the customer.

(b) Adjustments for inaccurate water meter readings . If the meter seal is broken by someone other than a staff member or agent of Concord Utilities, or if the meter fails to accurately register the customer's water usage, the customer shall be charged or credited the amount computed in



accordance with the procedures established by the customer service division for the period in which the meter failed to produce an accurate reading.

(c) Adjustments for major leaks in the customer's plumbing . If Concord Utilities discovers or verifies a leak in the customer's plumbing that resulted in a meter reading with water usage 400 percent above the customer's average consumption, the customer's charges may be modified in accordance with the procedures established by the customer service division.

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-136. - Billed wastewater discharge versus actual wastewater discharge.

If industrial customers have data verifying that process water is not discharged into the Concord Utilities System, then the wastewater discharge can be measured by one of the following methods:

(1) If the volume of wastewater created by an industrial customer is similar to the volume of water used from the City's water distribution system, then the volume of water purchased from the City shall be considered to be equal to the volume of wastewater discharged to the Concord Wastewater Collection System.

(2) If a substantial portion of the water used from the City's water distribution system is not used by the industrial customer's facility or is not discharged to the City's wastewater collection system, the quantity of wastewater discharged to the wastewater collection system shall be determined by one of the following means:

a. Flow meter(s) on the water service line(s) to a specific operation(s), or

b. Flow meter(s) on the wastewater service line(s) from a specific operation(s), or

c. If any industrial customer, now discharging or proposing to discharge wastewater into the City's wastewater collection system does not secure their property's entire water supply from the City's water distribution system, such user shall do the following:

1. Install and maintain a flow meter(s) on the sewer line(s) from all process operations, and

2. Install additional flow meters on the private water supply as required to permit the determination of the total quantity discharged to the City's wastewater collection system from all sources under procedures comparable to paragraphs 1. or 2. in this subsection.

(3) If flow meter(s) are installed in full compliance with Concord Utilities' requirements as stipulated in the City's flow meter specifications for wastewater collection systems adopted concurrently with this chapter and incorporated herein by reference as if written below, then the customer shall perform calibrations and certifications pursuant to this chapter and any contract between the City and the customer.

(4) All sources of water supplied to the industrial customer and all discharges of wastewater into the City's wastewater collection system shall be identified and metered in accordance with this section. Any wastewater that is not accounted for but discharged to the City's wastewater collection system shall be considered an illegal discharge and shall be subject to all penalties described in [section 62-8](#).

(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-137. - Failure to pay.

Payment of charges, fees, and assessments shall be due as specified on the bill. If any charges remain after the specified due date, a notice will be sent and a late fee will be applied to the unpaid balance in accordance with the terms and conditions governing payments set by the appropriate governing body.



(Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-138. - Additional fees and charges by other regulatory agencies.

The customer shall be responsible for contacting Cabarrus County and the Water and Sewer Authority of Cabarrus County and determining any additional fees, charges, and bills that may be assessed.

(Ord. No. 04-17, § 1, 3-11-2004)

Secs. 62-139—62-160. - Reserved.

## ARTICLE V. - WATER DISTRIBUTION

Sec. 62-161. - Cross-connection control.

(a) Purpose. The purpose of this cross connection control section is:

(1) To protect the public potable water supply of the City from the possibility of contamination or pollution, due to backsiphonage or back pressure, by isolation within the consumer's private water system such contaminants or pollutants, which could backflow into the public water system.

(2) To define the authority of the City as the water purveyor entitled to eliminating all cross connections, new or existing, within Concord Utilities Water System.

(3) To provide a continuing inspection program of cross connections, which may be installed in the future.

(b) City's responsibility.

(1) Concord Utilities will be primarily responsible for preventing any contamination or pollution of the Concord Utilities Water System. This responsibility begins at the point of origin of the public water supply and includes all of the public water distribution system, and ends at the service connection under the Safe Drinking Water Act. The Backflow Administrator shall exercise vigilance to ensure that the consumer/customer has taken the proper steps to protect the public potable water system.

(2) When it has been determined that a backflow protection assembly is required for the prevention of contamination of the Concord Utilities Water System, the Backflow Administrator shall notify the owner, in writing, of any such building or premises, to correct within a time set by this section, any plumbing installed or existing that is in violation of this section.

(3) After surveying the private water system the Backflow Administrator will select an approved backflow prevention assembly required for containment control to be installed at service entrance.

(4) Prior to the installation of any backflow prevention assembly, the owner of the private water system must be notified that the installation of a backflow prevention assembly may create a closed system, and as a result thermal expansion may occur. Under such circumstance, the customer must understand and assume all liability and responsibilities for that phenomenon.

(c) Customer's responsibility.

(1) The customer has the responsibility of preventing contaminants and pollutants from entering the customer's private water system or the public water system operated by the City. The customer, at his own expense, shall install, operate and maintain all backflow prevention assemblies specified within this section.

(2) If a tenant customer does not maintain the private water system and has no authority to bring the system into compliance with the provisions of this section the City may assert any available

action against the tenant to assure the private water system is brought into compliance with this section.

(d) Right of entry; authorization.

(1) Any authorized representative from the City shall have the right to enter any building, structure, or premises during normal business hours to perform any duty imposed upon him by this section and with in accordance to Appendix D104.2.1 of the State Plumbing Code. Those duties may include sampling and testing of water, or inspection and observation of all piping systems connected to the public water supply. Refusal to allow these representatives to enter for these purposes will result in the disconnection of water service.

(2) On request, the consumer shall furnish to the water purveyor any pertinent information regarding the water supply system on such property where cross connection and backflow are deemed possible. (State Plumbing Code Appendix D104.2.3)

(e) Unprotected cross connection.

(1) No water service connection to any private exterior or interior water system shall be installed or maintained by Concord Utilities unless the water supply is protected as required by this section and other applicable laws. Service of water to any premises shall be discontinued by the City if a backflow assembly, required by this section, is not installed, tested, and maintained or if a backflow assembly has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service will be restored after all such conditions or defects are corrected.

(Section 62-154(a))

(2) No customer shall allow an unprotected cross connection to be made or to remain involving the customer's exterior or interior private water system.

(3) No connection shall be made to an unapproved auxiliary water supply unless the public water supply is protected against backflow by an approved backflow assembly, appropriate to the degree of hazard.

(4) No customer shall fail to maintain in good operating condition any backflow prevention assembly, which is part of the customer's private water system and is required by this section.

(5) No customer shall fail to submit to the City any record, which is required by this section.

(f) Installation and testing of backflow prevention assembly.

(1) The purpose of this subsection is to require that all water flowing from the Concord Utilities Water System must flow through an approved backflow prevention assembly and that each backflow prevention assembly be properly located, installed, maintained and tested so that the backflow prevention assembly is effective in protecting the Concord Utilities Water System from any possible contamination or pollution.

(2) The installation or replacement of a backflow prevention assembly for domestic water use shall only be performed by a licensed plumber or utility contractor. The installation of a backflow prevention assembly on a dedicated fire sprinkler service shall be performed by a licensed fire sprinkler contractor or utility contractor. Repairs to a backflow prevention assembly on a dedicated fire sprinkler system may only be performed by a fire sprinkler contractor. All backflow prevention assemblies may be tested by a certified backflow technician authorized by the City.

(3) All new construction plans and specifications which will directly effect Concord Utilities, and/or are required by the State Building Code, the State Division of Environmental Health (N.C. DENR), and City or county planning and zoning offices, shall be made available to the City's Backflow Administrator for review, approval, and to determine the degree of hazard.

- (4) All existing facilities zoned commercial or industrial and have existing water services with Concord Utilities and requesting certificate of compliance from the City or County Planning and Zoning Offices, shall be inspected for compliance of backflow and cross connection control prevention. Any facility not having backflow protection or changing the degree of hazard shall be brought into compliance before the Backflow Administrator may release certificate of compliance.
- (5) All backflow prevention assemblies must be installed and maintained on the customer's premises as part of the customer's private water system at or near the service connection and before the service line is connected to any other pipes except as authorized by the water purveyor.
- (6) If it has been determined that a backflow prevention assembly cannot be installed at the meter service, due to zoning or DOT rights-of-way, an approved backflow assembly must be installed on every branch of plumbing installed between the service meter and the service backflow assembly.
- (7) Any branch of plumbing installed on the private water system that may be of a greater hazard than the supply line, (example: chemical induced irrigation or fire systems, pump systems, etc.) shall be protected with a reduced pressure assembly.
- (8) All backflow prevention assemblies shall be installed in accordance with the City's "Backflow Prevention and Cross Connection Control Manual", (which is incorporated herein by reference as if written below), and/or the manufacturer's instructions, whichever is most restrictive.
- (9) All double check valve assemblies, two-inches or larger, must be installed in a watertight drainable pit wherever belowground installation is necessary in accordance with detailed specifications provided in the Backflow Prevention and Cross Connection Control Manual. If drain cannot be provided, the assembly must be installed above the ground. Double check valve assemblies may be installed in a vertical position with prior approval from the Backflow Administrator, provided that the flow of water is in an upward direction.
- (10) Reduce pressure assemblies must be installed in a horizontal position and in a location in which no portion of the assembly can become submerged in any substance under any circumstances. Pit installations are prohibited.
- (11) Each backflow prevention assembly that is required must function properly at time of installment. Each customer will be required to test, maintain, and repair each assembly required which is a part of the customer's private water system. A certified backflow prevention technician may only conduct such test. Testing shall be done immediately following installation of any backflow prevention assembly and on an annual or semiannual basis depending the degree of hazard.
- (12) If repair is found necessary on an assembly it must be retested following any repair. A complete duplicate copy of any testing and/or repair shall be sent to the City within 30 days of completion of test or repair. Each customer must maintain a complete copy of test or repair. Each customer must maintain a complete copy of any test or repair for no less than five years. All test and repair records must be maintained on forms approved by the Backflow Administrator of the City.
- (13) All rubber components must be replaced every five years or as often as needed.
- (14) Any customer installing a reduced pressure (RP) or double check valve assembly (DCVA) must provide the following information to the Backflow Administrator within ten days after installation:

- a. Service address where assembly is located;
- b. Owner;
- c. Description of assembly's location;
- d. Date of installation;
- e. Type of assembly;
- f. Manufacturer;
- g. Model number;
- h. Serial number; and
- i. Test results/reports.

(15) The Backflow Administrator must approve each backflow assembly required by this section. Unapproved backflow assembly must be replaced, within a time set by the Backflow Administrator, with an approved backflow assembly. For a list of approved backflow assemblies reference the City's "Backflow Prevention and Cross Connection Control Manual."

(16) If it has been determined that a customer must install a backflow prevention assembly, the Backflow Administrator will provide the customer with a letter of notification. The following time periods shall be set forth for the installation of the specified assemblies:

Health hazard—60 days

Non-health hazard—90 days

(17) If an imminent hazard or unreasonable threat of contamination or pollution to the Concord Utilities Water System is detected, the Backflow Administrator may require the installation of the required backflow assembly immediately or within a shorter time period than specified in subsection (16) of this subsection.

(18) If a customer does not wish for water service to be interrupted when a backflow assembly is tested, repaired, or replaced, a parallel installation must be made using an approved assembly of the same degree of hazard. The parallel line may be of the same size or smaller.

(g) Degree of hazards.

(1) Determining degree of hazard.

a. No service shall be completed until the Backflow Administrator has been provided information or has surveyed the private water system to determine the degree of hazard and make a determination of a backflow prevention assembly to be installed to protect the public water supply.

b. Any customer making any modification to their private exterior or interior water system configuration and/or changes the usage of the exterior or interior water system, which may change the degree of hazard, the customer shall notify the Backflow Administrator before any modification is made. If the Backflow Administrator determines that such modification requires a different backflow prevention assembly, that assembly must be installed before the modification is made or the usage is changed.

c. The following types of facilities or services have been identified by Concord Utilities as having a potential for backflow or non-potable water into the public water supply system. Therefore, an approved backflow prevention assembly will be required on all such services according to the degree of hazard present. Other types of facilities or services not listed in this subsection may also be required to install approved backflow prevention assemblies if determined necessary by the City's Backflow Administrator. As a minimum requirement, all commercial services will be required to install a double check valve assembly unless otherwise listed as follows:

DCVA = Double check valve assembly

RP = Reduced pressure assembly  
 DCDA = Double check detector assembly  
 RPDA = Reduced pressure detector assembly  
 AG = Air gap  
 PVB = Pressure vacuum breaker  
 Aircraft and missile plants: RP  
 Automotive service stations, dealerships, etc.:  
 No health hazard: DCVA  
 Health hazard: RP  
 Automotive plants: RP  
 Auxiliary water systems:  
 Approved public/private water supply: DCVA  
 Unapproved public/private water supply: AG  
 Used water and industrial fluids: RP  
 Bakeries:  
 No health hazard: DCVA  
 Health hazard: Hazard  
 Beauty shops/barber shops:  
 No health hazard: DCVA  
 Health hazard: RB  
 Beverage bottling plants: RP  
 Breweries: RP  
 Buildings—Hotels, apartment houses, public and private buildings, or other structures having unprotected cross connections:  
 (Under five stories) No health hazard: DCVA  
 (Under five stories) Health hazard: RP  
 (Over five stories) All: RP  
 Canneries, packing houses, and rendering plants: RP  
 Chemical plants—Manufacturing, processing, compounding or treatment: RP  
 Chemically contaminated water system: RP  
 Commercial car-wash facilities: RP  
 Commercial greenhouses: RP  
 Concrete/asphalt plants: RP  
 Dairies and cold storage plants: RP  
 Dye works: RP  
 Film laboratories: RP  
 Fire systems:  
 No health hazard: DCDA  
 Health hazard (booster pumps, foams, antifreeze solution, etc.): RPDA  
 Hospitals, medical buildings, sanitarium, morgues, mortuaries, autopsy facilities, nursing and convalescent homes, medical clinics, and veterinary hospitals: RP  
 Individual commercial sales establishments (department stores):  
 No health hazards: DCVA  
 Health hazard: RP  
 Industrial facilities:  
 No health hazard: DCVA

Health hazard: RP

Laundries:

No health hazard: DCVA

Health hazard (i.e., dry cleaners): RP

Lawn irrigation systems:

Health hazard: RP

Malls or strip malls (frequent tenant change and photo labs, etc.):

Health hazard: RP

Metal manufacturing, cleaning processing, and fabricating plants: RP

Mobile home parks:

No health hazard: DCVA

Health hazard: RP

Oil and gas production, storage or transmission properties: RP

Paper and paper products plants: RP

Pest control (exterminating and fumigating): RP

Plating plants: RP

Power plants: RP

Public swimming pools: RP

Radioactive materials or substances—Plants or facilities handling: RP

Restaurants:

No health hazard: DCVA

Health hazard: RP

Restricted, classified, or other closed facilities: RP

Rubber plants (natural or synthetic): RP

Sand and gravel plants: RP

Schools, and colleges: RP

Sewage and storm drain facilities: RP

Waterfront facilities and industries: RP

All assemblies and installations shall be subject to inspection and approval by Concord Utilities.

d. Filling of tanks/tankers or any other container from a City-owned fire hydrant is strictly prohibited unless it has been equipped with the proper meter and backflow protection, at which point Concord Utilities will issue a permit for that tank/tanker or container. Any unauthorized connection to a fire hydrant is considered an illegal cross connection to the Concord Utilities water system and will be subject to fines.

e. If a cross connection control inspector is unable to survey any portion of a private exterior or interior water system to determine the degree of hazard, due to confidential activities, a reduced pressure assembly will be required. (Section 62-156(a))

(2) Low hazard.

a. All single-family residential homes will be considered a low hazard and shall have a minimum of a dual check valve device installed at the meter service. Dual check valves shall not be in-line tested.

b. If no other backflow prevention assembly is specified a double check valve assembly must be installed on all private water systems.

(3) Imminent hazard.

a. If it has been determined that a customer's private water system has an imminent hazard, such customer must install a backflow prevention assembly specified by the Backflow Administrator

and this section. This assembly must be installed within 24 hours of notification from the Backflow Administrator. If the customer fails to install the specified assembly within the allowed time limit, water service to the customer's private water system will be terminated and may be subject to specified civil penalties. If the Backflow Administrator is unable to notify the customer in 24 hours of determining an imminent hazard exist, the Backflow Administrator may terminate water service until the specified assembly is installed. These actions may be carried out under the Safe Drinking Water Act (Title XIV, Section 1431) and the State Plumbing Code (Appendix D104.2.6).

b. Only a backflow prevention assembly offering a greater degree of protection may be installed in place of a specified assembly required by this section.

(h) Notice of contamination or pollution.

(1) If the customer's private exterior or interior water system becomes contaminated or polluted the customer shall notify Concord Utilities immediately. (Section 62-157(a))

(2) If a customer has reason to believe that a backflow incident has occurred between the customer's private exterior or interior water system and the Concord Utilities Water System, the customer must notify Concord Utilities immediately in order that appropriate measures may be taken to isolate and remove the contamination or pollution. (Section 62-157(b)) (Code 1987, § 12-97)

(i) Violations.

(1) Notification. Notification under this section shall be as described in [section 62-8](#).

(2) Penalties. The violation of any part of this section may be punished by a civil penalty listed as follows:

a. Unprotected cross connection involving a mobile source or private exterior or interior water system, which has an imminent hazard: \$1,000.00 per day not to exceed \$10,000.00.

b. Unprotected cross connection involving a mobile source or private exterior or interior water system, which is of a moderate or high hazard: The amount established in Code of Ordinances sections [1-6](#) and [62-8](#).

c. Submitting false records or failure to submit records that are required by this section: The amount established in Code of Ordinances sections [1-6](#) and [62-8](#).

d. Failure to test or maintain backflow prevention assemblies as required: \$100.00 per day.

(3) Reduction of penalty.

a. The Backflow Administrator may reduce or dismiss any civil penalty imposed under this section if the Backflow Administrator has determined that the person charged with the violation has no past history of violation in a timely manner as set by the Backflow Administrator.

b. No civil penalty shall be reduced if it has been determined the violation was intentional.

c. Any person violating any part of this section must reimburse the City for any expenses in repairing damage to the Concord Utilities Water System caused by any violation and any expenses incurred for investigating a violation.

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 05-13, § 9, 3-10-2005)

Sec. 62-162. - Fire protection.

Fire protection shall be provided in accordance with [chapter 34](#) of this Code and all other applicable ordinances of the City. Developers may contract the installation of fire hydrants with Concord Utilities; however, in all cases the full cost of providing such hydrants shall be borne by the developer. Connection of fire hydrants to the Concord Utilities System shall constitute the dedication of such hydrants to Concord Utilities. All hydrants located within a City road or

utility right-of-way or on Concord Utilities property shall be maintained by Concord Utilities. Water withdrawn from fire hydrants shall be used for fire protection only, unless an additional use has been approved by the Director of Water Resources. Metering may be required for fire protection systems that are periodically tested. Concord Utilities shall be notified at least 48 hours prior to every test. If proper notification is not given, Concord Utilities may require the installation of approved metering devices and appurtenances. Concord Utilities reserves the right to make any inspections that may be required to ensure compliance with this section. Fire protection facilities installed upon private property shall be for the use of the owner; Concord Utilities shall assume no responsibility for such facilities. Pumps shall not be directly connected to the Concord Utilities System without the written consent of the Director of Water Resources. (Ord. No. 04-17, § 1, 3-11-2004)

Sec. 62-163. - Fire hydrant use.

(a) Purpose. The purpose of this article is:

- (1) To define the City as the water purveyor having authority to issue a permit for hydrant use.
- (2) To assure the public potable water supply of the City is protected from possible contamination or pollution due to backsiphonage or back pressure from non-potable water sources.
- (3) To establish and enforce guidelines for use of fire hydrants for purposes other than fire protection.

(b) Responsibilities.

- (1) Concord Utilities will be responsible for enforcing this section to ensure each person or company drawing water from a city fire hydrant does so in a safe and responsible manner.
- (2) Concord Utilities will inspect and permit tank/tankers on a yearly basis to observe that each tank or tankers drawing water from the water system owned by the city is equipped with the backflow protection required by this article and that said backflow protection has not been altered and to ensure correct water consumption records are being provided to the city.
- (3) The customer has the responsibility of operating a city fire hydrant in a proper and safe manner, thus preventing damage to the hydrant and the Concord Utilities water system.
- (4) The customer is responsible for maintaining proper backflow protection on the customer's tank/tanker to prevent contamination or pollution of the city water system.
- (5) The customer is responsible for maintaining accurate consumption records and provide these records monthly to Concord Utilities.

(c) Permit required.

- (1) Any person or entity requesting to withdraw water from a Concord Utilities fire hydrant shall contact Concord Utilities to obtain a water use permit.
- (2) An annual permit fee is required for each tank/tanker. A permit sticker is issued and shall be placed in a visible area on the rear of the tank/tanker.
- (3) A tank/tanker found drawing water from a Concord Utilities fire hydrant without a valid city-issued permit is in violation of this section.

(d) Operations.

- (1) Each tank/tanker shall be equipped with a gallon register meter.
- (2) Each tank/tanker shall be equipped with approved backflow protection. Backflow protection shall be an approved air gap or approved RPZ backflow assembly.
- (3) Any tank/tanker connected to a Concord Utilities fire hydrant without backflow protection provided shall be considered as creating an illegal unprotected cross-connection between a



private water system and the city's public water system. Unprotected cross-connection is a violation of [section 62-161](#).

(4) A customer shall use an approved fire hydrant wrench only. Pipe wrenches and adjustable wrenches are prohibited.

(5) Hydrants shall be opened and closed slowly. Any connections to a fire hydrant shall not be left unattended.

(6) Only hydrants designated by Concord Utilities may be used.

(e) Notifications and billing.

(1) Concord Utilities shall be notified 24 hours prior to drawing water from a city-owned fire hydrant. Date, time, and location shall be reported at that time.

(2) Consumption reports shall be received by Concord Utilities by the first business day of each month.

(3) Water consumption is billed per 1,000 gallons at current commercial/institutional volume charge. The city finance department will issue billing for permit fees and consumption.

(f) Violations.

(1) A written notice shall be served in person or by certified mail to any person or entity found to be in violation of any part of this section.

(2) Penalties for violations of this section shall be the same penalties as set forth in [section 62-8](#), except that a violation by a business or commercial entity or agent thereof shall subject the offending entity to a civil penalty of not more than \$10,000.00 per day.

(g) Compensation for damages. In addition to the applicable civil penalties, any person or entity violating any part of this section shall be liable to the city for any expenses in repairing damage to the Concord Utilities water system caused by any violation and any expenses incurred for investigating said violation.

(Ord. No. 04-17, § 1, 3-11-2004)

#### Sec. 62-164. - Irrigation.

(a) Purpose. The purposes of this section are:

(1) To regulate the use of water from the Concord Utilities System for irrigation.

(2) To assure that conservation measures are used to prevent the waste of water.

(b) Duties of Concord Utilities.

(1) Concord Utilities shall ensure that each person or entity using water from the Concord Utilities System for irrigation does so in a responsible manner.

(2) Concord Utilities shall be responsible for inspection to assure that each irrigation system has appropriate measures to conserve and prevent water waste.

(3) The customer shall be responsible for operating their irrigation system in a manner as to prevent waste of water.

(4) The customer shall be responsible for maintaining their irrigation system to assure irrigation heads, timer, rain sensor switch, and backflow prevention assemblies are operating properly to prevent water waste and protect the Concord Utilities water system from contamination.

(c) Required equipment.

(1) Irrigation systems connected directly or indirectly to water provided by Concord Utilities shall be equipped with a reduce pressure assembly to prevent contamination of the Concord Utilities System.

(2) Irrigation systems connected directly or indirectly to water provided by Concord Utilities shall be equipped with a rain sensor switch.

(3) All irrigation services shall be metered separately. Non-residential properties and/or land uses shall provide a separate service for irrigation.

(d) Required maintenance.

(1) Rain sensors shall be adjusted and set so that they automatically shut off the irrigation system after one-fourth inch of rainfall or more has occurred. Rain sensors shall be installed according to manufacturer's instructions in a location that will provide full exposure to rainfall such that accuracy of operation is assured and shall be maintained in good working condition. No person shall, with the intent of circumventing the purpose of this section, adjust either the rain sensor or the irrigation system so that the rain sensor is not able to override and turn off the irrigation system after one-fourth inch of rain has fallen.

(2) Irrigation heads shall be adjusted as to prevent water from landing on impervious surfaces to the extent that running water leaves the property and enters gutters, storm drains, ditches, and other conveyances or ponding is accumulated.

(3) Backflow prevention assemblies shall be tested annually by a certified backflow technician to assure proper operation.

(e) Operating schedule.

(1) Irrigation systems shall be allowed to operate only on the scheduled day/days and time period set forth by Concord Utilities.

(2) Irrigation systems shall not be allowed to operate during periods of rainfall.

(3) During water emergencies, irrigation systems shall only be allowed to operate during times as set forth in any order of the city manager or director of water resources adopted pursuant to [section 62-164](#) of this Code.

(f) Penalties.

(1) Violations by residential customers of this section shall subject the offender to a civil penalty in the amount of \$100.00 for the first offense and the amount set in Code of Ordinances sections [1-6](#) and [62-8](#) for each additional offense.

(2) All nonresidential users will be assessed civil penalties in the amount set in Code of Ordinances sections [1-6](#) and [62-8](#) for the first offense and \$1,500.00 for each additional offense.

(3) In addition to the issuance of a citation and imposition of civil penalties, the city may restrict or terminate the water service associated with the violation.

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 09-83, § 1, 8-13-2009; Ord. No. 11-42, § 1, 6-9-2011) Sec. 62-165. - Water emergency management.

(a) Level 0. During Level 0, the following voluntary water conservation practices shall be imposed upon customers:

(1) Household water should be reutilized to the greatest extent possible for watering.

(2) Faucets should not be left running while shaving, brushing teeth, or washing dishes.

(3) The use of flow restrictions and other water saving devices is encouraged.

(4) Any practice listed in this subsection (a) may be modified or additional restrictions added at the discretion of the city manager after consultation with the director of water resources and other city staff.

(b) Declaration of water emergency. The city manager or his designee, after consultation with appropriate city staff, shall be authorized to declare that a water emergency exists. Depending on the severity of the emergency, voluntary (level I) or mandatory (levels II, III or IV) staged water use restrictions as described in subsection (c) of this section shall be imposed upon customers.

(c) Staged water use restrictions.

(1) Level I. At this stage of water use restrictions, the goal is to reduce water usage by three percent to five percent (or more) from the amount that would otherwise be expected, as defined in the "Low Inflow Protocol for the Catawba River Basin" at section "Stage 1 Actions 3.b." (which is incorporated herein by reference). During a declared level I water emergency, in addition to all level 0 mandatory water restrictions the following voluntary water conservation practices shall be encouraged for the public water system served by the city:

- a. Planting of new ornamental plants and seeding of lawns should be deferred until the water emergency situation no longer exists.
- b. Household water should be reutilized to the greatest possible extent for watering.
- c. Use of water for wash-down of outside areas such as driveways or parking lots should be limited.
- d. Faucets should not be left running while shaving, brushing teeth, or washing dishes.
- e. The use of clothes washing machines and dishwashers should be limited if possible and these units should be operated with full loads when used.
- f. Washing of cars or other vehicles should be limited to the two days per week designated by the city manager in the declaration of water emergency. Hoses should not be left running while washing vehicles.
- g. The use of flow restrictions and other water-saving devices is encouraged.
- h. Filling of pools shall be deferred or limited to hours between 8:00 p.m. and 8:00 a.m.
- i. Showers should be used for bathing and the length of showers should be limited.
- j. Any practice listed in this subsection (b)(1) may be modified or additional restrictions added at the discretion of the city manager after consultation with the director of water resources and other city staff.

(2) Level II. At this stage of water use restrictions, the goal is to reduce water usage by five percent to ten percent (or more) from the amount that would otherwise be expected, as defined in the "Low Inflow Protocol for the Catawba River Basin" at section "Stage 1 Actions 3.b." (which is incorporated herein by reference). During a declared level II water emergency, outdoor irrigation shall be allowed two days per week as set forth in any order of the city manager or director of water resources. Businesses whose stock in trade is live plants, including nurseries and retail garden centers are exempt from this provision. The following mandatory water use restrictions shall also be in effect for the public water system served by the city:

- a. All voluntary practices listed in subsection (c)(1) (Level I) shall be mandatory, except for (c)(1)a., (c)(1)b., (c)(1)d. and (c)(1)i. of (c)(1), which are strongly encouraged.
- b. Watering and irrigation of lawn, ornamental plants, and gardens shall occur only between 8:00 p.m. and 8:00 a.m. on the two days each week designated by the city manager in the declaration of water emergency. The use of hand-held watering containers is permitted on any day without restrictions. Businesses whose stock in trade is live plants, including nurseries and retail garden centers are exempt from this provision.
- c. Use of water for wash down of outside areas, is prohibited, except for pressure washing businesses.
- d. Residential washing of cars and other vehicles is prohibited. Commercial washing facilities, including those providing hand-held washing nozzles may continue normal operation. However, the facility owner/operator shall ensure that water is not wasted.
- e. The use of water for wash down of public buildings, sidewalks and street washing activities should be limited except as required for safety and/or regulatory compliance.

- f. Newly constructed or drained pools shall be filled by permit only. Fill permits shall be issued by the director of water resources, his or her designee, or the backflow administrator and issuance of the permits may be curtailed depending on the severity of the situation.
- g. Any practice listed in this subsection (c)(2) may be modified or additional restrictions added at the discretion of the city manager after consultation with the director of water resources and other city staff.
- (3) Level III. At this stage of water use restrictions, the goal is to reduce water usage by ten percent to 20 percent (or more) from the amount that would otherwise be expected, as defined in the "Low Inflow Protocol for the Catawba River Basin" at section "Stage 1 Actions 3.b." (which is incorporated herein by reference). During a declared level III water emergency, in addition to all level II mandatory water restrictions, the following mandatory water use restrictions shall be in effect for the public water system served by the city:
- a. Watering and irrigation of lawns, ornamental plants, and gardens shall occur only between 8:00 p.m. and 8:00 a.m. on the one day each week designated by the city manager in the declaration of water emergency. Businesses whose stock in trade is live plants, including nurseries and retail garden centers are exempt from this provision.
  - b. Recreational use of potable water including filling of pools is prohibited.
  - c. Hydrant flushing and testing programs are prohibited, except to maintain public health, water quality or other special circumstances.
  - d. Any practice listed in this subsection (c)(3) may be modified or additional restrictions added at the discretion of the city manager after consultation with the director of water resources and other city staff.
- (4) Level IV. At this stage of water use restrictions, the goal is to reduce water usage by 20 percent to 30 percent (or more) from the amount that would otherwise be expected, as defined in the "Low Inflow Protocol for the Catawba River Basin" at section "Stage 1 Actions 3.b." (which is incorporated herein by reference). During a declared level IV water emergency, in addition to all level II and level III restrictions, the following mandatory water use restrictions shall be in effect for the public water system served by the city:
- a. All use of water out of doors for any purposes other than maintenance of public safety is prohibited.
  - b. Non-residential water customers and construction activities utilizing 5,000 or more gallons water per day, are required to reduce daily water usage through whatever means is available to the target percentages listed above. The director of water resources or her or his designee shall determine compliance with the daily usage reduction targets. Variances to this restriction may be granted to designated public health facilities including, but not limited to, hospitals and nursing homes.
  - c. Any practice listed in this subsection (c)(4) may be modified or additional restrictions added at the discretion of the city manager after consultation with the director of water resources and other city staff.
- (d) Noncompliance of water emergency management section.
- (1) Penalties. Any person violating the mandatory provisions of this section shall be issued a civil citation pursuant to this section and a penalty not to exceed \$100.00 for residential customers and the amount established in Code of Ordinances sections [1-6](#) and [62-8](#) for non-residential or commercial or industrial users. Each occurrence of a violation of this section shall be considered a separate violation.

(2) Discontinuance of service. Pursuant to the provisions of this section, water service may be temporarily discontinued for willful disregard of this section. All applicable penalty fees may be applied in the event of service suspensions. In the event of continued gross noncompliance with this section, removal of the meter and service will be deemed proper and service will be discontinued. Connection fees and deposits will be forfeited.

(3) Utility fees. In addition to or instead of the penalties listed in subsection (c)(1) above, mandatory utility fees shall be assessed for violations of mandatory water restrictions established under this section. These fees are adopted in the annual budget ordinance, fees and charges schedule.

(4) Adoption and enforcement of section provisions. Municipal customers, water corporations or company compliance municipalities, water corporations or companies purchasing water from the city shall adopt and enforce this entire section as a condition of continuing existing water sales agreements. Upon declaration of a water emergency, such municipalities and companies shall enforce the appropriate water use restrictions for the level of declared emergency. Water service to such municipalities and companies shall be terminated for not enforcing the provisions of this section.

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 07-84, § 1, 9-13-2007; Ord. No. 07-84, § 1, 9-13-2007; Ord. No. 07-93, § 1, 11-8-2007; Ord. No. 09-74, § 1, 8-13-2009; Ord. No. 10-106, § 1, 10-14-2010; Ord. No. 16-09, §§ 1, 2, 2-11-2016; Ord. No. 16-23, §§ 5, 6, 3-10-2016)

Secs. 62-166—62-190. - Reserved.

## ARTICLE VI. - WASTEWATER COLLECTION

Sec. 62-191. - Prohibited and allowable discharges.

(a) Purpose.

(1) This section sets forth uniform requirements for direct and indirect contributors into the city's wastewater collection and treatment system for the Water and Sewer Authority of Cabarrus County (WSACC) and enables the appropriate owner to comply with all applicable state and federal laws including the Clean Water Act (33 USC 1251 et seq.) and the general pretreatment regulations (40 CFR 403).

(2) The objectives of this section are:

- a. To prevent the introduction of pollutants and wastewater discharges into the wastewater treatment system which will interfere with the operation of the system or contaminate the resulting sludge;
- b. To prevent the introduction of pollutants and wastewater discharges into the wastewater treatment system which will pass through the system inadequately treated, into any waters of the state or otherwise be incompatible with the system;
- c. To promote reuse and recycling of industrial wastewater and sludges from the wastewater treatment system;
- d. To protect both the city's and WSACC's personnel who may be affected by sewage, wastewater, and sludge in the course of their employment as well as protecting the general public;
- e. To provide for equitable distribution of the cost of operation, maintenance, and improvement of the wastewater treatment plant; and

f. To ensure that the owner(s) of the wastewater collection and treatment system complies with its NPDES or non-discharge permit conditions, sludge use, and disposal requirements and any other federal or state laws to which the wastewater collection and treatment system is subject.

(3) This section provides for the regulation of direct and indirect contributors to the wastewater collection and treatment system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this article.

(4) This section shall apply to all users of the municipal wastewater system, as authorized by G.S. §§ 160A-312 and/or 153A-275. Except as otherwise provided in this article, the city manager or his designee of the city wastewater system, referred to in the Clean Water Act as a "Publicly Owned Treatment Works" or POTW, (for POTWs owned by WSACC, the executive director) shall administer, implement, and enforce the provisions of this section and shall be responsible for operating and maintaining the wastewater collection and treatment system. By discharging wastewater into the city wastewater system, industrial users located within or outside the city service area agree to comply with the terms and conditions established in this chapter.

(5) The city reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in this subsection or the general and specific prohibitions in subsections (2) and (3), as is allowed by 40 CFR 403.4.

(b) General prohibitions. No user shall contribute or cause to be contributed into the collection system or POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of the collection system and POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.

(c) Specific prohibitions. No user shall contribute or cause to be contributed into the collection system or POTW the following pollutants, substances, or wastewater:

(1) Explosive mixtures. Pollutants which create a fire or explosive hazard in the collection system or POTW including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.

(2) Solid or viscous substances. Solid or viscous substances in amounts that will cause obstruction of the collection system or POTW resulting in interference but in no case solids greater than one-half inch in any dimension. Prohibited materials include, but are not limited to: grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, tar, plastic, asphalt residues, lubricating oil, ground paper products, and material from grinders, residues or solids from a pretreatment facility, and similar substances.

(3) Petroleum, cutting, or mineral oils. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(4) Corrosive wastes. Any wastewater having a pH less than 5.0 or more than 9.0 or wastewater having any other corrosive property capable of causing damage to the collection system, POTW, or equipment.

(5) Excessive discharge rate and/or concentration. Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, flow, or

concentration, either singly or by interaction with other pollutants, to cause interference with the collection system or POTW.

(6) Temperature limit. Any wastewater having a temperature greater than 150 degrees Fahrenheit (66 degrees Celsius), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).

(7) Toxic gases. Any pollutants which result in the presence of toxic gases, vapors, or fumes within the collection system or POTW in a quantity that may cause acute worker health and safety problems.

(8) Trucked or hauled pollutants. Any trucked or hauled pollutants, except at discharge points designated by the owner of the collection system in accordance with subsection (h).

(9) Oils and grease. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l unless authorized by the city.

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

(11) Improperly shredded garbage. Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow, conditions normally prevailing in the public sewers, with no particle greater than one-half inch in any dimension.

(12) Radioactive wastes. Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the owner(s) of the collection system and POTW in compliance with applicable state and federal regulations.

(13) Toxic substances. Any wastewater causing the treatment plant effluent to violate state water quality standards for toxic substances as described in 15A N.C.A.C. 2B.0200.

(14) Unpolluted waters. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the owner(s) of the collection system and POTW. Otherwise, no person shall connect or cause to be connected to the sanitary sewer system any inflow sources listed in this section into the collection system.

(15) Cloth or textile waste. Any clothing rags, textile remnants or waste, cloth scraps, except fibers of scrap that will pass through a one-fourth-inch mesh screen or its equivalent in screening ability, provided that such fibers do not interfere with the normal operation of the collection system or treatment plant.

(16) IOD limit. Any waters or wastes in which the IOD exceeds five mg/l.

(17) Fixed solids limit. Any waters or wastes in which the total fixed solids exceed 1,500 mg/l.

(18) Excessive residues. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under Section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(19) Heavy metals. Any waters or wastes containing amounts of arsenic, cadmium, chromium, copper, lead, nickel, zinc, or other heavy metals which exceed national categorical standards,

local limits, interfere with treatment efficiency or sludge disposal criteria, or cause the POTW to exceed NPDES permit limitations.

(20) Poisons. Any waters or wastes containing cyanide or other such poisonous substances.

(21) Interfering solids. Any waters or wastes containing suspended solids of such character and quality that unusual attention or expense is required to handle such materials in the collection system or at the POTW.

(22) Color. Any wastewater which imparts color which cannot be removed by the treatment process including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.

(23) Pretreatment sludges. Any sludges, screenings, or other residues from the pretreatment of industrial wastes.

(24) Medical wastes. Any medical wastes, except as specifically authorized in a wastewater discharge permit by the owner(s) of the collection system and POTW.

(25) Ammonia compounds. Any material containing ammonia, ammonia salts, or other chelating agents that will produce metallic complexes that interfere with the collection system or wastewater treatment system.

(26) Hazardous waste. Any material that would be identified as hazardous waste according to 40 CFR 261 if not disposed of in a sewer except as may be specifically authorized by the owner(s) of the collection system and POTW.

(27) Human or animal parts. Recognizable portions of the human or animal anatomy.

(28) Toxicity. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

(29) Excessive foaming. Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the collection system or wastewater treatment system.

(30) Explosive limit. At no time, shall two successive readings on an explosive hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.

(31) Discharge of untreated wastewater. Within the city utilities, it shall be unlawful for any person to discharge to any outlet, other than a sanitary sewer, any domestic or industrial waste except where suitable treatment has been provided in accordance with provisions of this division or where an appropriate NPDES permit has been obtained.

(32) Alkyl Phenol Ethoxylates (APEs). Any compounds containing APEs shall be prohibited due to the inhibiting and toxic effect of APEs on the biological treatment at the POTW. Linear alcohol ethoxylates, a more readily biodegradable surfactant, may be substituted for APEs.

(d) Processing or storage. Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged accidentally or illegally to the wastewater treatment system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

(e) Action by owner(s) of the collection system and/or POTW. When the owner(s) of the collection system and/or POTW determine that a user is contributing to the collection system or POTW any of the enumerated substances of subsection (c) of this section in such amounts which



may cause or contribute to interference of collection system or POTW operation or pass-through, the owner(s) of the collection system or POTW shall:

(1) Advise the user of the potential impact of the contribution on the collection system and/or POTW in accordance with subsection (i); and

(2) Take appropriate actions in accordance with subsection (i) for such user to protect the collection system and/or POTW from interference or pass-through.

(f) Industrial waste survey and local limits.

(1) An industrial waste survey is required prior to a user discharging wastewater containing in excess of the following maximum daily discharge limits:

BOD	300 mg/l
COD	675 mg/l
TSS	175 mg/l
NH <sub>3</sub>	15 mg/l
Aluminum	1.80 mg/l
Arsenic	0.003 mg/l
Cadmium	0.003 mg/l
Copper	0.090 mg/l
Chromium	0.020 mg/l
Cyanide	0.041 mg/l
Lead	0.049 mg/l
Mercury	0.0003 mg/l
Nickel	0.021 mg/l
Silver	0.005 mg/l
Zinc	0.176 mg/l

(2) Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The owner of the POTW may impose mass limits in addition to, or in place of, concentration-based limits.

(g) Accidental discharge/slug control plans. At least once every two years, the owner of the POTW shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The owner of the POTW may require any user to develop, submit for approval, and implement such a plan. Alternatively, the owner of the POTW may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

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

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the owner of the POTW of any accidental or slug discharge, as required by this section; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(h) Hauled wastewater. Any person engaging in the transport of septage, wastes from chemical toilets or other liquid or semiliquid wastewater, for the purpose of disposal shall be referred to in this subsection as "haulers." Haulers shall be allowed to empty wastewater permitted by this subsection into the sewer system at designated structures located at the POTW, subject to the following limitations and conditions:

(1) Before emptying septic tank sludge or wastes from chemical toilets into the sewer system at the POTW, haulers shall have obtained and have in their possession a currently valid permit to provide scavenger service issued by the state DENR. The number of the permit shall be prominently displayed by the hauler on the cab of the truck or on the tank in which sludge or waste is transported.

(2) The hauler must apply for and receive a septage discharge permit from the owner of the POTW, accompanied by the applicable fee prior to discharging to the POTW. By accepting the permit to introduce septic tank sludge and chemical toilet wastes derived only from domestic sources into the sewer system, the hauler agrees to dump or empty such sludge and waste only at designated structures, at such times as are established by the POTW, and to maintain these structures and the area surrounding them in a proper condition of cleanliness. Such waste shall not violate this section or any other requirements established by the owner of the POTW.

(3) The hauler shall not empty into the sewer system grease trap wastes.

(4) The hauler shall not empty into the sewer system any industrial wastes without prior written approval from the owner of the POTW. The hauler must provide any and all information, including sampling analysis, requested by the wastewater treatment staff.

(5) The hauler shall supply with every load a representative sample of the waste being emptied as prescribed by the POTW. The hauler may also be required to provide the name, address, and phone number of the customer from whom the sample was obtained.

(6) Upon failure to maintain structures in a proper condition of cleanliness, failure to have a currently valid permit from state DENR or failure to pay charges due to the POTW as provided in article VI, the POTW may deny a hauler permission to dispose of septic tank sludge and waste from chemical toilets into the sewer system. The POTW will notify the county health alliance and state of such denial of permission to any hauler.

(7) Failure of the hauler to comply in accordance with the state-issued permit may result in revocation of permit and/or penalties as provided for in [section 62-8](#) and subsection (i) of this section.

(8) User fees shall be established at a rate to recover the cost of treatment and administration of the contract hauler program. Fees and payment policy shall be approved by the appropriate governing body and shall be paid in accordance with the procedure established by the owner of the POTW.

(i) Wastewater discharge permit application and issuance.

(1) Wastewater dischargers. It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the owner of the POTW. When requested by the owner of the POTW, a customer must submit information on the nature and characteristics of its

wastewater within 30 days of the request. A designee of the POTW owner is authorized to prepare a form for this purpose and may periodically require users to update this information.

(2) Wastewater discharge permits. All significant industrial users shall obtain a significant industrial user permit prior to the commencement of construction or operations that will result in a discharge to the POTW. Existing industrial users who are determined by the owner of the POTW to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the designee of the POTW owner be required to obtain a wastewater discharge permit for non-significant or insignificant industrial users. For purposes of this subsection, construction or operation has commenced if the owner or operator has:

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

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

b. Entered into a binding contractual obligation or the purchase of facilities or equipment that are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial obligation under this subsection in accordance with the provisions as stated in 40 CFR 403.3.

(3) Significant industrial user determination. All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the owner of the POTW a significant industrial user determination. If the owner of the POTW determines or suspects that the proposed discharge fits the significant industrial user criteria, the owner will require that a significant industrial user permit application be filed.

(4) Significant industrial user permit application. Users required to obtain a significant industrial user permit shall complete and file with the POTW an application in the form prescribed by the owner of the POTW, and accompanied by the applicable fee in the amount prescribed in the POTW's schedule or charges and fees. Significant industrial users shall apply for a permit within 90 days after notification of the POTW owner's determination). In support of this application, the user shall submit, in units and terms appropriate for evaluation, the following information:

a. Name, address, location (if different from the address);

b. Volume of wastewater to be discharged on a daily basis and over a specified timeframe;

c. Standard industrial classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;

d. Analytical data on wastewater constituents and characteristics including, but not limited to, those set forth in subsection (f), any of the priority pollutants (Section 307(a) of the Act) that the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR 136, as amended;

e. Time and duration of the indirect discharge;

f. Average daily and 30-minute peak wastewater flow rates, including daily, monthly, and seasonal variations, if any;

g. Description of all pretreatment facilities, existing and proposed;

- h. Site plans, floor plans, mechanical, and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow, and appurtenances by size, location, and elevation;
- i. Description of activities, facilities, and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;
- j. List of all hazardous or toxic chemicals used in plant processes including information concerning handling, storage, and potential for aqueous contract;
- k. Number of employees and hours of operation of plant proposed or actual hours of operation of pretreatment system;
- l. Where known, the nature and concentration of any pollutants in the discharge that are limited by any authority, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the customer to meet applicable pretreatment standards;
- m. If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the customer will provide such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:
  - 1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the customer to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine months.
  - 2. No later than 14 days following each date in the schedule and the final date for compliance, the customer shall submit a progress report to the owner of the POTW including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay and, if appropriate, the steps being taken by the customer to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the owner of the POTW;
- n. Each product produced by type, amount, process or processes and rate of production;
- o. Type and amount of raw materials processed (average and maximum per day);
- p. If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and 15A N.C.A.C. 2H.0908(a), as outlined in subsection (i)(8);
- q. Description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g);
- r. Any other information as may be deemed by the owner of the POTW to be necessary to evaluate the permit application.

(5) Application signatories and certification. All wastewater discharge permit applications and customer reports must be signed by an authorized representative of the customer and on file with the WSACC and the city and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under by director or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(6) Application review and evaluation. The owner of the POTW will evaluate the data furnished by the customer and may require additional information.

a. The owner of the POTW shall refer all applications to the POTW staff for review and evaluation.

b. Within 30 days of receipt the owner of the POTW shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(7) Tentative determination and draft permit.

a. The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the wastewater discharge permit.

b. If the staff's tentative determination is to issue the permit, the following additional determinations shall be made in writing:

1. Proposed discharge limitations for those pollutants proposed to be limited;

2. A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and

3. A brief description of any other proposed special conditions that will have significant impact upon the discharge described in the application.

c. The staff shall organize the determinations made pursuant to subsections and of this subsection and the POTW's general permit conditions into a wastewater discharge permit.

(8) Permit supporting documentation. The WSACC and/or the city manager or his designee(s) shall prepare the following documents for all significant industrial user permits.

a. An allocation table (AT) listing permit information for all significant industrial users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.

b. The basis, or rationale, for the pretreatment limitations, including the following:

1. Documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and

2. Documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).

(9) Final action on wastewater discharge permit applications.

a. Concord shall take final action on all applications not later than 90 days following receipt of a complete application.

b. Concord is authorized to:

1. Issue a wastewater discharge permit containing such conditions as are necessary to effectuate the purposes of this section and G.S. 143-215.1;

2. Issue a wastewater discharge permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;

3. Modify any permit upon not less than 60 days' notice and pursuant to subsection (i)(10);

4. Revoke any permit pursuant to subsection (i)(10);

5. Suspend a permit pursuant to subsection (i)(10); and

6. Deny a permit application when in the opinion of the city such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.

(10) Permit modification.

a. Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as follows:

1. Changes in the ownership of the discharge when no other change in the permit is indicated;
  2. A single modification of any compliance schedule not in excess of four months; and
  3. Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
- Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

b. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by subsection (i), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.

c. A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.

(11)

Permit conditions.

a. The city manager or his designee shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this section and G.S. 143-215.1. Wastewater discharge permits shall contain, but are not limited to, the following:

1. A statement of duration (in no case more than five years);
2. A statement of non-transferability;
3. Applicable effluent limits based on categorical standards or local limits, or both;
4. Applicable monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law;
5. Notification requirements for slug loads; and
6. A statement of applicable civil and *criminal* penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

b. In addition, permits may contain, but are not limited to, the following:

1. Limits on the average and/or maximum rate and time of discharge, and/or requirements for flow regulation and equalization.
2. Limits on the instantaneous, daily, and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
3. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the wastewater treatment system.
4. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.

5. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the wastewater treatment system.
  6. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
  7. Specifications for monitoring programs that may include sampling locations, frequency of sampling, number, types and standards for tests, and reporting schedules.
  8. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation.
  9. Compliance schedules for meeting pretreatment standards and requirements.
  10. Requirements for submission of periodic self-monitoring or special notification reports.
  11. Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in this section and [section 62-192](#) and affording the city manager or his designee, access thereto.
  12. Requirements for prior notification and approval by the city manager or his designee of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
  13. Requirements for the prior notification and approval by the city manager or his designee of any change in the manufacturing and/or pretreatment process used by the permittee.
  14. Requirements for immediate notification of excessive, accidental or slug discharges, or any discharge that could cause any problems to the system.
  15. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the terms of the permit.
  16. Other conditions as deemed appropriate by the city manager or his designee to ensure compliance with this section, and state and federal laws, rules and regulations.
- (12) Permits duration. Permits shall be issued for a specified time period not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
- (13) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation.
- (14) Permit reissuance. A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with subsection (i) a minimum of 180 days prior to the expiration of the existing permit. These same permitting procedures may be applied for all other non-domestic discharges, such as insignificant industrial users which do not meet the criteria of a significant industrial user. Wastewater discharge permits for insignificant industrial users shall be issued by the control authority and the city manager or their designee(s). (Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 12-122, § 3, 12-13-2012)

#### Sec. 62-192. - Pretreatment.

(a) Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this chapter, and wastewater permits issued under this article and article III and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in this article within the time limitations as specified by the EPA, the state, or the owner(s) of the collection system and/or POTW, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Users shall not discharge wastewater requiring treatment either directly or indirectly to the city

utilities or the POTW without first notifying and obtaining approval from the owner(s) of the collection system and/or POTW. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the owner(s) of the collection system and POTW for review, and shall be approved by the owner(s) of the collection system and POTW before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the owner(s) of the collection system and POTW under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the owner(s) of the collection system and POTW prior to the user's initiation of the changes.

(b) Additional pretreatment measures.

(1) Peak flow restrictions. Whenever deemed necessary, the owner(s) of the collection system and POTW may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the collection system and POTW and determine the user's compliance with the requirements of this article.

(2) Grease, oil, and sand interceptors. Grease, oil, and sand interceptors shall be provided when, in the opinion of the owner(s) of the collection system or POTW, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All restaurants and slaughtering operations shall have grease interceptors or grease removal facilities. All interception units shall be of type and capacity approved by the city and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

(3) Flow equalization. The owner(s) of the collection system or POTW may require any person discharging into city utilities or the POTW to install and maintain, on the property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization. Such facility shall have a capacity of at least 80 percent of the normal volume of one 24-hour production period of wastewater and outlet to the sewer controlled by a waterworks-type controller, or other approved device, the setting of which shall be directed by the owner(s) of the collection system and POTW.

(4) Control manhole. Any person discharging non-domestic wastewater into city utilities and the POTW shall construct and maintain a suitable control manhole to facilitate observation, measurements, and sampling of all wastewater including domestic wastewater from the industry. The control manhole shall be constructed downstream from any treatment, storage, or other approved system at a suitable and satisfactory location and built in a manner approved by the owner(s) of the collection system and POTW.

(5) Measuring device. Where a storage tank is not required, the control manhole shall be equipped with a permanent type volume measuring device such as a nozzle, or other device approved by the owner(s) of the collection system and POTW. The manhole shall be installed by the person discharging the wastewater at his own expense and shall be maintained by him so as to be safe, accessible, and in proper operating condition at all times.

(6) Interrupted service note. Notice shall be given to the owner(s) of the collection system and POTW when normal industry will be interrupted for 72 hours or longer and wastewater will not be available for discharge, or when a change of process is contemplated or malfunction of the



treatment facility occurs or is anticipated that will alter demands on the collection system and wastewater treatment facilities. Normal operations shall include allowance for legal holidays and other announced plant shutdowns.

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

(c) Approval of pretreatment facilities. Plans for the construction of the equalization tank, control manhole, controlling devices, and volume measuring devices shall be approved by the owner(s) of the collection system and POTW prior to the beginning of construction.

(d) National categorical pretreatment standards.

(1) Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated in this section.

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

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

(4) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

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

(6) No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the owner of the POTW or the state.

(e) Baseline monitoring reports.

(1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW a report which contains the information listed in subsection (e)(2). At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the owner of the POTW a report that contains the information listed in subsection (e)(2). A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) Users described in subsection (e)(1) shall submit the information set forth as follows:

a. Identifying information. The name and address of the facility, including the name of the operator and owner.

b. Environmental permits. A list of any environmental control permits held by or for the facility.

c. Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operations carried out by such user. This description

should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.

d. Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).

e. Measurement of pollutants.

1. The categorical pretreatment standards applicable to each regulated process.

2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the owner of the POTW, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection (o).

3. Sampling must be performed in accordance with procedures set out in subsection (o).

f. Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

g. Compliance schedule. If additional pretreatment and/or O&M are required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection (f).

h. Signature and certification. All baseline monitoring reports must be signed and certified in accordance with subsection [62-191\(i\)\(5\)](#).

(f) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by subsection (g):

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(2) No increment referred to in subsection (f)(1) shall exceed nine months;

(3) The user shall submit a progress report to the executive director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(4) In no event shall more than nine months elapse between such progress reports to the owner of the POTW.

(g) Reports on compliance with categorical pretreatment standard deadline. Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the owner of the POTW a report containing the information described in subsections (e)(2)d.—f. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-

term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production, or other measure of operation, this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection [62-191\(i\)\(5\)](#).

(h) Periodic compliance reports.

(1) All significant industrial users shall, at a frequency determined by the owner of the POTW but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge that are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with subsection [62-191\(i\)\(5\)](#).

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

(3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in subsection [62-191\(i\)\(10\)](#), the results of this monitoring shall be included in the report.

(i) Reports of changed conditions. Each user must notify the control authority and city manager or his designee of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 60 days before the change. Failure of the control authority or city manager or his designee to respond does not relieve the industrial user from complying with this ordinance. The permittee shall not begin the changes until receiving written approval from the WSACC and/or the city.

(1) The city manager or his designee may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under this subsection [62-191\(i\)](#).

(2) The city manager or his designee may issue a wastewater discharge permit under subsection [62-191\(i\)](#) or modify an existing wastewater discharge permit under subsection [62-191\(i\)](#) in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of 20 percent or greater, and the discharge of any previously unreported pollutants; increases or decreases to production; increases in discharge of previously reported pollutants; discharge of pollutants not previously reported to the control authority; new or changed product lines; new or changed manufacturing processes and/or chemicals; or new or changed customers.

(j) Reports of potential problems.

(1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(2) Within five days following such discharge, the user shall, unless waived by the owner of the POTW, submit a detailed written report describing the causes of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve

the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this article.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employee's whom to call in the event of a discharge described in subsection (j)(1). Employees shall ensure that all employees, who may cause such discharge to occur, are advised of the emergency notification procedure.

(k) Reports from unpermitted users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the city manager or his designee as the owner may require. All users classified as non-significant categorical industrial users under section [1.2(a)(54)(F)] shall provide appropriate reports to the city manager or his designee as the city manager or his designee may require. At a minimum, this shall include the annual certification of continuing to meet the non-significant categorical industrial user criteria as required under 40 CFR 403.12(q).

(l) Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the executive director of the WSACC within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation. The user is not required to resample if the WSACC executive director monitors at the user's facility at least once a month, or if the WSACC executive director samples between the users initial sampling and when the user receives the results of this sampling. If the WSACC executive director has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the WSACC executive director shall repeat the sampling and obtain the results of the repeat analysis within 30 days after becoming aware of the violations, unless one of the following occurs:

- (1) The WSACC executive director monitors at the user's facility at least once a month; or
- (2) The WSACC executive director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
- (3) The WSACC executive director requires the user to perform sampling and submit the results to the WSACC executive director within the 30 day deadline of the POTW becoming aware of the violation.

(m) Notification of the discharge of hazardous waste. The city prohibits the discharge of any hazardous wastes without notification to and approval by the city manager and the WSACC executive director or their designees.

(1) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA regional office of wastewater management and the state division of waste management, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharge during the calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged

during the following 12 months. All notifications must take place no later than 180 days before the discharge commences. The user shall not begin the discharge until receiving written approval from WSACC. Any notification under this paragraph needs to be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under subsection (e). The notification requirement in this subsection does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections (a), (c), and (d).

(2) Dischargers are exempt from the requirements of subsection (m)(1), during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 216.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulation under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the owner of the POTW, the EPA regional office of wastewater management, and state division of waste management of the discharge of such substance within 90 days of the effective date of such regulations.

(4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(5) This subsection does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued under this article or any applicable federal or state law.

(n) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analyses in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard, or unless otherwise performed in accordance with procedures approved by EPA or WSACC and the city. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA, WSACC, and the city. Analyses must be performed by a State certified lab for each parameter analyzed, if such certification exists for that parameter.

(o) Sample collection.

(1) Except as indicated in subsection (o)(2), the user must collect wastewater samples using flow proportional composite collection techniques. If flow proportional sampling is infeasible, the owner of the POTW may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques.

(p) Timing. Written reports will be deemed to have been submitted on the date postmarked. For reports that are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(q) Recordkeeping. Users subject to the reporting requirements of this division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements.

Records shall include the date, exact place, method, and time of sampling, and the name of the person taking the samples; the dates of analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the POTW, or where the user has been specifically notified of a longer retention period by the owner of the POTW.

(r) Compliance monitoring.

(1) Monitoring facilities. The POTW requires the user to provide and operate at the user's expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the owner of the POTW may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. Whether constructed on public or private property, the monitoring facilities shall be provided in accordance with the POTW's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the POTW.

(2) Inspection and sampling. The WSACC will inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the WSACC and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, and copying or in the performance of any of their duties. The WSACC, state, and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the POTW, the state, and EPA will be permitted to enter, without delay, for the purposes of performing their specified responsibilities. Denial of the access to the user's premises shall be a violation of this section. Unreasonable delays may constitute denial of access. Agents of the WSACC may enter upon the property at any hour under emergency circumstances.

(3) Search warrants. If WSACC, the city, the state, or EPA has been refused access to a building, structure, or property, or any part, and is able to demonstrate probable cause to believe that there may be a violation of this section, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the POTW designed to verify compliance with this section or any permit or order issued under this article, or to protect the overall public health, safety, and welfare of the community, then WSACC, the city, the state, or EPA may seek issuance of a search warrant from the county superior court.

(s) Confidential information.

(1) Information and data on a user obtained from reports, questionnaires, permit applications, permits, and monitoring programs from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of WSACC and the city that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

(2) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this section, NPDES permit, state permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(3) All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request.

(t) Enforcement.

(1) Administrative remedies.

a. Notification of violation. Whenever WSACC and/or the city, their employees, agents or contractors finds that any industrial user has violated or is violating this article, wastewater discharge permit, or any prohibition, limitation, or requirements contained therein or any other pretreatment requirement, he may serve upon such person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the POTW by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

b. Consent order. WSACC and/or the city is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specification to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to subsection (t)(1)d.

c. Show cause hearing. WSACC and/or the city may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this section or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. If WSACC and/or the city determine that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least ten days before the hearing. Service may be made on any agent or officer of a corporation. The WSACC and/or the city shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate. A show cause hearing under this subsection is not a prerequisite to the assessment of a civil penalty under subsection (s)(2) nor is any action or

inaction taken by the WSACC and/or the city under this subsection subject to an administrative appeal under subsection [62-191\(i\)\(10\)](#).

d. Administrative orders. When the WSACC and/or the city find that an industrial user has violated or continues to violate this section, permits, or orders issued under this section, or any other pretreatment requirement the WSACC may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

1. Immediately comply with all requirements;
2. Comply in accordance with a compliance time schedule set forth in the order;
3. Take appropriate remedial or preventative action in the event of a continuing or threatened violation;
4. Disconnect unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated within a specified time period.

Appeals of administrative orders issued in accordance with this subsection shall be as provided in subsection [62-191\(i\)\(10\)](#).

e. Emergency suspensions. The WSACC and/or the city may suspend the wastewater treatment service and/or wastewater discharge permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW, or causes the POTW to violate any condition of its NPDES or non-discharge permit. Any user notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's wastewater discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the WSACC shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The WSACC and/or the city shall reinstate the wastewater discharge permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to WSACC and/or the city prior to the date of the above-described hearing.

f. Termination of wastewater discharge permit. Any user who violates the following conditions of this section, or applicable state and federal regulations, is subject to having its wastewater discharge permit terminated:

1. Failure to accurately report the wastewater constituents and characteristics of his discharge;
2. Failure to report significant changes in operations, or wastewater constituents and characteristics;
3. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
4. Violation of conditions of the permit. Noncompliant industrial users will be notified of the proposed termination of their wastewater discharge permit and will be offered an opportunity to show cause under subsection (t)(1)c. why the proposed action should not be taken.

(2) Civil penalties.

a. Any user who is found to have failed to comply with any provision of this section, or the orders, rules, regulations, and permits issued under this section, may be assessed a civil penalty of \$25,000.00 per day, per violation.



b. In determining the amount of the civil penalty, the WSACC and/or the city manager or his designee shall consider the following:

1. The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
2. The duration and gravity of the violation;
3. The effect on ground or surface water quantity or quality or on air quality;
4. The cost of rectifying the damage;
5. The amount of money saved by noncompliance;
6. Whether the violation was committed willfully or intentionally;
7. The prior record of the violator in complying or failing to comply with the pretreatment program;
8. The costs of enforcement to the WSACC and/or the city manager or his designee.

c. Appeals of civil penalties assessed in accordance with this section shall be as provided in subsection [62-191](#)(i)(10).

(3) Other available remedies. Remedies, in addition to those previously mentioned in this subsection, are available to the WSACC and/or the city, who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

a. *Criminal violations.* The district attorney for the county judicial district may, at the request of the WSACC and/or the city, prosecute noncompliant users who violate the provisions of G.S. 143-215.6B.

b. *Injunctive relief.* Whenever a user is in violation of the provisions of this section or an order or permit issued under this section, the WSACC and/or the city, through the owner's attorney, may petition in the superior court of justice for the issuance of a restraining order or a preliminary and permanent injunction, which restrains or compels the activities in question.

c. *Water supply severance.* Whenever a user is in violation of the provisions of this section or an order or permit issued under this section, water service to the user may be severed and service will only recommence, at the user's expense, after the user has satisfactorily demonstrated ability to comply.

d. *Public nuisances.* Any violation of the prohibitions or effluent limitations of this section or contained in a permit or order issued under this section, is hereby declared a public nuisance and shall be corrected or abated as directed by the owner of the POTW or his designee. Any person creating a public nuisance shall be subject to the provisions of this section governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating, or remedying such nuisance.

(4) Remedies nonexclusive. The remedies provided for in this section are not exclusive. The WSACC and/or the city may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the POTW's enforcement response plan. However, the WSACC and/or the city may take other action against any user when the circumstances warrant. Further, the owner of the POTW is empowered to take more than one enforcement action against any noncompliant user.

(u) *Annual publication of significant noncompliance.* At least annually, the executive director shall publish in the largest daily newspaper circulated in the service area, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance in 15A N.C.A.C. 2H.0903(b)(1), with applicable pretreatment standards and requirements, during the previous 12 months.

(v) Affirmative defense to discharge violations.

(1) Upset.

a. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (v)(1)b. are met.

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

1. An upset occurred and the user can identify the causes of the upset;
2. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and
3. The user has submitted the following information to the owner of the POTW within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

- i. A description of the indirect discharge and cause of noncompliance;

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

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

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

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

e. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored, or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(2) Prohibited discharge standards defense. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in subsection (b) or the specific prohibitions in subsections [62-191\(c\)\(2\), \(3\), \(5\)—\(7\) and \(9\)—\(31\)](#) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:

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

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

(3) Bypass.

a. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provision of subsections (v)(3)c.2. or c.3.

b. If a user knows in advance of the need for a bypass, the user shall submit prior notice to the POTW at least ten days before the date of the bypass, if possible. A user shall submit oral notice to the POTW of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time the user becomes aware of the bypass. A written submission shall also be

provided within five days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The owner of the POTW may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

c. Bypass is prohibited, and the owner of the POTW may take an enforcement action against a user for a bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
3. The user submitted notices as required under subsection (v)(3)c.2.

(w) Forms. WSACC and/or the city may establish such forms as the executive director and/or city manager determine to be appropriate and require the use of such forms in the submission of any report, application, request, or other information contemplated by this ordinance. Failure to use the established form for the submission of a report, application, request, or other information may result in the rejection of the submission.

(x) Electronic reporting. The WSACC executive director or city manager may develop procedures for receipt of electronic reports for any reporting requirements of this section. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under subsection (t).

(y) Special reporting requirements for IUs in satellite POTWs. In the case of industrial user located in a satellite POTW organization's jurisdiction, all information required to be reported to the industrial user's pretreatment program control authority by this section may also be required to be reported to the POTW treatment plant organization.

(Ord. No. 04-17, § 1, 3-11-2004; Ord. No. 12-122, § 4, 12-13-2012)