

Memorandum

TO: Rep. Jonathan C. Jordan and Sen. Andy Wells – Co-Chairs of the Joint Legislative Administrative Procedure Oversight Committee

Rep. James L. Boles, Jr., Rep. Ted Davis, Jr., and Sen Shirley B. Randleman – Co-Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety

FROM: Ron Lawrence, City Attorney and Melissa Corser, City Clerk

DATE: November 19, 2018

RE: Response to the Requirements set forth in Section 3 of Session Law 2018-69 (House Bill 379) for the City of Goldsboro.

Attached is the response of the City of Goldsboro, North Carolina to the requirements set forth in Section 3 of Session Law 2018-69 for local governmental units. The attached document contains a list of all the City of Goldsboro's ordinances that create criminal offenses pursuant to G.S. 14-4(a), with brief descriptions of the prohibited conduct. Additionally, there is a link to Goldsboro's website for the ordinances summarized.

If you have any questions about this Memorandum, please contact either Ron Lawrence by email at rlawrence@goldsboronclawyers.com or Melissa Corser at mcorser@goldsboronc.gov. Also, please acknowledge receipt of this Memorandum and its sufficiency in complying with Session Law 2018-69, Section 3.

CHAPTER 10: GENERAL PROVISIONS¹

10.19 ALTERING CODE.

It shall be unlawful for any person in the city to change or amend by additions or deletions, any part or portion of this Code or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever except pursuant to ordinance or resolution or other official act of the City Council, which will cause the law of the city to be misrepresented thereby. Any person violating this section shall be punished as provided in § 10.99.

CHAPTER 31: OFFICIALS AND EMPLOYEES²

31.04 INTEREST IN CITY CONTRACTS.

If any person, appointed or elected as an officer or employee of the city, shall undertake any venture, or make any contract, for his own benefit, under such authority, or be in any manner concerned or interested in making such contracts, or in the profits thereof, either privately or openly, singly or jointly with another, he shall be guilty of a misdemeanor; provided, such undertaking or contracting may be authorized by the City Council.

CHAPTER 33 POLICE AND FIRE DEPARTMENTS³

33.21 INJURY TO FIRE DEPARTMENT'S PROPERTY.

- (A) It shall be unlawful to wilfully break, deface or in any way injure any fire hydrants, or any other property belonging to the City Fire Department, or in any manner obstruct the free use of such property.
- (B) It shall be unlawful for any vehicle to be wilfully driven over the hose belonging to the Fire department laid in the streets, lanes or squares at any time.
- (C) It shall be unlawful for the engineer of any locomotive or railroad train to wilfully run over the hose of the Fire Department, laid across railroad tracks.

33.22 CONGREGATING NEAR FIRE.

It shall be unlawful to congregate in the streets, lanes, alleys or squares near a fire so as to interfere with the Fire Department.

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CHAPTER 52 WATER REGULATIONS⁴

52.01 LEAVING OPEN FAUCETS OR HYDRANTS PROHIBITED.

It shall be unlawful for any person to leave open any faucets or hydrants so as to allow water to be discharged through same, except for the purpose of legitimate use, or to knowingly permit any water lines upon his premises to remain in a condition where the same shall leak. It shall be the duty of the Director of Finance to order turn off and refuse water to the person or persons violating any of the provisions of this section until such time as such person shall pay to the city such amount for the unlawful waste of water as the Director of Finance shall, after investigation, estimate the amount to be.

52.02 RIGHT OF ENTRY OF CITY OFFICERS OR EMPLOYEES.

It shall be unlawful for any owner or occupant of any building in which water is used from the water system to refuse to the officers or duly authorized employees of the city admission to all parts of such building and the premises in which the same is situated, whenever and wherever it shall be necessary to have water lines and fixtures inspected to ascertain whether there is any waste of water, or for the purpose of installing, repairing or testing any meters used in connection with such water systems.

52.03 UNLAWFUL TO BORE ANY LINE, OPEN METER BOX, TAMPER WITH METERS, AND THE LIKE.

Without written permit from the City Engineer, it shall be unlawful for any person not employed by the city to bore any line, open any meter box, tamper with any meter, or open any fire hydrant curb stop or gate valve, or to interfere in any part of the water systems under penalty of § 10.99 . In addition to such penalty, any damage caused by such unlawful interference with the water systems may be collected from the offender or offenders in a civil action for damages.

CHAPTER 53: WATER AND SEWER SYSTEMS⁵

53.03 CERTAIN TYPES OF PAPER PROHIBITED IN SEWER SYSTEM; EVIDENCE OF VIOLATION.

(A) In water closets connected with the sewer system, no newspaper or other kinds of paper shall be used for toilet purposes, except tissue water closet paper

(B) The finding by the inspecting officer, in any water closets of any other kind of paper, shall be prima facie evidence of its use.

53.15 APPLICATION REQUIRED BEFORE CONNECTION WITH WATER SYSTEM.

No person or persons shall make connection with the water system of the city except by application as provided by this chapter.

53.16 MISREPRESENTATIONS IN APPLICATION; UNLAWFUL USE OF WATER.

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It shall be unlawful for any person to make misrepresentations in his written application to make connection with the water system regarding the uses to which he intends to put such water; or to use such water for any purpose other than that mentioned in such application without notifying the Director of Finance thereof; or to use the water without permission, or to cause wilful or needless waste of water by allowing constant flow at faucet or otherwise, or to allow the occupant of any building not paying water rates to use water from such premises; and in case of violation of any provision of this section, in addition to any other penalties provided, the offender shall be liable to have his supply of water shutoff by the city without notice. It shall be unlawful for any person to tap any lines of the water systems of the city or to make any connection therewith without first having obtained from the City Engineer a permit for the same as herein provided.

CHAPTER 73 BICYCLES⁶

73.01 OBEDIENCE TO TRAFFIC REGULATIONS; CONTROL OF BICYCLE WHEN ENTERING INTERSECTION.

(A) Any person operating a bicycle shall observe the rules of the road, driving signals and traffic-control signals in the same manner as required of persons operating motor vehicles and shall be required to have such bicycle under complete control before entering any arterial highway within the city.

(B) The provisions outlined in this chapter shall not apply to members of the Police Department operating a bicycle in the performance of their duties.

73.03 LIGHTS AND REFLECTORS.

It shall be unlawful for any person to operate a bicycle on any street, alley or highway in the city after dark unless the same is equipped with a sufficient light attached to the front so as to reveal at all times the approach of such bicycle, and unless such bicycle is equipped with a red reflector attached to the rear so that it may be clearly visible.

73.04 HOLDING ONTO MOVING VEHICLES.

It shall be unlawful for any person while riding a bicycle to hold onto a moving bus, truck or other vehicle.

73.05 RIDING ON SIDEWALKS; RIDING ABREAST.

It shall be unlawful for any person to operate a bicycle upon any sidewalk or pedestrian walkway in the city, and it shall also be unlawful for any person to ride a bicycle on any street, alley or highway in the city abreast of any other bicycle traveling in the same direction at the same time.

73.99 PENALTY.

Any bicycle operated by the owner, or any person lawfully in the custody thereof, in violation of any of the provisions of this chapter, may be taken into custody and impounded by the court for a period not exceeding 30 days and such offender may in addition be punished as provided in § 10.99 .

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CHAPTER 90: ABANDONED AND JUNKED VEHICLES⁷

90.03 DUTY OF OWNER TO REMOVE.

(A) (1) If a motor vehicle is abandoned or junked on a public street or highway, it shall be the duty and responsibility of the owner of such motor vehicle to cause the removal thereof immediately and to pay all costs incident to such removal.

(2) It shall be unlawful for any person to allow a motor vehicle owned by him to remain abandoned on a public street or highway after notice has been duly given to such person to have the vehicle removed.

(B) (1) If a motor vehicle is junked on private property, it shall be the duty and responsibility of the owner of such motor vehicle to cause the removal thereof immediately and to pay all costs incident to such removal.

(2) It shall be unlawful for any person to allow a motor vehicle owned by him to remain junked on private property after notice has been duly given to such person to have the vehicle removed.

(3) One junked motor vehicle, in its entirety, can be located in the rear yard, as defined by the city's Unified Development Code, if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by a manufactured car cover and is not surrounded by overgrown weeds or grass. The city has the authority to determine whether any junked motor vehicle is adequately concealed and located as required by this provision. The covering must remain in good repair and must not be allowed to deteriorate. The covering or enclosure must be compatible with the objectives stated in the preamble of the ordinance from which this subsection is derived.

90.04 REMOVAL BY CITY.

Whenever any motor vehicle is abandoned or junked on a public street or highway, or on property owned or operated by the city, or on private property, any such vehicle may be removed by or under the direction of the Director of Planning or his designee or Chief of Police, or their designee to a storage garage or area; provided, no merely abandoned vehicle shall be removed from private property without the written request or permission of the owner, lessee or occupant thereof unless the same has been declared by the Director of Planning or the City Council to be a health or safety hazard.

90.05 COSTS OF REMOVAL; NOTICE TO OWNER.

(A) When an abandoned or junked motor vehicle is removed from private property at the request of the owner, lessee or occupant thereof, the person at whose request such vehicle is removed shall be required to pay or otherwise indemnify the city for any expenses incurred by reason of the removal and storage of such vehicle. When the city removes a junked vehicle from private property, due to a violation of § 90.03, the property owner shall pay to the city an administrative fee of \$100 and real costs incurred by reason of the removal. The vehicle owner shall pay to the city all administrative and real costs incurred by reason of the towing, storage and disposition of the vehicle.

(B) The owner of any vehicle removed hereunder from any public street or highway, or any property owned or operated by the city, or any private property, shall pay to the city an administrative fee of \$100 and all reasonable costs incident to the removal and storage of such vehicle and to locating the owner thereof.

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(C) Written notice of each removal of an abandoned or junked vehicle and of the possible sale or disposition thereof shall be given as promptly as possible to the owner thereof at his last known address according to the latest registration certificate or certificate of title on file with the State Department of Motor Vehicles.

(D) Notice need not be given to the registered owner when the vehicle does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible.

(E) The owner of a towed vehicle may, within 20 days of the notice required by § 90.06, request a hearing before the City Manager to contest the towing and charges therefor, pursuant to G.S. § 160A-303.

90.06 SALE OF ABANDONED MOTOR VEHICLES.

If an abandoned motor vehicle is worth \$100 (value to be determined by the Planning Director) or more and should the owner thereof refuse to pay the aforementioned costs or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search, it shall, after being held by the city for 30 days and after 20 days' written notice to the registered owner at his last known address if his identity is known, and to the holders of all liens of record against the vehicle, and to the State Department of Motor Vehicles, be sold by the Director of Planning or his designee at public auction. However, any person having an interest in the vehicle may redeem it at any time before the sale by paying all costs, including administrative and legal fees of the city, which have accrued to date.

90.07 DISPOSITION OF PROCEEDS OF SALE OF ABANDONED MOTOR VEHICLE.

The proceeds of the sale of an abandoned motor vehicle shall be paid to the city and the Director of Finance shall pay from such proceeds the costs of removal, storage, investigation, sale and liens, in that order. The remainder of the proceeds of sale, if any, shall be paid over to the registered owner, or held by the city for 60 days if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within 60 days after the sale, the funds shall be deposited into the city's general fund and the owner's rights therein shall be forever extinguished.

90.08 DISPOSITION OF JUNKED MOTOR VEHICLES.

(A) With the consent of the owner, the Building Inspector, or his designee, may dispose of any vehicle as a junked motor vehicle without holding it for any prescribed period of time.

(B) Any unclaimed junked motor vehicle as defined by this chapter shall be held for a period of at least 15 days. The owner of any such vehicle may claim his vehicle during the 15-day retention period by exhibiting proof of ownership to the Building Inspector and after paying all reasonable costs incident to the removal and storage of the vehicle plus administrative expenses. If after the vehicle is held 15 days it remains unclaimed, the vehicle may be destroyed or sold at private sales as junk. Within 15 days after final disposition of a junked motor vehicle, written notice thereof shall be given to the State Department of Motor Vehicles that the vehicle has been determined to be a junked motor vehicle and disposed of as such. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined.

90.09 DISPOSITION OF UNIDENTIFIED VEHICLES.

Vehicles not displaying a license plate and whose identification numbers have been removed or defaced so as to be illegible may be destroyed or sold at a private sale, without regard to value, after being held for 48 hours.

90.10 DISPOSITION OF PROCEEDS OF SALE OF JUNKED MOTOR VEHICLE.

The proceeds of the sale of a junked motor vehicle, after all costs of removal, storage, investigation and sale, and satisfaction of any liens of record on the vehicle have been deducted therefrom, shall be held by the Director of Finance for 30 days and paid to the registered owner upon demand. If the owner does not appear to claim the remainder of the proceeds within 30 days after disposal of the vehicle, the funds shall be deposited into the city general fund and the owner's rights therein shall be forever extinguished.

90.11 IMMUNITY.

Neither the city nor any person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost or stolen vehicle for disposing of such vehicle as contemplated by this chapter.

90.12 LIMITATIONS OF PROVISIONS.

Nothing in this chapter shall apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle which is lawfully used on a regular basis for personal or business purposes or to any vehicle in an appropriate storage place or depository maintained in a lawful place or manner.

90.20 REQUIREMENTS FOR ENTRY ON THE WRECKER ROTATION LIST FOR POLICE DEPARTMENT USE.

(A) Any wrecker firm desiring entry on the wrecker rotation list will be placed on the list provided that the following requirements are met:

(1) The wrecker firm and storage area must be physically located within the city limits, or one and one-half miles thereof.

(2) The wrecker firm desiring entry on the rotation list must have at least a two-ton wrecker equipped with half-inch cable. All wreckers must have approved tow-sling, dollies, dual wheels on the rear, emergency revolving lights, and tools.

(3) The wrecker firm must have a well-lighted fenced area for the purpose of storing and keeping wrecked vehicles. The wrecker firm is liable for theft or vandalism to a wreckee's property. Towed vehicles must be stored in the enclosed area until claimed by the owner.

(4) The wrecker firm must show evidence of carrying insurance in the following amounts:

(a) Each person, \$100,000.

(b) Each occurrence, \$300,000.

(c) Property damage, \$50,000.

(5) The wrecker firm must provide 24-hour service. The firm may have one daytime number and two nighttime numbers and must answer by the first five rings or lose the call.

(6) The wrecker firm must permit annual inspection of vehicles, equipment and storage area by the City Police Department.

(7) The wrecker firm shall be responsible for clearing the street of debris caused by an accident before leaving the scene.

(8) All wrecker firms within the city must be duly licensed by the city to conduct business.

(9) The wrecker firm's vehicles must be properly registered by the State Department of Motor Vehicles and drivers of the wrecker firm's vehicles must be properly licensed to drive by the state.

(10) The wrecker firm shall be forbidden to tie onto a wrecked vehicle at the scene of an accident in the city without authorization by the officer at the scene.

(11) The wrecker firm shall at all times have qualified operators available for their wreckers who must not be drinking while answering a call.

(12) Each wrecker firm on the rotation list shall file currently with the Chief of Police its standard fees or charges for towing and storage. On any wreck handled by police dispatch for which a nonstandard charge is made, the wrecker firm shall notify the Chief of Police by letter.

(13) A wrecker firm who receives a call for wrecker service by rotation shall decline the call if he cannot reach the scene in 30 minutes. His rotation turn will be forfeited.

(B) A wrecker firm who is found to be in noncompliance in any of the requirements that are set forth in this section, shall be removed from the wrecker rotation list immediately and shall be notified in writing by the Chief of Police of the removal and the reasons for his decision. A wrecker firm may be added back on the list when the noncompliance is corrected, at the discretion of the Chief of Police.

(C) A wrecker firm who is dissatisfied in any way with the administration of the rotation system or wrecker requirements shall file a written statement with the Chief of Police. If the Chief of Police cannot satisfy the complainant, a statement shall be filed with the City Manager. If the City Manager cannot satisfy the complainant, a statement shall be filed with the City Council for their consideration.

90.21 REQUIREMENTS FOR WRECKER TOWING SERVICE PROVIDERS FOR CODE ENFORCEMENT USE.

(A) Any wrecker firm contracting with the city to provide towing services shall comply with the following requirements:

(1) If the wrecker firm and storage area are physically located within the city limits or within the extraterritorial jurisdiction, then an eight- foot screening fence shall be provided around the vehicular storage area.

(2) The wrecker firm desiring entry on the rotation list must have at least a two-ton wrecker equipped with half-inch cable. All wreckers must have approved tow-sling, dollies, dual wheels on the rear, emergency revolving lights and tools.

(3) The wrecker firm must have a well-lighted fenced area for the purpose of storing and keeping vehicles. The wrecker firm is liable for theft or vandalism to a wreckee's property. Towed vehicles must be stored in the enclosed area until claimed by the owner.

(4) The wrecker firm must show evidence of carrying insurance in the following amounts:

- (a) Each person, \$100,000.
- (b) Each occurrence, \$300,000.
- (c) Property damage, \$50,000.

(5) The wrecker firm must provide 24-hour service. The firm may have one daytime number and two nighttime numbers and must answer by the first five rings or lose the call.

(6) The wrecker firm must permit annual inspection of vehicles, equipment and storage area by the City of Goldsboro Code Enforcement staff.

(7) All wrecker firms within the city must be duly licensed by the city to conduct business.

(8) The wrecker firm's vehicles must be properly registered by the State Department of Motor Vehicles and drivers of the wrecker firm's vehicles must be properly licensed to drive by the state.

(9) The wrecker firm shall at all times have qualified operators available for their wreckers who must not be drinking while answering a call.

(B) A wrecker firm who is found to be in noncompliance in any of the requirements that are set forth in this section shall be removed from the wrecker rotation list immediately and shall be notified in writing by the Planning Department of the removal and the reasons for its decision. A wrecker firm may be added back on the list when the noncompliance is corrected at the discretion of the Planning Director.

(C) A wrecker firm who is dissatisfied in any way with the administration of the requirements to provide wrecker service shall file a written statement with the Planning Department. If the Planning and Community Development Director cannot satisfy the complainant, a statement shall be filed with the City Manager. If the City Manager cannot satisfy the complainant, a statement shall be filed with the City Council for their consideration.

CHAPTER 91: ANIMALS⁸

91.01 DESIGNATION OF BIRD SANCTUARY; CERTAIN BIRDS PROTECTED.

(A) *Designation.* The territorial area of the city is hereby created and designated a bird sanctuary.

(B) *Certain birds protected.* It shall be unlawful to hunt, shoot, kill, trap or otherwise take any birds within the city except any birds classed as a pest under G.S. §§ 113-300.1 through 113-300.3; the Structural Pest Control Act, G.S. §§ 106-65.22 *et seq.*; or the Pesticide Law, G.S. §§ 143-434 *et seq.*; or except pursuant to a permit issued by the state Wildlife Resources Commission under G.S. 113-274(c)(1a) or under any other license or permit of the Wildlife Resources Commission specifically made valid for use in taking birds within the city limits.

91.02 ANIMALS PROHIBITED IN CITY WITHIN 200 YARDS OF CERTAIN ESTABLISHMENTS.

(A) It shall be unlawful for any person to keep or stable, or to cause to be kept or stabled, or to aid or abet in the keeping or stabling, any horse, mule, pony, donkey, or other beast of burden, cattle, sheep, goats, swine, or domestic fowl within the city within 200 yards of any dwelling, hospital, school, church or eating establishment, whether such animal be kept or stabled in a stall, stable, yard or lot, or otherwise, private or public, except as provided in division (C) and § 91.50 (domestic fowl) below. The prohibition contained in this section is not intended to and shall not prohibit the passing of such animals through the city, or their use therein, within the prohibited distance of occupied buildings, for plowing, hauling and similar purposes and uses of a temporary nature, provided such animals are not kept or stabled within the restricted distance.

(B) Neither shall this section prohibit the operation within the city of a business engaged in the auction sale of livestock where animals are not usually stabled overnight provided such operation complies with all federal, state and local health requirements and provided further that such operation was in effect at the time of the original enactment of this section, September 21, 1953.

(C) (1) Any horse, mule, pony, donkey, or other beast of burden, cattle, sheep, goats, or domestic fowl which is located on property that is annexed into the corporate limits of the City of Goldsboro is exempt from the 200-yard distance requirement between a dwelling, hospital, school, church or eating establishment as detailed in division (A) above, provided the animals are not removed from the property for a period in excess of 180 consecutive days. If the animals are removed from the property for a period in excess of 180 consecutive days, any replacement of animals shall comply with the 200-yard spacing requirement as detailed in division (A) above.

(2) Upon the effective date of any annexation, properties containing swine would be subject to the 200-yard spacing requirement as detailed in division (A) above and any such properties that keep or stable swine shall be brought into compliance within 90 days of the effective date of annexation.

91.03 RUNNING AT LARGE PROHIBITED.

It shall be unlawful to permit any horses, mules, ponies, donkeys, or other beasts of burden, cattle, swine, sheep, goats or any fowl to run at large upon the streets, sidewalks, or public or private property.

91.16 LIMITATION ON NUMBER ALLOWED.

It shall be unlawful for any owner to keep more than three dogs within the city.

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91.17 KEEPING VICIOUS ANIMALS PROHIBITED.

It shall be unlawful for any owner to keep any vicious animal within the city.

91.18 ANIMALS RUNNING AT LARGE PROHIBITED.

(A) Prohibition. It shall be unlawful for any owner to allow any animal of his to run at large within the city.

(B) Confinement requirements.

(1) Whenever possible, animals shall be confined to the rear yards of residences and/or businesses.

(2) At no time will an animal be tied, penned, confined, nor will a house for the animal be placed in the side area located between residences and/or businesses.

(3) Houses for animals shall be considered as an accessory building, and the placement of such must conform with the city's regulations. The placement of such a house shall be limited to solely the rear yard, and must meet the setback requirements for accessory buildings as delineated in Chapter 153.

(4) Where lot size permits, animal pens and houses will be a minimum of 35 feet from a neighbor's residential dwelling and/or business, and at no time shall an animal pen or house be placed in the rear yard within 15 feet of a neighbor's residential dwelling and/or business.

(C) Exception. This section shall not apply to cats that are participating in the Trap-Neuter-Return Program.

91.19 FEMALE ANIMALS IN HEAT.

It shall be unlawful for the owner of any female animal that is in estrus to keep the same within the city during that period, except when confined to the premises of the owner, or of another person with such person's consent. Any person breeding a female of more than once a year for the purpose of selling the resulting offspring will be considered as operating a business, and will be subject to the regulatory provisions of the city zoning ordinance (Chapter 153). In addition, for those individuals possessing three female dogs, it shall be permissible to breed only one female during any 12-month period.

91.20 PUBLIC NUISANCES.

The following acts of an animal or group of animals are declared public nuisances:

(A) Frequent, habitual howling, yelping, barking, fighting or making of other noises that disturb the neighborhood;

(B) Chasing, snapping at or attacking a pedestrian, bicycle rider or vehicles;

(C) Turning over garbage contents, damaging gardens, flowers or vegetables;

(D) Running at large while in heat;

(E) By virtue of the number or type is offensive or dangerous to the public health, safety or welfare; or

(F) Any act, noise or condition created that is offensive to people or destructive of real or personal property.

91.24 OBSTRUCTION OR INTERFERENCE WITH IMPOUNDMENT PROCEDURES.

(A) It shall be unlawful for any person to obstruct or interfere in any manner with the impoundment of any animal found to be in violation with the provisions of this subchapter. In addition, it shall be unlawful for any person to release or attempt to release any animal that has been impounded.

(B) It is a defense to prosecution under this section that the interference alleged consisted of speech only.

91.25 TETHERING OF ANIMALS.

(A) Restrictions. No person shall tether an animal to a tree, fence, post, house, or other stationary object for more than two hours total in any 24-hour period. Any device used to tether shall be at least ten feet long, and attached in such a manner as to prevent strangulation or other injury to the animal, and entanglement with other objects. A cable trolley system may be used to tether for the allowed period, so long as the stationary cable is at least ten feet long, and the animal can perpendicularly move at least ten feet away from the stationary line. The line should be attached to the animal with a buckle-type collar or a body harness. The device used to tether shall weigh no more than 10% of the animal's body weight, and must allow the animal access to food and water.

(B) Definitions of enclosures. Enclosures shall be constructed and maintained as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement to maintain physical conditioning. The animal should be able to sit, stand, turn and lie without obstruction. Adequate space for food and water containers must be provided. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress, or abnormal behavior patterns. Animals shall not be tied, chained or fastened to any stationary or inanimate object as a means of confinement or restraint to property, but must be in an approved enclosure.

(C) Penalties. Any violation of this section shall subject the owner, keeper, or person in charge of the possession and/or control of the animal to the penalties in § 10.99.

91.26 DEFECATION ON STREETS AND PRIVATE PROPERTY.

(A) No owner, keeper or person in charge of the possession and/or control of any animal shall cause or allow the animal to defecate or otherwise commit any nuisance on any street, sidewalk, park, public right-of-way, other publicly owned area, or upon any private property without the permission of the owner or occupant of the property, unless the excrement is immediately removed by owner, keeper or person in charge of the possession and/or control of the animal, and deposited in an appropriate waste container.

(B) Any owner, keeper or person in charge of the possession and/or control of any animal who violates the provisions of this section shall be subject to the penalties in § 10.99.

CHAPTER 92: CEMETERIES⁹

92.01 LOT TO BE PAID FOR PRIOR TO MAKING IMPROVEMENTS.

No improvements of any nature, such as erecting monuments, markers and copings of planting shrubs or flowers will be permitted on any lot until the full purchase price for the lot is paid.

92.02 ENCLOSURE PROHIBITED; CORNER MARKERS.

No enclosure of any nature, such as fences, copings, hedges or ditches shall be around any lot. The boundaries of lots will be marked by cornerstones, which will be set by the cemetery employees. Cornerstones must not project above the ground and must not be altered or removed.

92.03 INTERMENTS IN CEMETERY ONLY; FULL PURCHASE PRICE OF GRAVE SPACE REQUIRED PRIOR TO INTERMENT.

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- (A) No interment shall be made within the city other than in the cemetery.
- (B) No interment will be permitted in any grave space until the full purchase price of said grave space is paid.

92.04 NUMBER OF INTERMENTS PER GRAVE.

Only one interment shall be made in a grave, except a mother and infant or two children may be interred in one coffin.

92.07 PERMIT REQUIRED TO REMOVE CORPSE FROM CITY.

No corpse shall be carried from the city for any reason without a permit from the County Registrar of Deeds.

92.09 VAULTS, LINERS, MAUSOLEUMS, CRYPTS; MATERIAL TO BE USED; MINIMUM LOT SIZE; PERMITS.

- (A) No interment shall be made in any cemetery owned or operated by the city without the use of burial vaults or concrete or steel liners. When final dispositions entails interment, the top of the uppermost part of the burial vault or grave liner shall be a minimum of 18 inches below the ground surface. This section does not apply to burials where no part of the burial vault or other encasement containing remains is touching the ground.
- (B) No portion of any mausoleum or crypt shall be constructed of any material other than cut stone or bronze.
- (C) No crypt or mausoleum shall be on any lot less than 400 square feet in area.
- (D) (1) No crypts or mausoleums shall be constructed in the cemetery without written permission of the Public Works Director.
 - (2) Complete, detailed scale drawings for all proposed crypts or mausoleums shall be submitted to the Public Works Director for approval 30 days prior to desired construction date.
 - (3) Approved designs for crypts and mausoleums shall not be altered in any way without consent of the Public Works Director.

92.10 MONUMENTS AND HEADSTONES.

- (A) Foundations.
 - (1) Foundations for all monuments, headstones and the like shall be built by the cemetery at the expense of the lot owner, and ten days' notice shall be given for the building of foundations. The cost of such foundations shall be paid in advance.
 - (2) All foundations for monuments shall:
 - (a) Be at least one-inch wider and one-inch longer than the base stone resting upon it;
 - (b) Not project above the surface of the ground; and
 - (c) Extend as low as the Public Works Director may require for safety and permanence.
- (B) Plans, number and location. In making and enforcing rules for the placing of monuments and grave markers, the city seeks to protect the interest of all the lot owners, and with a view to making and keeping the cemetery as a whole uniform and beautiful.
 - (1) No monument or marker may be erected in the cemetery unless the specifications, plans and location be first submitted to and approved in writing by the Public Works Director, if he so requests.
 - (2) Only one monument will be permitted on a family burial lot and shall not be more than ½ the width of the lot in height, and shall be of granite or marble. No monument shall cover more than 7% of the ground space of the lot or lots.
 - (3) All monuments, except upon agreement in writing signed by the Public Works Director, shall be placed in the center of lots.

(C) Specifications. Only one stone or marker shall be allowed for each grave and shall be placed at the head of the grave. All markers and stones shall be of granite or marble at least five inches in length, not less than four inches nor more than eight inches in thickness, and not more than 18 inches in width and 24 inches to 30 inches in length. In all cases, the top of the marker shall be flushed and flat with the ground, and set to the contour of the ground. Headstones and footstones standing on end are prohibited. All lettering on individual grave markers shall be of the incised type, and in no case will raised letters be permitted on these slabs.

(D) Restrictions on ornaments. Grave markers with porcelain or other photographs are not permitted; nor is any form of ornamentation allowed which is in the opinion of the Public Works Director, grotesque, freakish or unusual in size or appearance.

92.11 GRAVE MOUNDS AND STONE ENCLOSURES PROHIBITED.

Grave mounds shall not be allowed, nor shall stone or other enclosure around graves be permitted. No lots shall be raised above nor lowered below the established grade.

92.12 IRON WORK, SEATS, VASES PROHIBITED EXCEPT WITH PUBLIC WORKS DIRECTOR'S PERMISSION.

No iron or wire work and no seats or vases shall be allowed on lots except by permission of the Public Works Director and when any article so placed begins to rust or otherwise becomes unsightly, the same shall be removed from the cemetery.

92.13 TREES AND SHRUBS NOT TO BE CUT, BROKEN OR REMOVED.

No trees shall be cut, broken or otherwise damaged or removed from the cemetery without the written consent of the Public Works Director nor shall any ornamental shrubbery, plants or other flowers be cut, broken or otherwise interfered with except with the consent of the Public Works Director and then only from the lot or lots owned by the person doing such act.

92.14 SPEED LIMIT.

It shall be unlawful to drive any vehicle in the cemeteries at a greater rate of speed than 15 miles per hour.

92.15 BOISTEROUS CONDUCT.

No loud or boisterous talking or laughing, indecent conversation, drinking or immoral conduct of any kind shall be permitted in the cemetery.

92.16 VISITING HOURS; ENTRANCES TO BE USED.

No person shall enter the cemetery except through the gates or provided entrances, which shall be opened from 8:00 a.m. to sunset, unless prior permission has been granted by the Public Works Director.

CHAPTER 94: HEALTH AND SANITATION¹⁰

94.02 BUSINESS BUILDINGS TO BE RATPROOFED, FREED OF RATS.

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All business buildings shall be ratproofed, freed of rats, and maintained in a ratproof and rat-free condition by the agents, owners and occupants thereof, under the terms and conditions set forth in this subchapter.

94.04 UNANNOUNCED, PERIODIC INSPECTIONS OF BUSINESS BUILDINGS, NOTICE OF ABATEMENT, REMEDIAL ACTION.

The Health Officer is authorized to make such unannounced inspections of the interior and exterior of business buildings as in his opinion may be necessary to determine full compliance with this subchapter, and he shall make periodical inspections at intervals of not more than 60 days of all rat-stopped buildings to determine evidence of breaks or leaks in their ratproofing. When any evidence is found indicating the presence of rats or openings through which rats may enter, or any conditions that need remedying, in order that such building may be in ratproof condition and freed of rats, he shall serve the agent, owner or occupant of such building with notice to abate the conditions found and may specify what such agent, owner or occupant shall do in order to comply with the notice. Without limiting the generality of the foregoing, the Health Officer is authorized to notify such agent, owner or occupant to do any or all of the following:

- (A) Ratproof the building;
- (B) Repair breaks and leaks in existing ratproofing; and/or
- (C) Whenever conditions inside or under a business building provides such extensive harborage for rats that the Health Officer finds it necessary to eliminate such harborage, the Health Officer may require the owner to install suitable cement floors in basements or to replace wooden first or ground floors or require its owner to correct such other interior rat-harborage as may be necessary in order to facilitate the eradication of rats in a reasonable time.

94.05 TIME FOR COMPLYING WITH NOTICE.

If any agent, owner or occupant of a business building fails within 15 days after the receipt of a notice, such as is provided for in § 94.04, effectively to commence compliance therewith, or if he fails to complete compliance therewith within the time specified therein (which shall not be less than 30 days from the service of the notice) he shall be guilty of a violation of this subchapter and each day's delay beyond such period shall constitute a separate offense. The Health Officer may, for cause shown, grant extensions of the periods herein provided for, but no agent, owner or occupant shall fail to commence or complete the required work within the time of such extensions.

94.08 REMOVAL AND RESTORING OF RATPROOFING.

It shall be unlawful for any agent, owner, occupant, contractor, public utility company, plumber, electrician, steam fitter or other person to remove ratproofing from any business building for any purpose and fail immediately thereafter to restore the same in a ratproof condition, or to make any new openings that are not immediately thereafter closed or sealed against the entrance of rats.

94.09 STORAGE OF FEEDS.

No person shall keep within the city any food for feeding chickens, cows, pigs, horses or other animals, except stored in rat-free and ratproof containers, compartments or rooms located within a ratproof building.

94.10 GARBAGE AND REFUSE TO BE PLACED IN CONTAINERS.

Within the city, no person shall place any garbage or refuse consisting of waste (animal or vegetable matter, or small dead animals upon which rats may feed, except in covered containers of a type

prescribed by the city, and at a point where the same will be available to be collected by the Sanitary Department.

94.11 ACCUMULATION OF RUBBISH WHICH MAY AFFORD HARBORAGE.

It shall be unlawful for any person within the city to place, leave, dump or permit to accumulate any garbage, rubbish or trash in any building or on any premises in a manner that does, or may afford harborage of rats.

94.12 RATPROOFING REQUIRED IN NEW CONSTRUCTION.

It shall be unlawful for any person to construct, renovate or remodel or have constructed, renovated or remodeled any business building in the city unless such business building is equipped with ratproofing, and no building permit for the construction, renovation or remodeling for any business building shall be issued unless the plans for same include ratproofing.

CHAPTER 96: NUISANCES ¹¹

96.03 PUBLIC NUISANCES.

The existence of any of the following conditions on any lot or parcel of land in the city, is hereby declared to be noxious, dangerous, detrimental and prejudicial to the public health, safety or general welfare and/or constitutes a public nuisance in violation of the provisions of this chapter:

(A) Weeds and/or uncontrolled growth of vegetation.

(1) Any uncontrolled growth of noxious weeds, grasses to a height in excess of ten inches and/or the uncontrolled growth of bushes causing or threatening to cause infestation by rats, mice, snakes or vermin of any kind or constituting a fire hazard or which in any other way is detrimental to the public health, morals, safety or general welfare; provided, however, that this subsection shall not apply to planted and cultivated flowers, shrubbery, vegetables or crops, properties not reasonably accessible to power mowing equipment, and undeveloped parcels greater than five acres in size, except as provided in § 96.03(A)(2).

(2) Any uncontrolled growth of noxious weeds, grasses or bushes on undeveloped parcels greater than five acres in size, including previously tilled farm land that is not cultivated or planted during a growing season if:

(a) The growth is at a height in excess of 24 inches and is causing or threatening to cause infestation by rats, mice, snakes or vermin of any kind or constituting a fire hazard or which is in any other way detrimental to the public health, safety or general welfare; and

(b) The growth is within a distance of 50 feet from any residential use.

(3) Any uncontrolled growth of wild shrubs, bushes, vines, weeds or similar vegetation that is accessible and controllable by any reasonable means, is on any lot that contains a dwelling unit or is on a lot within 100 feet of any residential property, and is uncontrolled growth that:

(a) Contain other nuisances as set forth in this chapter; or

(b) 1. Consists of wild, dense or uncontrolled vegetation, including overgrown shrubs, underbrush, small trees, vegetative debris, or poisonous plants, that is in such concentration or

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condition so as to contribute to or cause a breeding ground for rodents, wild animals, or constitute other hazards detrimental to public health, safety or welfare.

2. This subsection shall not apply to areas that are not accessible or controllable by reasonable means, or to natural areas which customarily exist in a natural condition such as predominately forested areas with numerous trees, or areas that consist of managed, landscaped plantings, shrubs, or other cultivated or managed vegetation, including planted areas with legitimate landscape plants for screening purposes, or plant areas required by the City Code of Ordinances to be set aside or planted for buffering or screening purposes, or to protected natural areas or plants under state or federal laws.

(4) It shall be illegal and unlawful for any individual or business to scatter, cast, throw, blow, place, sweep, or deposit anywhere on a city street, curbing, and/or sidewalk any limbs, trash, sand, grass clippings, leaves, litter and/or other debris. Such accumulation is dangerous or prejudicial to the public health, public safety, lessens the efficient operation of the storm drainage system of the city, contrary to storm water regulations, or otherwise constitutes a public nuisance.

(5) The owner of any property and/or dwelling unit shall have the sole responsibility to remove and to exercise reasonable diligence at all times to keep any street, curbing, and/or sidewalk clean of any limbs, trash, sand, grass clippings, leaves, litter and/or other debris and other used or waste materials intentionally or unintentionally growing, scattered, discarded, thrown, blown, swept, deposited, or haphazardously left in any street, curbing, and/or sidewalk. The owner of any property and/or dwelling unit shall have the sole responsibility to prevent the continuous, ongoing or persistent, accumulation, growth and/or depositing of same from drifting or blowing to adjoining premises and gutters by removing such waste. Such accumulation is dangerous or prejudicial to the public health, public safety, lessens the efficient operation of the storm drainage system of the city, contrary to the city's storm water regulations, and/or otherwise constitutes a public nuisance.

(6) The owner of any property and/or dwelling unit, including unoccupied property, and/or any business or corporation in control of such lawn or yard maintenance shall have the sole responsibility to remove and to exercise reasonable diligence at all times to keep the premises from the street to the front and/or side yard, including the curbing and/or sidewalk clean of any accumulation or growth of grass, weeds, limbs, trash, clippings, leaves, sand, litter, debris, and other used or waste materials intentionally or unintentionally growing, scattered, discarded, thrown, blown, swept, deposited, or haphazardously left. Such accumulation is dangerous or prejudicial to the public health, public safety, lessens the efficient operation of the storm drainage system of the city, contrary to the city's storm water regulations, and/or otherwise constitutes a public nuisance.

(B) Litter, trash, construction materials and/or other debris.

(1) In order to protect the health, safety and general welfare of the public, preserve the enjoyment of property rights and other rights from obnoxious and undesirable infringement, promote the general public welfare of the community, and prevent social harm from the effects of unwanted and detrimental influences that cross property lines, it shall be unlawful for any person owning, occupying or having in his possession or under his control any lot or parcel of land, improved or vacant, in the city, and/or any business or corporation in control of such lawn or yard maintenance to permit to exist on such lot or parcel of land any of the following conditions.

(2) Any litter consisting of man-made and used materials which is scattered, cast, thrown, blown, placed, swept, or deposited anywhere on a persistent, continuous or ongoing basis so as to accumulate on any property in open places such that is dangerous or prejudicial to the public health or otherwise constitutes a public nuisance.

(For purposes of this chapter, "open places" are defined as areas of properties or portions thereof that are open to the exterior, including building openings of residential dwelling units, such as carports or porches, and any other exterior portions of properties ordinarily exposed to the outside and/or public view, including front, side and rear yards, excluding any enclosed porch.) The owner and occupant of

any property and/or dwelling unit shall exercise reasonable diligence at all times to keep exterior premises clean of litter, including glass, bottles, waste paper, wrapping paper, paper napkins, cartons, package containers, and other used or waste materials intentionally or unintentionally scattered, discarded, thrown, or haphazardly left on such premises on continuous, ongoing or persistent basis, and to prevent same from drifting or blowing to adjoining premises by removing such waste.

(3) Except as otherwise allowed herein, any icebox, refrigerator or other container of any kind which has an airtight snap lock or other device thereon and is in use in open areas shall be crated, strapped or locked to such an extent that is impossible for a child to obtain access to any airtight compartment thereof. Snap locks or doors on any discarded refrigerator, icebox or container shall be removed prior to disposal.

(4) The presence or accumulation of dead animals; decayed meat, vegetables, fruit or other vegetable matter; filthy privies or stables; garbage, trash, litter or other waste products; or materials of any kind, including uncontrolled accumulation of organic debris, which are or may be offensive by virtue of strong odors or vapors, or by the inhabitancy therein of rats, mice, snakes or vermin of any kind, or by constituting a fire or safety hazard or other condition which otherwise may be dangerous or prejudicial to the public health or constitute a public nuisance. All animal food shall be kept, dispensed and stored in such a manner as to minimize availability of food or harborage for vermin.

(5) Any concentration of unusable building materials, including concrete, steel or masonry, which due to deterioration or age are no longer suitable for building construction, alterations or repair, and which are in open places and are or may be dangerous or prejudicial to the public health or otherwise constitute a public nuisance. The owner and occupant of any property and/or dwelling unit, including unoccupied property, shall have the sole responsibility to remove and to exercise reasonable diligence at all times to keep any concentration of unusable building materials, including wood, concrete, steel or masonry, from accumulating such that it is unsightly, detrimental, dangerous or prejudicial to the public health or otherwise constitutes a public nuisance.

(6) Any products with jagged edges of metal or glass which are kept in open places and are or may be dangerous or prejudicial to the public health or otherwise constitute a public nuisance.

(7) Any concentration of discarded bottles, glass, cans, or used medical supplies which are in open places or in confined areas which may be dangerous or prejudicial to the public health or otherwise constitute a public nuisance.

(8) Any junk, waste materials, unusable building materials, trash, garbage, oily rags, barrels, cans, papers, bricks or brickbats and other litter, refuse, rubbish or combustible materials which is scattered, cast, placed or deposited in a yard or yards, so as to constitute an accumulation or concentration in an open area and are or may be dangerous or prejudicial to the public health or otherwise constitute a public nuisance.

(9) The presence, accumulation, storage or placement of:

(a) Junk, including but not limited to, deteriorated, unusable or inoperative furniture, appliances, machinery, equipment, building materials, worn out and disused automobiles or parts, tires or any other man-made items which are either in whole, or in part, wrecked, junked, disused, worn out, dismantled or inoperative.

1. Storage of junk shall only be allowed on any properties used for nonresidential purposes if such use is permitted in accordance with the Unified Development Code, completely enclosed within a building in compliance with applicable building codes, or otherwise evenly placed or neatly stacked and concealed by a solid fence or other means so as to not be visible at the property line from abutting properties or a public street.

2. Storage of junk shall only be allowed on any property used for residential purposes if completely stored in an enclosed building or limited to 50 square feet in area and completely concealed by a solid fence or other means so as not to be visible at the property line from abutting properties or a

public street, concentrated in one area within the rear yard and neatly arranged or stacked so as not to exceed five feet in height.

3. Whether stored on a residential or nonresidential property such storage of junk shall be maintained in such a manner so as to prevent overgrown grass or weeds or an infestation of wild animals, reptiles and rodents.

(b) Usable building materials, unless (i) stored on any nonresidential lot on which the use is permitted by the Unified Development Code, or (ii) if stored on any residential lot where construction has stopped or never commenced for a period of six months and there is not a current, valid outstanding building permit issued for construction on the residential lot, such storage is inside a completely enclosed building (if otherwise permitted on the lot) or placed in the rear of the lot and stored in accordance with § 96.03(B)(9)(b)2. above.

(c) Construction fill materials stored or used as fill material must (i) be approved by the Code Enforcement Officer as a reasonable landscape feature evidenced by a comprehensive landscape plan showing such features for legitimate landscape purpose as part of the total development of the lot; (ii) be leveled within 30 days; (iii) be leveled and covered with at least six inches of dirt within 30 days if the material includes: concrete, brick, demolition debris, trees, tree stumps, and the like, but not including fill dirt; (iv) under no circumstances, may any fill material contain any asphalt of any kind.

(c) Construction fill materials stored or used as fill material must (i) be approved by the Code Enforcement Officer as a reasonable landscape feature evidenced by a comprehensive landscape plan showing such features for legitimate landscape purpose as part of the total development of the lot; (ii) be leveled within 30 days; (iii) be leveled and covered with at least six inches of dirt within 30 days if the material includes: concrete, brick, demolition debris, trees, tree stumps, and the like, but not including fill dirt; (iv) under no circumstances, may any fill material contain any asphalt of any kind.

(d) Firewood, except when such storage is neither in excess of a total area of 100 square feet not stacked to a height more than six feet above the ground. Whether completely enclosed in a building or concealed by a fence or cover or otherwise permitted on the lot, such storage or accumulation of the above items shall not be permitted if it causes or threatens to cause a fire hazard, or threatens to cause accumulation of stagnant water, causes or threatens to cause the inhabitation therein of rats, mice, snakes, or vermin, or wild animals of any kind, constitutes a hazardous condition, or causes or threatens to cause a public nuisance, all of which are or may be dangerous or prejudicial to the public health or general welfare.

(C) Stormwater treatment, retention or impoundment devices (Structural Best Management Practice (BMP)).

(1) Any stormwater treatment, retention or impoundment device (Structural Best Management Practice (BMP)) which is operating improperly and was constructed for compliance with the City of Goldsboro: Stormwater Management Program for Nitrogen Control in the Neuse River Basin.

(2) Improperly operating BMPs (stormwater control facilities) are prohibited; responsibility for maintenance:

(a) If structural BMPs are implemented to achieve nitrogen loading and/or flow attenuation requirements for a new development for compliance with the City of Goldsboro: Stormwater Management Program for Nitrogen Control in the Neuse River Basin, then the city requires a maintenance plan for the BMPs. In addition, each BMP will be inspected by the city on an annual basis.

(b) A structural BMP is any structure utilized for reducing nitrogen or peak flow rates from new developments. This may include but is not limited to wet detention pools, constructed wetlands, open channel practices, riparian buffers, bioretention, vegetated filter strips with level spreader, sand filters, and proprietary BMPs.

(c) BMPs should be constructed on the same lot as the new development, with the property owner assuming responsibility for the long-term maintenance. BMPs may be constructed at an off-site

location provided they are approved beforehand by the City's Planning and Engineering Departments; however, the property owner still maintains responsibility for long-term maintenance of the structure. In the event that a BMP is severed from the original site it was designed for (such as by the division of the original site, sale of a portion of the original site, or construction of a road through the site), a substitute BMP must be constructed by the responsible party (the property owner, unless otherwise determined by the city) to fulfill the nitrogen and/or peak flow reduction capabilities of the original BMP.

(3) Compliance with provisions.

(a) This chapter applies to any development which falls under either of the Neuse Stormwater Rule's definition for NEW DEVELOPMENT.

(b) Any activity that disturbs greater than one acre of land in order to establish, expand, or modify a single family or duplex residential development or a recreational facility. (LAND DISTURBANCE is defined as grubbing, stump removal, and/or grading.)

(c) Any activity that disturbs greater than one-half an acre of land in order to establish, expand, or modify a multifamily residential development or a commercial, industrial, or institutional facility.

(4) Inspections and annual inspection fee.

(a) The Building Inspector (or other authorized agent of the city) has full power and authority to enter upon a premise housing a BMP for the purpose of inspecting the BMP on an annual basis. The City Council has established an annual inspection fee of \$100 per structural BMP to fund this additional inspection program.

(b) In addition, the Building Inspector may enter the site as necessary to document improperly operating BMPs, follow up on scheduled maintenance activities, or to conduct maintenance themselves.

(D) Animal nuisances. The keeping of any animal in such manner or in such numbers as to constitute a public nuisance is hereby prohibited. For the purposes of this section, a public nuisance shall include, but not be limited to, the following:

(1) The keeping of any animal which by continued or repeated howling, yelping, barking or otherwise, causes loud noises which would disturb the quiet, comfort or repose of a reasonably prudent person on adjoining property;

(2) The keeping of any animal which habitually is at large;

(3) The keeping of a cage or pen constructed and used for the purpose of restraining animals within ten feet of the outer limits of the lot upon which the cage or pen is situated; provided, however, this setback requirement shall not be applicable where the placing of the cage or pen within the ten-foot area does not result in locating the cage or pen within 50 feet of the nearest household occupied by persons other than the owner or keeper of the cage or pen. This division shall not apply to the fencing of all or a major portion of a lot;

(4) Allowing or permitting an animal to damage the real or personal property of anyone other than its owner, including, but not limited to, turning over garbage containers, or damaging gardens, flowers, or vegetables, or defecating upon the property of another;

(5) Maintaining animals in an unsanitary environment which results in unsightly or offensive animal waste, litter, or odor which would disturb a reasonable person on adjoining property;

(6) The keeping, possession, harboring or feeding of animals, wild, feral or domesticated, which threaten the public health, safety and welfare of the community;

(7) The keeping, possession, harboring or feeding of animals, wild, feral or domesticated, which as a result of such keeping, possession, harboring or feeding, causes damage to real or personal property of anyone other than the person keeping, possession, harboring or feeding such animals;

(8) Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, joggers, animals walked on a leash, bicycles, or other vehicles;

(9) Failing to confine a female dog while in heat in a secure enclosure in such a manner that she will not be in contact with another dog, or attract other animals;

(10) Except as otherwise provided in § 91.16 (which states that it is unlawful for any owner to keep more than three dogs within the city), the keeping of seven or more animals per household or lot, regardless of lot size and regardless of whether any of the provisions of this division are violated, shall be considered a nuisance. This division shall not apply to offspring under the age of 16 weeks and to animals kept by a kennel or pet shop licensed in accordance with state and local law and to animals kept by a kennel, pet shop or other facility licensed or registered by the Department of Agriculture or the Veterinary Medical Board;

(11) The tethering of any animal to public property or in a public right-of-way.

(E) Breeding grounds for mosquitoes.

(1) Any condition which is a breeding ground or a harbor for mosquitoes is hereby deemed and declared to be a public nuisance;

(2) Pools of stagnant water causing or threatening to cause infestation by mosquitoes and other disease-carrying insects which are or may be dangerous or prejudicial to the public health is hereby deemed and declared to be a public nuisance.

(F) General nuisance. Any other condition declared to be a detriment or danger to the public health, safety, morals, and general welfare of the inhabitants of the city and/or public nuisance by the City Council at a public hearing, notice of which has been properly served.

96.04 RESTRICTION OF BOATS IN RESIDENTIALLY ZONED AREAS.

(A) Within the city limits, it shall be unlawful for any owner, lessee, or occupant, or any representative, or person living or having control of any property within the residentially zoned areas of the city to have more than two boats in open places on a single family lot unless any additional boat is stored in a fixed structure as defined by Chapter 153 of this Code of Ordinances. (For purposes of this chapter, OPEN PLACES are defined as areas of properties or portions thereof that are open to the exterior, including building openings of residential dwelling units, such as carports or porches, and any other exterior portions of properties ordinarily exposed to the outside and/or public view, including front, side and rear yards, excluding any enclosed porch).

(B) The owner or occupant of the property has ten days from the receipt of written notice from the city to correct this violation.

(C) The failure to correct this violation shall result in a fine of \$100 per day until the additional boat is removed. In addition, the city shall be entitled to seek and obtain further relief as described in § 10.99 of this Code of Ordinances.

96.05 ORDER TO ABATE PUBLIC NUISANCE.

Whenever it shall come to the attention of any Building Inspector, Code Enforcement Officer, City Inspector or other authorized city officer or representative, that there exists on any lot or parcel of land in the city, occupied or not, any of the conditions enumerated in this chapter, the officer or inspector shall forthwith give the owner, occupant, and/or person having the lot under his control notice thereof to abate or remove the conditions or otherwise comply with the city code. Such notice shall be deemed sufficient if given by personal service of written notice or service by registered or certified mail to such person, owner and/or occupant at his last known address. For nuisances falling under categories, divisions (A), (B), or (D) as described in § 96.03, ten days from the receipt of such written notice will be allowed for abatement. The person so served shall have ten days from the date of such service in which

to remedy the same or the city shall cause the same to be remedied, unless an appeal for relief in writing is made within this time period to the City Manager. For nuisances falling under division (C) as described in § 96.03, 30 days from the receipt of such written notice will be allowed for abatement. The person so served shall have 30 days from the date of such service in which to remedy the same or the city shall cause the same to be remedied, unless an appeal for remedy in writing is made within this time period to the City Manager. In lieu of, or in addition to such notice, the officer or inspector may issue a citation notice and take enforcement actions as set forth in §§ 96.07 and 96.10 in the Code of Ordinances. In the event an inspector determines that a nuisance is an immediate detriment to human health, safety or welfare, the inspector may take appropriate action to summarily abate the condition without notice.

96.06 FAILURE TO ABATE PUBLIC NUISANCE; ABATEMENT BY CITY.

(A) If after ten days' notice of the existence of any such condition, the owner, occupant and/or person having control of the lot or property, occupied or not, shall fail to cause the removal or abatement of such condition, the city may forthwith cause such condition to be removed, abated or remedied. Upon abatement by the city, in addition to all costs of abatement, the penalties set forth in § 96.10 of the Code of Ordinances may be implemented and an administrative service fee of \$100 shall be imposed to cover administrative costs associated with abating the nuisance.

(B) If any person with a nuisance falling under division (C) as described in § 96.03, having been ordered to abate such nuisance by performing the necessary maintenance to restore proper operation to the BMP, fails, neglects, or refuses to do so within 30 days from receipt of the order, the Director of Planning shall cause the condition to be remedied by having employees of the city or other designated persons to go upon the premises and perform the necessary maintenance under the supervision of an officer or employee designated by the City Manager. Any person who has been ordered to abate a public nuisance may within the time allowed by this chapter request the city in writing to remove such condition, the cost of which shall be paid by the person making such request.

96.07 COST OF ABATEMENT.

The actual cost incurred by the city in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land, and it shall be the duty of the Finance Department to mail a statement of such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within 30 days from the receipt thereof.

96.08 FAILURE TO PAY CHARGES; LIEN CREATED.

(A) In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in § 96.07, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid ad valorem taxes, as provided in G.S. § 160A-193.

(B) The expense of the action is also a lien on any other real property owned by the person in default within the city limits or within one mile of the city limits. A lien established pursuant to this subsection is inferior to all prior liens and shall be collected as money judgment.

(C) In lieu of, and in addition to, a lien to recover the debt, the city may turn unpaid penalties in to a credit/collection agency for collection. The offender will be responsible for all reasonable monetary damages as required by the collections agency to recover the debt. This chapter may also be enforced by any appropriate, equitable action.

96.09 PROCEDURE DEEMED ADDITIONAL TO OTHER REMEDIES.

The procedure set forth in this chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and this chapter shall not prevent the city from proceeding in a criminal or other action against any person, firm or corporation violating the provisions of this chapter as provided in G.S. § 14-4.

96.10 ENFORCEMENT OF ORDINANCES: CONTINUED VIOLATIONS.

(A) General penalty. Any person violating the provisions of this chapter shall be subject to the penalties as described in § 10.99 of this Code of Ordinances or as specified in this Chapter, whichever is greater.

(B) Enforcement of ordinances; civil penalties. Civil penalties may be imposed upon a violator of this code or an ordinance of the city pursuant to the procedure set forth herein:

(1) Citations.

(a) Issuance of citation. The Building Inspector, Code Enforcement Officer or other authorized officer, agent or employee of the city is empowered to issue warning citations, notices of violation and citations with fines, if there is a reasonable cause to believe that any provision of the City Code of Ordinances has been violated. Where a provision has been violated, such citations shall be issued to the violator or property owner.

(b) Violator. A violator of a provision of the code or an ordinance of the city shall be deemed to be the owner of the premises, the agent of the owner authorized to be responsible for the premises, and/or the appropriate occupant, lessee, employee or person having immediate beneficial use of and/or responsibility over the premises or property.

(c) Methods of issuance of citations. A citation shall be considered issued if it is delivered in person to the violator, or if the violator cannot be readily found, then the citation may be mailed to the last known mailing address of the owner or agent shown on public records. If the violator cannot be found and after other reasonable efforts have been made to communicate the existence of the violation to the owner or agent, then the citation shall also be considered issued if directed to the owner, agent or occupant and left at the place of residence or location of the violation.

(d) Types of citations and notices. It shall be in the sole discretion of the Building Inspector, Code Enforcement Officer or other authorized officer, agent or employee of the city to determine which of the following shall be issued to a violator.

1. Warning citation. This citation for a violation shall be a warning citation stating that a violation of the chapter has occurred. It shall also state the circumstances involved in the violation.

2. Notice of violation. This notice shall state that the owner, occupant and/or person having control of the lot or property, occupied or not, shall abate or remove the conditions or otherwise comply with the city code. In lieu of, or addition to such notice, the office or inspector may issue a citation notice and take enforcement actions as set forth in § 96.10 (B)(1)(d)3. and impose the cost of remedying or abating the nuisance as set forth in §§ 96.06 and 96.07 in the Code of Ordinances. In the event an inspector determines that a nuisance is an immediate detriment to human health, safety or welfare, the inspector may take appropriate action to summarily abate the condition without notice.

3. Citations with fines. If the violation continues after the deadline to correct a violation, then a citation with a fine in an initial amount of \$50 shall be authorized to be issued against the violator. Thereafter, each day the violation continues shall be deemed an additional offense and additional citations with increasing fines up to \$250 may be issued each day the violation continues. Any unpaid citations and delinquency charges shall be cumulative and shall be recovered in a civil action or in the nature of debt as well as any attorney fees incurred by the city incident thereto. In lieu of a civil action to recover the debt, the city may turn unpaid penalties in to a credit/collection agency for collection. The offender will be responsible for all reasonable monetary damages as required by the collections agency to recover the debt. This section may also be enforced by any appropriate, equitable action. In

addition to the civil penalty, the city may impose an administrative fee up to \$100 in addition to any fines to cover the city's costs of administering a violation.

(e) Records. Records of citations shall be maintained for a reasonable period of time.

OPEN BURNING

96.31 NONPERMISSIBLE BURNING.

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 nonpermissible open burning fire. Since the city does provide public pick up of trash, leaves and other yard debris, the burning of such material is prohibited.

96.32 PERMISSIBLE BURNING WITHOUT A PERMIT.

Open fires for cooking and heating shall be allowed when such fire is not composed of leaves or yard waste, and the location of such fire, and the items necessary for its containment, comply with the North Carolina Fire Code, and provided that the emission of smoke and fumes do not irritate, annoy or constitute a nuisance to others. Open fires for cooking and heating shall comply with the following:

(A) Such fires shall be contained in a campfire pit, confined to a container no larger than a 55-gallon drum or other device approved by the Fire Code Official for such use. Fuels for such fires must be naturally cut wood and untreated lumber.

(B) Warming fires in approved containers shall be located not less than 15 feet from any structure.

(C) An appropriate means of controlling the fire (i.e. extinguishers) shall be available while the fire is burning.

(D) Burning of construction materials like insulation, asphaltic materials, tires, copper wire or treated lumber is prohibited. Warming fires shall not be used to dispose of paper, trash and excess construction materials or other synthetic salvageable materials.

96.33 BURN PERMITS.

When a burn permit is required, a site plan must be approved by the Fire Code Official prior to issuance of said permit. After site plan approval, the individual or organization requesting the permit shall submit a complete application and pay the required permit fee.

96.34 PERMISSIBLE BURNING WITH A PERMIT.

(A) Pit burning.

(1) Definitions. For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LAND CLEARING. The uprooting or clearing of vegetation in connection with construction for buildings; right-of-way; agricultural, residential, commercial, or industrial development; mining activities; or the initial clearing of vegetation to enhance property value; but does not include routine maintenance or property clean-up activities.

NUISANCE. Causing physical irritation exacerbating a documented medical condition, visibility impairment, or evidence of soot or ash on property or structure other than the property on which the burning is done.

PIT BURNING. Using a portable combustion device that directs a plane of high velocity forced draft air through a manifold head into a pit with vertical walls in such a manner as to maintain a curtain of air over the surface of the pit and a re-circulating motion of air under the curtain.

PUBLIC ROAD. Any road that is part of the state highway system; or any road, street, or right-of-way dedicated or maintained for public use by the city.

STRUCTURE. A building in which people may live or work or one intended for housing farm or other domestic animals.

(2) Pit burning requirements. The burning of waste materials, trees, brush and other vegetable matter in connection with land clearing activities is permissible with the following limitations and requirements:

(a) Pits must be located a minimum of 500 feet from any structure, and a minimum of 250 feet from any public road.

(b) The pits dug for burns shall be a minimum size of seven feet deep, nine feet wide, and 35 feet in length.

(c) A site plan must be submitted and approved by the Fire Code Official prior to burn permit being issued.

(d) The Goldsboro Fire Department will be responsible for issuing a burning permit. A burning permit application must be submitted and permit fee paid prior to the issuing of the permit.

(e) The location of the pit must be approved by the Goldsboro Fire Department prior to the issuing a permit. The pit must be located outside building pad areas, and pits must be cleaned out and backfilled with compacted select backfill at the completion of burning operations.

(f) Prevailing winds at the time of burning must not exceed ten miles per hour. Prevailing winds at the time of burning shall be away from any area, including public road within 250 feet of the burning as measured from the edge of the pavement or other roadway surface, which may be significantly affected by smoke, ash, or other air pollutants from the burning.

(g) Only collected land clearing may be burned (no construction or yard waste materials). Heavy oils, asphaltic materials, items containing natural or synthetic rubber, tires, grass clippings, collected leaves, paper products, plastics, general trash, garbage, or any materials containing painted or treated wood materials shall not be burned. Leaves still on trees or brush may be burned.

(h) Burning is only allowed Monday through Friday, and burning shall be conducted only between the hours of 8:00 a.m. and 6:00 p.m.

(i) The pit must be monitored 24 hours a day or covered at the end of the day with a minimum of 12 inches of soil such that the fire is extinguished and no smoke leaves the pit.

(j) The permittee must check with state forestry services to ensure there are no burning bans or additional burning restrictions in effect prior to burning.

(k) Burning is not allowed on "Code Red" ozone days.

(l) A path for four-wheel emergency vehicles shall be provided.

(m) The pit-burning permit may be revoked by the Fire Code Official if the pit burning is determined to be a nuisance.

(n) Burning must comply with applicable state air quality standards.

(o) Pit-burning portable combustion devices shall meet manufacturer's specifications for operation and upkeep to ensure complete burning of material charged into the pit. Manufacturer's specifications shall be kept on site and be available for inspection by Fire Code Official.

(p) The owner or operator of the pit-burning operation shall not allow ash to build up in the pit to a depth higher than one-third of the depth of the pit or to the point where the ash begins to impede combustion, whichever occurs first.

(q) The owner or operator of the pit-burning operation shall not load material into the pit such that it will protrude above portable combustion device or the top of the pit, whichever is lower.

(r) Possession of this permit shall in no way limit the liability of the owner or operator for any damage that might result from the burning.

(s) Only distillate oil, kerosene or diesel fuel may be used to start the fire.

(t) A bulldozer, and/or water truck, and an operator shall be on site at all times during burning.

(B) Bonfires and other ceremonial fires.

(1) Location. The location of a bonfire or other ceremonial fire shall not be conducted within 50 feet of a structure or other combustible material. Conditions which could cause the fire to spread shall be eliminated prior to ignition.

(2) Attendance. Bonfires or other ceremonial fires shall be constantly attended until the fire is extinguished. A minimum of a portable fire extinguisher with at least a 4 A rating or other approved fire extinguishing equipment, such as dirt, sand and/or supplied garden hose or water truck shall be available for immediate utilization.

(3) Site plan. An approved site plan with distances to combustible material and structures must be submitted to the Fire Code Official prior to issuance of a burn permit.

(4) Authority to extinguish. The Fire Code Official has the authority to extinguish any bonfire or ceremonial fire if weather conditions change, the fire is becoming a nuisance, or if he or she deems the fire to be a hazard to life or property.

(C) Training fires. Training fires set for the purpose of instruction and training of firefighters, public, and industrial employees in the methods of firefighting. Prior to commencement of open burning, the City Fire Code Official shall be notified. All open burning for this purpose shall meet the requirements of all state regulations. If this training involves the burning of a structure for training, care should be exercised to ensure a distance of a minimum of 50 feet to the nearest occupied structure, to prevent the spread of fire and minimize the hazard to adjacent exposures. In addition, adequate provisions shall be made to provide protection to any and all exposures.

96.35 VIOLATIONS AND ENFORCEMENT.

(A) The Fire Code Official shall have the authority to summarily abate any condition that is in violation of this subchapter and that presents an immediate fire hazard to life or property.

(B) Any open burning in violation of this subchapter shall be extinguished by the responsible party or the Goldsboro Fire Department.

(C) All costs incurred by the city for fire suppression and/or enforcement of this subchapter will be the responsibility of the party in violation of this subchapter and will be added to the fine.

(D) A civil fine may be issued to any person or company violating the provisions of this subchapter. The civil fine for residential violations shall be \$250 and \$500 for any repeat violation. The civil fine for commercial violations of this subchapter shall be \$500 per stack or pile and \$500 per stack or pile for any repeat violation by the same person or company.

(E) Violations of this subchapter 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).

CHAPTER 97: PARKS AND RECREATION¹²

97.01 HOURS OF OPERATION.

(A) All city parks and recreation areas shall be open to the public the following times:

(1) November 1 - March 14: 7:00 a.m. to 6:00 p.m. (tennis courts open until 9:00 p.m.);

(2) March 15 - October 31: 7:00 a.m. to 9:00 p.m. (tennis courts open until 10:00 p.m.).

(B) It shall be unlawful for any person to use or inhabit any city park or recreation area at any other time except when the park or recreation area is being operated under the direct supervision of the

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[http://library.amlegal.com/nxt/gateway.dll/North%20Carolina/goldsbor/titleixgeneralregulations/chapter97parksandrecreation?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:goldsboro_nc\\$anc=JD_Chapter97](http://library.amlegal.com/nxt/gateway.dll/North%20Carolina/goldsbor/titleixgeneralregulations/chapter97parksandrecreation?f=templates$fn=default.htm$3.0$vid=amlegal:goldsboro_nc$anc=JD_Chapter97)

Department, or when same is being used by written authorization of the Director of the Parks and Recreation Department.

97.04 DESTRUCTION OF PARK PROPERTY.

(A) It shall be unlawful for any person to remove, destroy, mutilate or deface any structure, monument, statue or planter, fountain, wall, fence, railing, vehicle, bench, picnic table, trees, plants or any other property in any park, recreation area or recreation center.

(B) It shall be unlawful for any person, other than the person or persons for whom fields are reserved, to enter upon any athletic field or to deface or alter field markings subsequent to the preparation of said field by Parks and Recreation Department personnel.

97.05 FIREARMS.

(A) It shall be unlawful for any person, except duly authorized Parks and Recreation Department employees, park officials or law enforcement officers in the course of their duty to discharge, shoot, fire or explode, or cause to be discharged, shot, fired or exploded any firearm including, but not limited to air rifles, toy pistols, toy guns or other toy arms designed to forcibly hurl a projectile or missile at any time or under any circumstances within any park, or to carry any firearms or dangerous weapons in any park. "Weapons" shall include knives with a blade greater than four inches in length, brass knuckles, clubs, or any item specifically designed to inflict bodily harm.

(B) It shall be unlawful for any person to carry or to explode any explosive device, to include fireworks, sparklers, smoke bombs, firecrackers, roman candles, etc., in any park unless written authority is given by the Parks and Recreation Director.

97.06 ERECTION OF SIGN, POSTER OR ADVERTISING DEVICE OF ANY KIND PROHIBITED.

It shall be unlawful for any person to place or erect any structure, sign, bulletin board, poster or advertising device of any kind whatever in any park, or to attach any notice, bill, poster, sign, wire, rod, chain or cord to any tree, shrub, fence, railing, post or structure within any park, except such persons as authorized by the Parks and Recreation Department or its designated official.

97.07 SELLING, PEDDLING, AND THE LIKE.

It shall be unlawful for any person to sell, hawk or vend any foods, concession, or other merchandise within the parks, unless written authority is given by the Parks and Recreation Department or its designated official.

97.08 GAMBLING.

It shall be unlawful for any person to conduct or carry on any game of chance in any city park or recreation area at which any money, property or other thing of value is bet, whether the same be in the stake or not.

97.09 DISORDERLY CONDUCT.

It shall be unlawful for any person to commit disorderly conduct, as defined in G.S. § 14-288.4, in any city park or recreation area.

97.10 DUMPING OF ASHES, TRASH, AND THE LIKE.

Except in containers provided for same, no person shall deposit, dump, throw, cast, lay or place, or cause to be deposited, dumped, thrown, cast, laid or placed any ashes, trash, rubbish, soil, earth, paper, garbage, refuse, debris, plant clippings or limbs or leaves in or upon any city park or recreation areas or in any watercourse, lake, pond or slough within the park lands. Dumpsters placed on recreation and

park areas shall be used for park refuse only. It shall be unlawful for private citizens or businesses to use park dumpsters for their private refuse.

97.11 FIRES.

It shall be unlawful for any person to make or kindle a fire in any park, except in a regularly constructed fireplace or grill. It shall be unlawful for any person to leave any fire unattended, or to fail to completely extinguish a fire and all the embers thereof before leaving such fire.

97.12 EXCAVATIONS.

It shall be unlawful for any person to make an excavation in any park for any purpose without written permission from the Parks and Recreation Department or its designated official.

97.13 PLAYING OF GAMES AND SPORTS RESTRICTED TO DESIGNATED AREAS.

It shall be unlawful for any person to play football, golf, baseball or other games of like character in any area in any city park except in specifically designated areas. At no time and under no circumstances shall such games be played in such proximity to playground equipment or park structures as to threaten bodily harm to persons using the park or damage to park structures.

97.14 PLANT MATERIAL.

It shall be unlawful for any person to dig, cut, bruise, debark or mutilate or cause to be transplanted, cut, bruised, debarked or mutilated any plant material of all and any description within any city park land without written permission of the Parks and Recreation Department or its designated official.

97.15 ANIMALS RUNNING AT LARGE.

It shall be unlawful for the owner thereof to allow or permit any horses, dogs or other animals to run at large in any park and it shall be unlawful to ride horses in any park except upon designated and marked bridle trails.

97.16 MOLESTING ANIMALS.

It shall be unlawful for any person to trap, catch, wound or kill or cause to be injured, treat cruelly, or tease, or attempt to trap, catch, wound, kill, injure or tease any bird or animal, or molest or rob any nest of any bird or any lair, den or burrow of any animal in or upon any park or recreation area owned by the city and administered by the Parks and Recreation Department.

97.17 FISH AND AQUATIC LIFE.

It shall be unlawful to fish in any waters administered by the Parks and Recreation Department except such portion thereof as may be designated by the Parks and Recreation Department or its designated official under such regulations as may be prescribed by the Department and conforming to the laws of the state, nor shall it be lawful for any person to remove or capture or attempt to remove or capture, whether by use of seine, net, trap or other device, any fish or other aquatic life in or from any of the waters within any park or recreation area.

97.19 VEHICLES IN PARKS.

(A) It shall be unlawful for any person to drive or propel any motor vehicle, mini bike, motorcycle, or other vehicle in, over or through any park, except along and upon park drives, parkways and park boulevards.

(B) It shall be unlawful for any person to park or permit to be parked any vehicle anywhere except upon designated parking areas authorized by the Parks and Recreation Department Director.

CHAPTER 98: STREETS AND SIDEWALKS ¹³

98.01 DEPOSITING DIRT AND/OR DEBRIS UPON STREETS OR SIDEWALKS.

It shall be unlawful for any person to deposit any dirt and/or debris upon any of the streets, sidewalks or public alleys in the city.

98.02 REMOVAL OF SAND, DIRT OR GRAVEL FROM STREETS OR SIDEWALKS.

It shall be unlawful for any person to remove any sand, dirt, loam, sod, clay, gravel or other building materials from any streets, sidewalks or public alleys; provided, this shall not apply to lot owners who are repairing or constructing sidewalks under the specifications and permit prescribed by the city nor to persons planting trees along the edge of sidewalks.

98.03 EXCAVATIONS.

(A) Written permission required; bond. No person shall cut into or make excavation in the street or sidewalk for any purpose without written permission of the City Engineer. When permission is granted, the City Engineer may, when he deems it necessary to safeguard the city's interest, require the posting of a bond to indemnify the city from any and all claims or suits which may be made or instituted against the city by reason of, or in consequence of, any sidewalk or street being cut into or excavated.

(B) Pumping of water containing dirt or sediment from excavations upon street or sidewalks. It shall be unlawful for any person to pump or in any manner discharge water containing dirt or sediment from excavations upon the streets, sidewalks or public alleys of the city, without straining same or otherwise providing effective means to prevent such dirt or sediment from entering the city drains.

98.04 ILLUMINATION OF EXCAVATIONS AND BARRIERS.

All pits and excavations within five feet of a street, sidewalk or public alley, and all material or equipment and barriers permitted on the streets, sidewalks and public alleys, under the provisions of this chapter, shall have placed on or by them, after dark, warning lights in such manner that there shall be one light at each end, and at such intermediate points as may be necessary to afford proper warning to all travelers.

98.05 ADVERTISING STRUCTURES ON RIGHTS-OF-WAY PROHIBITED.

No person shall construct, erect or otherwise place any advertising structure or supporting structure on the rights-of-way of the city streets.

98.06 RAILROAD CROSSINGS.

Every railroad company or corporation and every person owning, maintaining, using, leasing or operating any railroad tracks across any street, shall cause such tracks, for the full width of the street, by

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[http://library.amlegal.com/nxt/gateway.dll/North%20Carolina/goldsbor/titleixgeneralregulations/chapter98streetandsidewalks?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:goldsboro_nc\\$anc=JD_Chapter98](http://library.amlegal.com/nxt/gateway.dll/North%20Carolina/goldsbor/titleixgeneralregulations/chapter98streetandsidewalks?f=templates$fn=default.htm$3.0$vid=amlegal:goldsboro_nc$anc=JD_Chapter98)

them crossed, to be planked, bricked or cemented both between the tee-irons and for a suitable distance outside thereof on each side of such track or tracks, so that all such crossings shall afford easy and comfortable passage for vehicles, and thereafter shall keep and maintain the same in such condition.

98.07 UTILITY POLES; LOCATION.

All utility companies which have, or may hereafter have, poles erected on the streets or sidewalks of the city shall erect and maintain such poles in a perpendicular manner, and in a straight line with one another, and any company that shall fail or refuse to make such poles perpendicular and in straight line, five days after being notified of same, shall be guilty of a misdemeanor and shall be fined for each pole that may be out of line and not perpendicular; and wherever any such poles have heretofore, or shall hereafter break, crack, or in any manner upset or damage sidewalk paving, street paving, or curbing, the owner of such poles shall, at his own expense, repair such curbing or paving within five days after notice to do so.

98.08 OBSTRUCTION OF STREETS OR SIDEWALKS.

(A) Assembling upon street or sidewalk. The assembling or collecting together of persons on any sidewalk or street so as to obstruct the free and uninterrupted passage of persons along the same is unlawful.

(B) Storage of merchandise. Incoming goods, wares or merchandise when received at the street entrance of any store or warehouse shall be immediately transported across the sidewalk to the receiving store or warehouse, and outgoing goods, wares or merchandise when being moved from the street entrance of any store or warehouse shall be immediately and continuously transported across the sidewalk to the truck or vehicle receiving same.

(C) Selling of merchandise. No fruits, vegetables, dry goods or any article of merchandise shall be displayed, sold or offered for sale on the sidewalks of the city.

(D) Depositing trash. It shall be unlawful for any person, firm or corporation to throw, deposit or otherwise place, or to cause to be thrown, deposited or otherwise placed on any sidewalk, street or other public way in the city, any paper, glass, cans, garbage, trash or refuse of any kind, except as may be otherwise permitted by this Code.

98.09 DRIVING STAKES OR CUTTING HOLES IN PUBLIC STREETS PROHIBITED.

It shall be unlawful to drive or cause to be driven, any stake or stick in the public streets, or cut any hole therein, other than permitted excavations.

98.10 PERMIT REQUIRED TO ERECT POLES, STANDARDS, DIG HOLES, MAKE EXCAVATIONS, STRING WIRE.

It shall be unlawful for any person to erect any pole, or standard, or tower, or make or dig any hole, or make any excavations or dig into any street or sidewalk or alley, or any thoroughfare dedicated to public use; or string any wires or cause any wires or conduits to be placed upon, overhead or underground, upon any pole, standard or tower upon or under any street, thoroughfare, alley or building in the city without first requesting and obtaining from the City Engineer a permit to perform such work.

98.11 PERMIT REQUIRED FOR CONSTRUCTION, REPAIR OR ALTERATION OF SIDEWALK, CURB, OR STREET; BOND.

(A) Permit required. No person shall begin to construct, reconstruct, repair, alter, or grade any sidewalk, curb, curb-cut, driveway or street or remove any tree, planting or shrub from the right-of-way

thereof on the public streets without first obtaining a permit from the City Engineer as provided in this section.

(B) Application for permit. An applicant for a permit required by division (A) of this section shall file with the City Engineer an application showing:

- (1) Name and address of the owner or agent in charge of the property abutting the proposed work area;
- (2) Name and address of the party doing the work;
- (3) Location of the work area;
- (4) Attached plans or description of work showing details of the proposed alteration;
- (5) Estimated cost of the alteration;
- (6) Such other information as the City Engineer shall find reasonably necessary to the determination of whether a permit should be issued.

(C) Bond; failure to comply. The following bonds shall accompany an application for a permit required by this section:

- (1) Construction and maintenance.

(a) In cases where the estimated cost of the project shall exceed \$1,000, the City Engineer shall require a surety and/or a construction bond to be filed with the application for a permit in an amount equal to the estimated cost of the project and conditioned that such work shall be done in accordance with the city's standard specifications and guaranteeing the same for a period of 12 months.

(b) In any case where a permittee shall be in default or shall fail to comply with the requirements of this section, the Public Utilities Director shall order the completion of the work by the city forces or by contract and shall recover the cost from permittee as required by law.

(2) Indemnity. The City Engineer shall have the authority to require an applicant to file a bond conditioned to protect and save harmless the city from all claims for damages or injury to other persons by reason of such alteration work.

(D) Standards for issuance of permit. The City Engineer shall issue a permit required by this section when he finds that:

- (1) The plans for the proposed operation are acceptable;
- (2) The work shall be done according to the standard specifications of the city for public work of like character;
- (3) The operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of egress to and from the property affected and adjacent properties.

(E) Supervision. All operations for which a permit is granted by this section shall be under the direction and supervision of the City Engineer.

98.12 CITY ENGINEER AUTHORIZED TO ORDER CURB-CUTS TO BE ALTERED; NOTICE REQUIREMENTS.

(A) Order to alter curb-cut. Where the use, convenience or necessity of the public require, the City Engineer shall have the authority to order the owners or agents in charge of the property adjacent to which curb-cuts are maintained, to alter the curb-cuts in such manner as he deems reasonably necessary to satisfy existing circumstances.

(B) Notice of alteration order. The notice authorized by this section shall:

- (1) Be served upon the owner or agents as required by law;
- (2) Be in writing;
- (3) Require compliance by owner/agent within 15 days of receipt of such notice.

98.13 DRIVEWAY REQUIREMENTS.

(A) Driveway entrances. It shall be unlawful for any person to construct or maintain vehicular entrances onto city streets, except as provided herein:

(1) Residential driveways.

(a) Residential driveways shall not exceed 20 feet in width measured along the curbline.

(b) Where two driveways are to be located on the same residential lot, the minimum distance between such driveways shall be 20 feet, or one-third the lot width whichever is greater.

(c) Residential driveways shall not be located nearer than 15 feet to any street intersection measured along the curbline from the point of curvature located at the curb return to the driveway.

(2) Commercial driveways.

(a) Commercial driveways shall not be more than 30 feet in width or one-third of the property frontage, whichever is less.

(b) Where two or more driveways are located on the same commercial lot, the minimum distance between such driveways shall be 30 feet or one-third of the property frontage, whichever is greater.

(c) Where any commercial enterprise is located on a corner lot, the entrances on each street shall be treated as a separate lot and property frontage shall not be combined to permit evasion of these requirements.

(d) No commercial driveway shall be located nearer than 15 feet to any street intersection measured along the curbline from the point of curvature located at the curb return to the driveway.

(3) Industrial driveways.

(a) No industrial driveway shall be located nearer than 15 feet to any street intersection.

(b) Plans and specifications denoting proposed turning radius, location and composition of materials shall be submitted to the City Engineer for approval prior to construction if requirements exceed the standards for commercial driveways.

(B) Minimum design standard. The minimum design standard for driveways is on file in the City Engineer's office and is a part hereof by reference and includes the following:

(1) A permit is required before any alteration or a curb-cut is made.

(2) All driveway material is to be of concrete capable of withstanding 3,000 psi pressure as a minimum.

(3) Any sidewalks where vehicular traffic passes over from a curb cut shall be replaced with a minimum of six inches of concrete. The sidewalk grade may be altered upon approval of the City Engineer.

(4) All sidewalks and driveways shall be placed separately and distinguished as a sidewalk and a driveway.

(C) Alterations and/or repairs. No driveway shall be altered, repaired or improved unless it shall comply with criteria in divisions (A) and (B).

98.14 REPLACEMENT OF CURB/CURB AND GUTTER WHEN STREETS, ALLEYS AND/OR DRIVEWAYS ARE ABANDONED.

(A) All streets and alleys which are abandoned or closed by the city, at the time of abandonment or closure, shall be removed and a curb/curb and gutter conforming to city standards or to the adjacent curb/curb and gutter shall be installed across the opening. All work shall be done under the supervision of the Public Utilities Director by city forces or by contract. Sidewalks or parkways shall be modified to conform with the conditions immediately adjacent to the abandoned or closed street and/or alley.

(B) The owner or owners of property served by abandoned or closed driveways shall be held responsible for the installation of curbs and sidewalks and upon refusal of the owner or owners to install curbs and sidewalks, the Public Utilities Director may install or cause to be installed curbs and sidewalks and assess cost of same against the property. Such assessment shall become a lien against the property.

98.15 STREET AND ALLEY CLOSING PETITIONS AND FEES.

Each street or alley closing petition shall be accompanied by a fee established by resolution. No application shall be accepted and no public hearing shall be scheduled in accordance with G.S. § 160A-299 until the necessary fees have been paid. No fee paid pursuant to this section shall be refunded.

98.16 DEPOSIT OF OIL OR OTHER DELETERIOUS SUBSTANCE ON PUBLIC RIGHT- OF-WAY.

It shall be unlawful for any person, firm or corporation to deposit or otherwise place oil or any deleterious substance on any sidewalk, street, or other public way except in such manner and by such personnel as approved by the Public Utilities Director, or his authorized representative. This also includes storm drains which have openings on the public way.

98.17 STREET ADDRESSES.

(A) Intent and purpose. It is the intent of this section to provide a uniform system of street addresses for all properties and buildings throughout the City of Goldsboro and its extra-territorial jurisdiction in order to facilitate provision of adequate public safety and emergency response services and to minimize difficulty in locating properties and buildings for public service agencies and the general public.

(B) Definitions. The following words and phrases, when used in this section, shall have the meanings respectively ascribed to them in this section.

ADDRESS ADMINISTRATOR. The Department of Planning and Community Development is charged with the administration of this section, including any authorized agent or delegate.

BUILDING. A roofed and walled structure built for permanent use as a dwelling, commercial establishment, or other non-residential use.

DRIVEWAYS. A private way, beginning at the property line of a lot abutting a public road, private road or easement, giving access to a building, use or structure on that lot.

STREET. A public or private one-way or two-way street used for ingress and/or egress.

STREET ADDRESS. The combination of numbers and street name assigned by the Department of Planning and Community Development, which uniquely identifies a particular building or lot.

(C) Official Street Address Map.

(1) The street address map shall be entitled "Official Street Address Map, Goldsboro, North Carolina." Said map shall be effective upon adoption by the Goldsboro City Council.

(2) The street address map shall be kept on file in the Department of Planning and Community Development. This map may be maintained and updated in data processing storage systems.

(D) Address numbering system.

(1) All streets that are officially designated on the Street Address Map whether public or private, shall be numbered uniformly and consecutively along the street right-of-way.

(2) The point of origin, or vertex, of the numbering system shall be located at the intersection of Center Street and Walnut Street. The north-south axis shall be Center Street and the east-west axis Walnut Street.

(3) All streets, both public and private, shall be named, numbered and have street name signs installed if two or more addressable structures are located on and accessed by them.

(4) Odd numbers shall be assigned to the north side of east-west streets and to the west side of north-south streets by ascending numbers moving away from the axes or point of origin. Even numbers shall be assigned to the south side of east-west streets and the east side of north-south streets in a like manner. The first assignable number, beginning at the point of origin and from each axis street, shall be 100.

(5) Where a street crosses an axis street, the prefix north, south, east or west shall be added to the assigned street address to prevent number duplications.

(E) Display of street address.

(1) The Official Street Address must be displayed on the front of a building or at the entrance to a building which is most clearly visible from the street both day and night. The property owner shall be responsible for ensuring that adequate address numerals are displayed.

(2) If a building is more than 75 feet from any street, the address number shall be displayed at the end of the driveway or easement nearest the street which provides access to the building. Posting of addresses on mailboxes does not fulfill the requirements of this section.

(3) Numerals indicating the address of a single-family dwelling, or manufactured home on an individual lot, shall be no less than three inches in height and shall be posted and maintained so as to be legible from the street.

(4) Numerals for multi-family developments consisting of two or more units shall be no less than three inches in height and shall be posted and maintained so as to be legible from the street, or posted on the end of the building nearest the street.

(5) Numerals must be of contrasting color to the background and made of durable construction.

(6) Manufactured (mobile) home park lots shall have sequential address numbers throughout the park. Each lot will have a separate address assigned. The address of each lot must be clearly displayed where it can be clearly seen from the street or private drive. It shall be the responsibility of the park owner/manager to see that the addresses are clearly displayed on all manufactured homes, whether the home is owned by the park owner or a private individual.

(7) Failure of a property owner to display the official street address on the structure, after proper notice from the City of Goldsboro, shall be subject to a penalty of \$25 for each offense. Each 30 days that such violation continues shall constitute a separate and distinct offense.

98.18 NAMING AND SIGNING PRIVATE STREETS.

(A) Purpose and intent. It is the intent of this section to establish guidelines and a process for establishing the name and/or erecting signs for private streets within the city limits and extraterritorial jurisdiction of Goldsboro.

(B) Street name guidelines. In general, private streets shall be given a unique name to avoid duplication and confusion. Names which refer to landmarks, places and natural features are preferable. In no case shall the name for a private street duplicate or be phonetically similar to existing street names, irrespective of the use of the suffix street, avenue, boulevard, drive, place or court.

(C) Street name approval.

(1) Any property owner desiring to name or rename a private street shall submit a petition on a form provided by the Department of Planning and Community Development. An appropriate subdivision plat, record survey, or tax map illustrating all affected parcels or lots shall also be provided. The submitted petition shall include the head of household name and mailing address for each dwelling fronting on the street.

(2) The Department of Planning and Community Development shall review the proposed street name and compare it to the official street name to determine its acceptability. If the proposed street name is found to be acceptable, written notice shall be provided to all individuals included on the petition, the U.S. Postal Service and all public utility companies.

(D) Street name signs.

(1) Street name signs shall be erected and maintained by the City of Goldsboro where private streets intersect with public streets. When private streets do not intersect with public streets and provide access to two or more dwelling units, street name signs shall be erected and maintained by the private street owner(s) in accordance with current city standards. The City of Goldsboro may, at the written request of the property owner(s), construct and install street name signs, at cost, if the owner desires to purchase these services from the city.

(2) Failure of a property owner to install a street name sign on a private street that does not intersect with a public street, after proper notice from the City of Goldsboro, will constitute a civil penalty with a fine of \$25 per day, per street.

98.25 PAVING TO BE DONE BY CITY; APPROVAL REQUIRED.

(A) Paving of all public streets shall be done by the city as provided by the City Charter and state statutes. All paving done by the city shall be executed and financed as hereinafter set forth.

(B) Paving of streets and sidewalks shall be approved in one of two categories:

(1) After receiving a petition signed by more than 50% of property owners representing more than 50% of property owned; or

(2) Upon declaration by the City Council that the paving is in the interest of public benefit.

98.26 STANDARDS.

All streets shall meet the following requirements:

(A) Rights-of-way shall be a minimum of 40 feet wide.

(B) Street shall be dedicated as a public street.

(C) All under pavement utilities shall be installed prior to paving insofar as is possible.

(D) All streets shall be installed with curbs and gutters. Valley gutters may be installed where approved as part of an overall plan by the City Engineer.

98.27 CLASSIFICATIONS OF STREETS.

(A) Residential streets, one-way traffic. Width, 22 feet, back to back of curb. Three inches asphalt paving on six inch stone base. Concrete curbs and gutters.

(B) Residential streets, two-way traffic. Width, 31 feet, back to back of curb. Three inches asphalt paving on six inch stone base. Concrete curbs and gutters.

(C) Collector streets. Width, 37 feet, back to back of curb. Three inches asphalt paving on six inch stone base. Concrete curbs and gutters.

(D) Minor thoroughfares. Minimum width, 37 feet, back to back of curb. Three inches asphalt paving on six inch stone base.

(E) Major thoroughfares. Minimum width, 45 feet, back to back of curb. Three inches asphalt paving on six inch stone base.

(F) Industrial or industrial feeders. Width set by Engineering Division. Paving same as major thoroughfare.

98.28 FINANCING.

(A) Classification.

(1) Residential streets. The City Council may direct street improvements or a majority of the property owners representing a majority of property owned may petition for street improvements. In either case, the total cost of all improvements made shall be assessed to the abutting property with two exceptions. First, costs for all intersections shall be paid for by the city; second, driveway costs and removal and replacement costs of encroachments serving the abutting property and within the street right-of-way shall be paid for by the property owner requesting such improvement. The City Council may establish a pro rata share based on frontage served, or any other method to finance improvements by resolution. In this event, the rate, if established by the City Council, shall take precedence over the total cost of assessment.

(2) Collector street. Same as residential street.

(3) Minor thoroughfare. Same as residential street.

(4) Major thoroughfare. Same as residential street.

- (5) Industrial or industrial feeder street. Same as residential street.
- (B) Method of payment. Assessment may be paid as follows:
 - (1) At par if paid in full within 60 days of date of assessment.
 - (2) At 8% interest per annum if paid in five annual installments.
- (C) Establishing priority for improvements.
 - (1) Class (A). Public improvements as designated by City Council.
 - (2) Class (A-1). Full payment in advance.
 - (3) Class (B). Receipt of more than 50% of the total cost of payment in advance.
 - (4) Class (C). Receipt of more than 50% of the total cost to be paid within 60 days of assessment.
 - (5) Class (D). More than 50% of the total cost to be paid over five-year period.

TREE REGULATIONS

98.42 PLANTING TREES AND SHRUBS.

The Director shall have the power and authority to decide and designate the number, kind, variety and place of planting of all trees or shrubs to be planted in the public streets of the city and to issue permits in accordance with the designations so made. In granting or refusing permits hereunder, the director shall take into consideration the impact of plantings upon safety, visibility and appearance within the city. It shall be unlawful for any person, firm or corporation to plant any tree or shrub in any public street of the city except in conformity with a permit issued by the Director.

98.43 PRUNING AND TRIMMING TREES.

The Director shall determine and fix standards for the manner and extent of pruning or trimming trees, shrubs or plants now or hereafter growing in the public streets of the city. The standards shall be designed to protect and at the same time to preserve existing trees, shrubs and plants, provide for the safety of persons and property within the city, the unimpeded flow of traffic upon the city streets and the reasonable needs, uses and upkeep of water, sewer and other utility line. The Director shall cause the standards to be published and copies thereof to be made available to all persons on request. In situations of unusual or extraordinary nature, the Director, with the approval of the City Manager, may issue special permits setting forth specifically the manner and extent of pruning and trimming trees, shrubs and plants. It shall be unlawful for any person, firm or corporation to prune or trim trees, shrubs or plants growing in the public streets of the city except in accordance with the published standards or a special permit issued by the Director.

98.44 REGISTRATION OF BUSINESSES PRUNING OR TRIMMING TREES.

All persons, firms or corporations now or hereafter engaged in the business of pruning, removing or trimming trees, limbs or shrubs in the public streets of the city shall, prior to the commencement of work, register with the Director and file with the city a bond or a liability insurance policy of not less than \$25,000 conditioned upon the payment of just compensation to all persons sustaining injury or damage on account of their negligence or unlawful acts while pruning, trimming, cutting or removing trees or limbs within the city. At the time of such registration, the Director shall furnish to the parties so registering a copy of the published standards for pruning and cutting trees and shrubs and also complete information as to all provisions of this subchapter.

98.45 REMOVAL OF TREES.

No abutting property owner nor any agent acting in his behalf or a utility company nor any other person, firm or corporation shall remove any tree now or hereafter growing upon a public street of the city without first obtaining a permit from the Director. A permit may be granted by the Director if he should find that a compelling public or private need exists for the removal of the tree upon a hearing conducted

by him after ten days notice to the abutting property owner and the Goldsboro Appearance Commission. The Director may issue a permit without a hearing if the Director shall find an emergency exists or if the Director and the abutting property owners agree. If an applicant requests removal of a tree, the cost of removing all trees, including supervision by the city if required, shall be paid by the applicant for the permit.

98.46 INTERFERENCE WITH THE DIRECTOR.

No person shall interfere with the Director, or his employees, or persons acting under permits granted by the Director while engaged in planting, pruning, trimming, treating, spraying, cutting or removing any tree, shrub or plant situated on any public street of the city.

98.47 SUBSTANCES DELETERIOUS TO TREE, SHRUB OR PLANT LIFE.

No person shall cause, authorize or permit any oil, brine water, liquid dye, toxic chemical or other substance deleterious to tree life to be poured, flow, lie, leak or drip upon or into the soil about the base or within the root zone of any tree, shrub or plant within any public street within the city.

98.48 INJURING, MUTILATING, SETTING FIRE TO TREE, SHRUB OR PLANT.

(A) No person shall break, injure, deface, mutilate or kill any tree, shrub or plant in any public street of the city or set fire to or permit any fire to burn where such fire or the heat thereof will injure any portion of such tree, shrub or plant.

(B) No person shall fasten, apply, attach or place to any such tree, shrub or plant or permit to remain thereon while subject to his control, any wire, rope, sign, paint, cable or any other substances, structure or device of any kind, unless for the purpose of preserving, protecting or maintaining a tree, shrub or plant.

98.49 APPEALS TO THE CITY COUNCIL.

The abutting property owner or the Goldsboro Appearance Commission may appeal from the Director to the City Council within five days after notice of any decision of the Director pursuant to this subchapter. Pending the appeal, all actions and proceedings in furtherance of the decision of the Director shall be stayed.

98.50 APPEARANCE COMMISSION TO ACT AS ADVISORY BODY TO DIRECTOR.

The Goldsboro Appearance Commission shall act as an advisory body to the Director whenever the Director shall request its assistance.

98.51 GUIDELINES FOR CITY PROJECTS.

The following guidelines shall be adhered to whenever any city project shall involve proposed removal, pruning or other alteration of trees and shrubs which are growing within existing rights-of-way or upon lands owned by or controlled by the city:

(A) Step I. The city department concerned shall identify projects involving tree removal or tree alterations which require coordination with the Appearance Commission (such as, street paving, sidewalk construction/repair, utility line construction, playground/park modification or expansion, urban renewal/redevelopment, and the like).

(B) Step II. Public Utilities Department shall draw plans for such projects. Drawings will indicate trees planned for removal circled in red. Where trees are planned for removal and the reason is not in accordance with the annexes to this procedure, the reason will be outlined.

(C) Step III. The city department concerned will submit project plan to the designated members of the Appearance Commission for their review. Concurrence with the plan or recommendations for changes

will be requested not later than a specific date which will provide the Appearance Commission a minimum of seven calendar days.

(D) Step IV. The Appearance Commission will return the plans to the city department within the time allocated along with written concurrence or recommended changes.

(E) Step V. The city department will review recommended changes and reasons submitted by the Appearance Commission and where feasible, integrate recommended changes. If all recommendations cannot be accommodated, the department will notify the Appearance Commission designee and schedule a meeting with the Appearance Commission and the City Manager and review the Department's final plans and reasons for not using all recommendations.

(F) Step VI. The city department will review recommended changes and integrate into its plans those changes it has no objection to. If the department has objections to any of the recommendations, it shall promptly request a meeting with the Appearance Commission and attempt to settle the matter. The city or the Appearance Commission may request a public hearing if public interest is involved or may be helpful in resolving the differences.

(G) Step VII. If the city department, City Manager and the Appearance Commission are unable to resolve the issues, such matters shall be placed on the agenda for the next meeting of the City Council for resolution.

(H) Step VIII. The decision of the City Council shall be final.

98.66 PRIVATE DITCHES.

The maintenance and improvement of private ditches are solely the responsibility of the abutting property owners. The city will not participate in the maintenance and improvement of ditches of this nature.

98.67 DRIVEWAY CULVERTS.

The installation of driveway culverts is the responsibility of the respective property owner. Before installing a driveway culvert, a permit shall first be obtained from the Engineering Division of the city. This permit is issued by the city free of charge. Prior to issuing the permit, however, the Engineering division shall determine the proper type, diameter and length of the pipe to be utilized as a driveway culvert. The affected property owner shall furnish all materials used in the construction of a driveway culvert. If the property owner so desires, the city shall install these materials at no charge. The installation by the city of driveway culverts is limited to the culvert itself and does not include headwalls.

98.68 STREET DITCH AND SWALE.

A property owner desiring to encase a street ditch or a swale shall submit a petition concerning these improvements to the city. This petition shall be reviewed by the Engineering Division in order to determine the proper diameter of the pipe required and the appropriate length of ditch to be improved. Street ditch and swale petitions shall be considered in conjunction with the city's annual budget process. In the event the number of petitions exceeds monies available, the City Council shall establish a petition priority order. The city shall not encase a street ditch or swale existing on an unpaved street. The length of existing driveway pipe shall be subtracted from an abutting property owner's frontage when determining storm drainage pipe assessment amounts.

98.69 TRIBUTARIES.

Tributary improvements shall be undertaken through the petition process. The Engineering Division of the city shall review each petition and determine the type of channelization improvement which is most cost effective. In addition, the Engineering Division shall determine the appropriate length of tributary which shall be improved. All property owners on both sides of the section of tributary shall be assessed

a cost for its improvement up to a cap. If the tributary does not follow a property line and one owner owns land on both sides, then that owner shall be assessed a cost for the improvement for each side up to a cap. This cap shall be established by the City Council and shall be evaluated annually based upon the average material cost for an 18-inch storm drainage line. In time of budgetary constraints, the City Council shall prioritize tributary improvements.

98.70 MAJOR COLLECTION ARTERY.

The city assumes the full cost for any channelization improvements undertaken to a major collection artery.

98.71 AUTHORIZATION TO MAKE IMPROVEMENTS WITHOUT PETITION.

Nothing contained within this subchapter referencing the petition process shall preclude the City Council from undertaking storm sewer improvement without a petition and assessing the affected property owners.

98.80 PARADES.

(A) Definition. For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PARADE. Any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display, in or upon any street, park, or other public place in the city. A parade shall not include pickets, funeral processions or any governmental agency acting within the scope of its functions.

SPECIAL EVENTS. A special event is an event or gathering which occurs on city property (street, sidewalk, right-of-way, or public facility or place under the authority of the city).

(B) Permit required. No parade, special event or street closure shall be conducted on the public ways of this city and no person shall inaugurate, promote or participate in any such parade, special event or street closure unless the parade, special event or street closure is conducted in conformity with the requirements set out herein and unless a permit has been obtained.

(C) Procedures for obtaining permit.

(1) City Council approval is required for all street closures in excess of one hour.

(2) Application for a parade permit should be made in writing at least 30 days before the time at which the parade shall be scheduled to begin if the event requires a street closure and shall contain the following information:

(a) The name, if any, of the organization or group sponsoring or proposing the parade/special event;

(b) The location or locations in the city where the parade/special event is proposed to take place;

(c) The date and hours for which permit is sought;

(d) The name and contact information of the person applying for the permit;

(e) The person or persons to be in charge of the activity and who will accompany it and carry the permit at all times; and

(f) An estimated daily attendance, request to close the street, inclement weather date and other event details as described in the policy for special events.

(2) Upon receipt of an application properly completed and timely filed as hereinabove set out, the Goldsboro Police Department shall issue a permit, subject to City Council approval if required, consistent with the standards prescribed herein. The permit shall contain all information stated on the application and shall be signed by the issuing officer.

(C) Standards for conduct of parades/special events. The following standards shall apply to all parades and special events conducted in the city:

- (1) No parade/special event or part thereof may be conducted on the streets of the city between the hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. except on holidays and weekends.
- (2) No more than one parade may be conducted within the city at any one time.
- (3) Every parade shall follow a route approved by the City Manager or his designated agent.
- (4) No one participating in a parade or proceeding along the route of a parade shall distribute therefrom any candy, cigarettes, prizes or favors of any kind.
- (5) No vicious animal whether leashed or unleashed shall participate in or proceed along the route of a parade. ('70 Code, § 15-49)
- (6) Notification to those along a parade route may be made by city staff via mail, door-to-door, electronic, etc.

98.81 PICKETS.

(A) Definition. For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PICKET, PICKETS and PICKETING. Include "demonstrators," persons participating in vigils and any action primarily promoting or objecting to a policy upon those portions of the public ways not used primarily for vehicular parking and moving traffic and not constituting a parade.

(B) Conditions under which picketing permitted; notice of intent and receipt required. Peaceful picketing shall be permitted in the city provided the same is done under the following conditions:

(1) No picketing shall be conducted on the public ways of this city and no person shall participate in the same unless notice of intent to picket has been given to the Chief of Police or his designated representative at least 72 hours prior to time of picket. After review, the Chief of Police or his representative shall issue a picket receipt no later than 24 hours prior the event.

(2) A notice of intent to picket shall be given in writing and shall contain the following information:

- (a) The name, if any, of the organization or group sponsoring or proposing to picket;
- (b) The location or locations in the city where the pickets propose to assemble and demonstrate;
- (c) The date(s) and hours during which the picketing is to occur;
- (d) The name of the person and organization giving notice of intent to picket;
- (e) Whether or not persons below the age of 18 years are expected to participate;
- (f) An estimate of the number of people who will be picketing; and
- (g) The name of the person or persons to be in charge of the activity and who will accompany it and carry any receipt of notice at all times.

(3) Upon the giving of notice of intent to picket, properly completed as herein above set out, the designated officer shall issue a picket receipt no later than 24 hours prior to the event. The receipt shall contain all information stated in the notice. Notice shall be given by the holder of a picket receipt to the Chief of Police or his designated representative immediately upon cessation of such picketing for a period of 24 hours or more. Before resumption of picketing interrupted for any such period, a new notice shall be given and a new picket receipt issued.

(C) Standards of conduct for picketing activities.

(1) Picketing shall be conducted only on portions of the public ways not used primarily for vehicular parking or moving traffic.

(2) Pickets may carry written or printed placards or signs not exceeding 24 inches by 24 inches promoting the objective for which picketing is done provided the words used would not tend to incite violence.

(3) Pickets must, if marching, march in single file, not abreast, and may not march closer together than 15 feet, except in passing one another. Pickets not marching shall remain at least 15 feet apart.

(4) If pickets promoting different objectives, causes, actions or policies desire to use a sidewalk that is already being used for picketing, the Chief of Police or his designated agents shall allot a number of

pickets promoting each objective to use such sidewalk, on an equitable basis, according to the number of objectives being promoted.

(5) Pickets shall be restricted to the use of the outermost half of the sidewalk or other public way nearest the street and shall not at any time nor in any way obstruct, interfere with, or block persons entering or exiting from vehicles; persons crossing streets or otherwise using the public way; the entrance or exit to any building or access to property abutting the street or sidewalk; or pedestrian or vehicular traffic.

(6) No person observing, engaging in, or assisting in picketing shall bring to or allow to remain in the immediate area of picketing any vicious animal.

(7) It shall be unlawful for anyone to picket without filing a notice as required herein and being issued a receipt of such notice.

(8) The provisions of divisions (B) through (D) of this section are mandatory and not merely directory, and failure to comply with the provisions of these sections is hereby declared to be unlawful and punishable as provided by law.

(D) Interference with pickets prohibited; police authority to disperse crowds; failure to leave when ordered declared offense.

(1) It shall be unlawful for any person to physically interfere with pickets in the use of the sidewalk or to address profane, indecent abusive, or threatening language to or at those pickets which would tend to provoke the pickets or others to a breach of the peace.

(2) In the event of the assemblage of persons in such numbers as to tend to intimidate pickets pursuing their lawful objective through numbers alone or through use of inflammatory words, police officers of the city may direct the dispersal of persons so assembled. It shall be unlawful for any person to refuse to disperse or move on when so directed by a police officer, and police officers may arrest any person who fails to do so.

(3) Whenever the free passage of any street or sidewalk in the city shall be obstructed by a crowd, whether or not the crowd assembles as a result of or in connection with picketing, the persons composing such crowd shall disperse or move on when directed to do so by a police officer. It shall be unlawful for any person to refuse to so disperse or move on when so directed by a police officer, and police officers may arrest any person who fails to do so.

98.82 FOOTRACES AND BICYCLE RACES.

(A) Definitions. For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FOOTRACE. A group of three or more runners or walkers competing against either each other or a time limit over a fixed course all or a part of which involves the use of city street right-of-way.

BICYCLE RACE. A group of three or more bicyclists competing against either each other or a time limit over a fixed course all or a part of which involves the use of city street right-of-way.

(B) Application. Application for a race covered by this section shall be made in writing at least 15 working days before the time at which the race shall be scheduled to begin and shall contain the following information:

- (1) The name, if any, of the organization or group sponsoring or proposing the race;
- (2) The location or locations in the city where the race is proposed to take place;
- (3) The date and hours for which permit is sought;
- (4) The name of the person applying for the permit;
- (5) Whether or not persons below the age of 18 years are expected to participate;
- (6) An estimate of the number of persons expected to participate in the race; and
- (7) The name of the person or persons to be in charge of the activity and who will accompany it and carry permit at all times.

(C) Issuance of permit. Upon receipt of an application properly completed and timely filed as hereinabove set out, the designated officer shall immediately issue a permit consistent with the standards prescribed herein. The permit shall contain all information stated on the application and shall be signed by the issuing officer.

(D) Standards. The following standards shall apply to all footraces and bicycle races subject to this section conducted in the city:

- (1) No more than one race may be conducted within the city at any one time.
- (2) Every race shall follow a route approved by the Chief of Police or his designated agent.
- (3) No one participating in a race or proceeding along the route of a race shall distribute therefrom any candy, cigarettes, prizes or favors of any kind.
- (4) No vicious animal whether leashed or unleashed shall participate in or proceed along the route of a race.
- (5) The organizer of an event subject to this section shall make provision for proper safety procedures at intersections and along other sections of the right-of-way. The location of the safety monitors shall be determined by the Chief of Police or his designee and the personnel shall be provided at no cost to the city. Personnel hired for such duties shall be sworn law enforcement officers certified by the North Carolina Criminal Justice Education and Training Standards Commission.
- (6) The permit shall not be issued until the sponsor shall acquire sufficient insurance or approval by the City Attorney to indemnify the city for damages or liability which the city might incur.

98.83 POSSESSION OF FIREARMS AND DANGEROUS WEAPONS PROHIBITED.

(A) It shall be unlawful for any person to possess on or about his person or vehicle any firearm or dangerous weapon of any kind, as defined below, whether exposed or concealed, while participating in any parade or any picketing.

(B) It shall be unlawful for any person present at any parade or picketing or any person upon any street, sidewalk, alley or other public property within 500 feet of any parade or picketing, to possess on or about his person or vehicle any firearm or dangerous weapon of any kind, as defined below, whether exposed or concealed.

(C) For purposes of this subchapter, the term DANGEROUS WEAPON shall be defined as any device or substance designed or capable of being used to inflict serious injury to any person or property, including, but not limited to: firearms, airguns, BB guns, pellet guns, knives or razors with a blade more than three inches in length, metallic knuckles, clubs, blackjacks, nightsticks, dynamite cartridges, bombs, grenades, explosives, molotov cocktails and sword canes.

(D) This section shall not apply to the following persons while acting lawfully and within the scope of their duties and authority:

- (1) Law enforcement officers;
- (2) Officers and soldiers of the armed forces, militia and national guard.

98.99 PENALTY.

(A) Whoever violates any provisions of this chapter for which another penalty is not already herein provided, shall be subject to the penalty provisions of § 10.99.

(B) It shall be unlawful and constitute a misdemeanor for any person to violate any provision of §§ 98.40 through 98.51. Any violation may be punished by a fine of not more than \$50 or by imprisonment for not more than 30 days. Violations affecting each tree, shrub or plant shall constitute a distinct and separate offense.

CHAPTER 110: LICENSING PROVISIONS ¹⁴

110.21 PARKING FOR RESIDENTIAL HOUSE TRAILERS.

Imposition of tax. Every person renting, leasing or otherwise providing parking spaces, stalls or ramps for residential house trailers shall pay a license in the amount of \$3 per annum for each space, stall or ramp which is rented, leased or made available for rent or lease by the owner or operator of such property; provided further, that this license shall not be required unless there is more than one space rented, leased or available for rent or lease.

110.22 ITINERANT PEDDLERS, SALESPERSONS, AND THE LIKE.

(A) Imposition of tax. Any person operating as an itinerant peddler or salesperson shall obtain prior to the beginning of their operation, a business license from the Revenue Collector for each and every peddler or salesperson, driver or other persons assisting in the sale or solicitation for the sale of merchandise, in the maximum amount allowed by G.S. § 105-53.

(B) Exemption from tax. This section shall not apply to any person who is duly registered under the general statutes of the state and under the general tax code of the city.

110.24 HOUSEMOVERS, HOUSEWRECKERS.

(A) Imposition of tax. Every person engaged within the city in the business of moving or wrecking houses or commercial buildings shall obtain, prior to any further operation, a registration in the sum of \$20 for each fiscal year.

(B) Permits and bonds. After the obtaining of registration required by this section, any person before entering into each operation shall obtain a permit from the City Building Inspector and post a bond, with sufficient sureties, or cash bond in lieu thereof, payable to the city in an amount deemed sufficient by the Building Inspector to insure that the premises on which the building is wrecked or removed or to which it is moved is left free of any trash, wreckage or other debris caused by such wreckage or removal, and to insure against any damage done to any city property by any such operation.

CHAPTER 111: AMUSEMENTS ¹⁵

111.02 CARNIVALS PROHIBITED; PERMISSION REQUIRED FOR KIDDIE CARNIVALS.

The holding of a carnival within the city limits is prohibited. It shall be unlawful to hold kiddie carnivals without first having made application to and received permission to do so in accordance with the conditions and limitations as set out in this subchapter. Any kiddie carnival must be sponsored by an accredited non-profit organization and at least 51% of the proceeds from carnival operations must be accrued to the sponsoring non-profit organization.

111.03 PROCEDURE FOR SECURING PERMIT.

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- (A) Entertainment covered in this section and housed under canvas, tenting, or temporary structure shall obtain written permission from the Fire Chief that the structure meets the safety standards required by other places of public assembly.
- (B) The applicant shall furnish evidence that a public liability insurance policy in the amount of not less than \$50,000 for one person and \$100,000 for any one accident shall be in force and effect at the time such structure is to be occupied or such place of assembly is established for use by the public.
- (C) The applicant shall deposit with the Revenue Collector a cash bond in the sum of \$1000 conditioned upon saving harmless the city from any and all liabilities or causes of action which might arise by virtue of the granting of a permit to the applicant and conditioned further that no damage will be done to the streets, sewers, trees or adjoining property and that no dirt, paper, litter or other debris will be permitted to remain upon the streets, or upon any private property by such applicant. Such cash bond shall be returned to the applicant upon certification by the Director of Inspections that all conditions of this subchapter have been complied with.
- (D) The applicant shall pay to the Revenue Collector a fee of \$50 per week or portion thereof that the entertainment is held.
- (E) No sound equipment or public address system shall be operated or used after the hour of 10:00 p.m. of each day for which the permit is issued.
- (F) The Director of Inspections shall make an inspection to make sure that provision has been made for satisfactory sanitary facilities on or near the premises on which the structure is to be maintained or the kiddie carnival is to be held.

111.15 LOCATION OF POOLROOMS.

All poolrooms must be operated on the ground floor with the tables in full view from the street on which they are located.

111.99 PENALTY.

- (A) Whoever violates any provisions of this chapter for which another penalty is not already herein provided, shall be subject to the penalty provisions of § 10.99.
- (B) Any person who violates any of the provisions of §§ 111.01 through 111.03 shall be guilty of a misdemeanor and punished by a fine of not more than \$50 or by imprisonment for not more than 30 days.

CHAPTER 112: MASSAGE THERAPISTS AND MASSAGE THERAPY ESTABLISHMENTS¹⁶

112.15 LICENSING OF MASSAGE THERAPISTS.

These requirements shall apply to all applicants, and no individual seeking to practice massage therapy shall be exempted therefrom except as expressly provided in § 112.01.

- (A) No person shall engage in the business or profession of massage therapy unless such person shall have first applied for and received a privilege license or certificate of occupancy as required by this section.
- (B) The applicant must be a professional active member in good standing in the American Massage Therapy Association (hereafter referred to as AMTA);

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(C) The application for the license or certificate of occupancy required by this section shall be submitted to the City Manager and shall contain the following information:

- (1) The name, age and residence address of the applicant;
 - (2) A valid certificate of active membership in the AMTA; or a document from AMTA certifying that the applicant has passed the membership entrance examination;
 - (3) A complete statement of the previous businesses or occupations of the applicant for the three years immediately preceding the date of the application;
 - (4) The date and place of applicant's birth and the residence address or addresses of the applicant for the three years immediately preceding the date of application;
 - (5) A complete statement of all convictions of the applicant for any felonies and for any offense involving sexual misconduct, whether in this jurisdiction or any other, including G.S. §§ 14-177 through 14-202.1 (offenses against public morality and decency) and G.S. §§ 14-203, 14-204, 14-205.1 through 14-206 (prostitution), or any federal statute relating to prostitution, or of any violation of any law or ordinance of any governmental unit concerning or related to the business or profession of massage; and
 - (6) A complete statement of any revocation of any license granted by any governmental unit to the applicant to engage in the business or profession of massage therapy.
- (D) Upon payment of the application fee, as set out in § 112.19, herein and upon submission of all the information required by the application under this chapter, the City Manager shall transmit a copy of the application to the Chief of Police for an investigative report. The Police Chief shall report the results of the investigation within a reasonable time, not to exceed 30 days. A license or certificate of occupancy shall be granted immediately, if all requirements described herein are met, and unless it appears that any such applicant is under the age of 18 years, has deliberately falsified the application, has had a previously issued license or certificate of occupancy to engage in the business or profession of massage revoked, or the record of such applicant reveals a conviction as set out in division (C)(5) of this section.
- (E) Nothing herein shall be construed to restrict an authorized massage therapist from engaging in the business or profession of massage therapy in his or her own home after issuance of a home occupation permit or at the home or business of a potential client; provided, however, the massage therapist must post, or have in his or her possession at all times while engaged in the practice of massage therapy, the privilege license or certificate of occupancy required by this chapter.
- (F) It shall be unlawful for anyone to perform massage therapy upon a minor unless and until consent therefore has been given by the minor's parent, guardian or custodian.

112.16 LICENSING OF MASSAGE THERAPY ESTABLISHMENTS.

- (A) No person, partnership, corporation or association shall operate a massage therapy establishment as herein defined unless such person, partnership, corporation or association shall have first applied for and received the privilege license or certificate of occupancy provided by this section.
- (B) Every application for the privilege license or certificate of occupancy prescribed herein shall be submitted to the City Manager 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 name and residence address of all principal officers of the partnership, corporation or association;
 - (2) The address of the premises where the massage therapy establishment shall be located;
 - (3) A complete statement of all convictions of any person whose name is required to be given in division (B)(1) of this section for any offense as previously set out herein.
 - (4) A complete statement of any revocation, by any governmental unit, of any license to operate a massage therapy establishment or to engage in the business or profession of massage therapy held by any person whose name is required to be given in division (B)(1) of this section; and

(5) The name and address of any massage therapy establishment or other establishment owned or operated by any person whose name is required to be given in division (B)(1) of this section wherein the business or profession of massage is carried on.

(C) The City Manager shall transmit a copy of the application to the Chief of Police for an investigative report, to the Inspections Division to determine if the proposed establishment is in compliance with all zoning and building regulations and ordinances, and to the Fire Chief to determine compliance with any law relating to fire protection. The Chief of Police, the Inspections Division, and the Fire Chief shall, within a reasonable time, not to exceed 30 days, report the results of their examinations to the City Manager.

(D) The City Manager may approve the application if he determines that:

(1) The application contains no misstatement of fact;

(2) The applicant, and any person having legal or beneficial ownership interest in the proposed establishment is over the age of 18 years and has not be convicted of any crime involving sexual misconduct, as set forth herein;

(3) The proposed establishment 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 proposed establishment has not, for the three-year period preceding the application, had a previously issued license for engaging in the business or profession of massage or a license to operate a massage business revoked.

112.17 POSTING OF LICENSE OR CERTIFICATE OF OCCUPANCY.

(A) Every massage therapist shall post the license or certificate of occupancy required by this chapter in his or her work area at all times.

(B) Every person, corporation, partnership or association authorized under § 112.16 as a massage therapy establishment shall display such license or certificate of occupancy in a prominent place at all times.

CHAPTER 113: PEDDLERS AND ITINERANT MERCHANTS¹⁷

113.01 DEFINITIONS.

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

PEDDLER. Any person, firm or corporation whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in the business of carrying from place to place any goods, wares or merchandise and offering to sell or barter or actually selling or bartering such goods or merchandise.

TRANSIENT MERCHANT, ITINERANT MERCHANT or ITINERANT VENDOR (all three are herein referred to as "itinerant merchant".) Any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within the city, and who, in furtherance of such purpose, hires,

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leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, or boat, public room in hotels, motels, lodging houses, apartments, shops, or any street, alley or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction provided that such definition shall not be constructed to include:

- (1) Any person selling at a flea market taxed under G.S. § 105-53(d).
- (2) Any person selling at a yard sale defined as an occasional sale (no more than two times within a 12-month period of personal property in a residential zone).
- (3) Any person, firm or corporation who otherwise meets the definition above but who is part of a group of ten or more merchants selling at a shopping area or trade show, and is selling at the invitation of the shopping area or trade show, and where such sales activities do not last longer than seven days.

113.02 PERSON, FIRM OR CORPORATION NOT RELIEVED FROM COMPLIANCE MERELY BY REASON OF TEMPORARY ASSOCIATION.

For the purpose of this chapter a person, firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reasons of associating temporarily with any local dealer, trader, merchants or auctioneer or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trade, merchant or auctioneer.

113.03 EXEMPTION.

Sections 113.18, 113.19, and 113.35(A) shall not apply to any bona fide charitable, educational, cultural or governmental institution or organization when the proceeds from the sale are used directly for the institution or organization's charitable purposes and the goods and articles are not sold on a consignment basis. However, such institution or organization shall provide proof of its charitable, educational, cultural or governmental status and comply with all other provisions of this chapter.

PERMIT PROVISIONS

113.15 PERMIT REQUIRED.

It shall be unlawful for a transient merchant, itinerant merchant, itinerant vendor or peddler as defined in § 113.01 to engage in such business within the city without first obtaining a permit in compliance with the provisions of this chapter.

113.16 APPLICATION FOR PERMIT.

Applicants for permit shall file a written application to the Inspections Division. The application shall contain the following information except that religious, charitable, governmental or nonprofit organizations shall only be required items set forth in divisions (A) through (F):

- (A) Description and price of the goods, wares and merchandise for sale.
- (B) The name or names of the person or persons (and any employees or agents) having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the city; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such persons; the capacity in which such person or persons will act (that is, whether as proprietor, agent or otherwise); the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the corporation is incorporated.
- (C) Proof of a North Carolina sales tax reporting number issued by the North Carolina Department of Revenue.
- (D) Proof that the applicant has obtained or paid all applicable state and local taxes, permits and licenses.

(E) Place or places within the city where the applicant proposes to conduct business and the length of time during which it is purposed that the business shall be conducted and provisions applicant has for access, parking and measurement/location of sign.

(F) Proof of property owner's permission.

(G) If a vehicle is to be used, a description of the same, together with license number or other means of identification.

(H) A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner.

(I) The fingerprints of the applicant and the names of at least two reliable personal references who will certify as to the applicant's good character and business responsibility, or, in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.

(J) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance the nature of the offense and the punishment or penalty assessed therefor.

113.17 ISSUANCE OF PERMIT.

The Inspections Division shall investigate all applications within ten working days of receipt. If the applicant satisfies all requirements of this chapter the Building Inspector shall issue a permit. The Building Inspector shall maintain a copy of all permit applications and all permits issued. The permit shall be for a period of 90 days. For itinerant merchants all permits will be valid for the location indicated on the permit. If the location changes the itinerant merchant shall apply for a new permit. The permit is not transferable to other persons or locations.

113.18 PERMIT FEE.

Before issuing a permit under this chapter, the Building Inspector shall collect an administrative processing fee of \$35 to cover the administrative cost of processing the application, providing that this fee shall not be assessed to any person selling fruit or farm produce raised upon their own property or to any organization exempt from state privilege license taxation. This fee shall not be considered a tax, nor shall it relieve the applicant of paying any other state or local taxes required by law.

113.19 BOND.

Before any permit shall be issued under the provisions of § 113.17 for engaging in a transient or itinerant business as defined in § 113.01, an applicant shall file with the City Clerk a bond running to the city in the sum of 100 times the cost of the highest price item offered for sale or in the sum of \$500 whichever shall be less. The bond shall be executed by the applicant, as principal, or a surety upon which service of process may be made in the state; said bond to be approved by the Office of the City Attorney, conditioned that the applicant shall comply fully with all of the provisions of the ordinances of the city and the statutes of the state regulating and concerning the sale of goods, wares and merchandise and will pay all judgments rendered against said applicant for any violation of the ordinances or statutes, together with all judgments and costs that may be recovered against him by any person for damage arising out of any misrepresentation or deception practiced on any person transacting such business with the applicant, whether said misrepresentations or deceptions were made or practiced by the owners or by their servants, agents, or employees, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Any aggrieved person may bring action against the permittee in the General Court of Justice in Wayne County. The bond required by this

section shall be posted and remain in effect for a period of one year from the date a permit expires, and one year from the expiration date of any renewal of any permit issued under this chapter. Such bond shall be approved by the Office of the City Attorney, both as to form and as to the responsibility of the surety, provided that the bond requirement does not apply to persons selling books, periodicals, printed music, ice, wood for fuel, seafood, beef, mutton, pork, bread, cakes, pies, products of the dairy, poultry, eggs, livestock, and articles produced by the individual vendor offering them for sale and farm products that were grown on property he owns or occupies or items sold by any organization exempt from state privilege license taxation.

113.20 SERVICE OF PROCESS.

Before any permit may be issued for engaging in business as an itinerant merchant, the applicant shall file with the Building Inspector an instrument appointing a person, firm or corporation located in the county to be the agent of the applicant for service of process with respect to any matters connected with or arising out of the business transacted under the permit given and the bond required by this chapter. The Building Inspector may be named as the agent for service of process by the applicant.

113.21 EXHIBITION OF PERMIT.

The permit issued under this chapter shall be posted conspicuously in the place of business named therein.

113.22 REVOCATION OF PERMIT.

(A) Permits issued under the provisions of this chapter may be revoked by the City Building Inspector after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for license.
- (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as peddler or itinerant merchant.
- (3) Any violation of this chapter.
- (4) Convictions of any crime or misdemeanor involving moral turpitude.
- (5) Conducting the business of peddling/itinerant merchant in an unlawful manner or in such a manner as to constitute a breach of the peace or is a detriment to the health, safety or general welfare of the public.

(B) Notice of the hearing for revocation of a permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permittee at his last known address at least five days prior to the date set for hearing.

STANDARDS OF OPERATION

113.35 REGULATIONS FOR ITINERANT MERCHANTS AND PEDDLERS; COMPLIANCE REQUIRED.

All itinerant merchants and peddlers as defined in § 113.01 must comply with the following regulations:

(A) No itinerant merchant shall set up and display goods, wares or merchandise for sale within the street right-of-way or residentially developed properties or on any properties for which retail/wholesale sales are not listed as a permitted use provided that itinerant merchants will be allowed to operate at motels within highway business zones.

(B) No peddler shall stop within the street right-of-way for more than 15 minutes.

(C) Locations at which itinerant merchants set up and expose for sale goods, wares or merchandise shall provide adequate access and parking. This determination will be made by the Inspections Division during their permit investigation.

(D) Itinerant merchants and peddlers may only operate during the hours of 6:00 a.m. and 9:00 p.m.

(E) Itinerant merchants will be limited to one temporary sign of no more than 12 square feet. This sign shall be removed each day at the close of business. No sign shall be allowed within the street right-of-way.

(F) No peddler or itinerant merchant, nor any person in his behalf shall shout, make any cryout, blow a horn, ring a bell or use any sound device, including any loudspeaker, radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell.

ADMINISTRATION AND ENFORCEMENT

113.45 INSPECTIONS DIVISION AND POLICE DEPARTMENT TO ENFORCE PROVISIONS.

It shall be the responsibility of the Inspections Division (during normal business hours), the Police Department (during all other times) to enforce this chapter.

113.46 APPEAL FROM DENIAL OR REVOCATION OF PERMIT.

Any person aggrieved by the action of the Building Inspector in the denial of an application for a permit provided in § 113.17, or in the decision with reference to the revocation of a permit as provided in § 113.22, shall have the right of appeal to the City Council. Such appeal shall be taken by filing with the City Council within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The City Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in § 113.22 for notice of hearing on revocation. The decision and order of the City Council on such appeal shall be final and conclusive.

CHAPTER 114: VEHICLES FOR HIRE ¹⁸

114.15 CERTIFICATE REQUIRED.

No person shall operate or permit a taxicab or limousine owned or controlled by him to be operated as a vehicle for hire upon the streets of the city without having first obtained a certificate of public convenience and necessity from the City Council.

114.55 VEHICLE EQUIPMENT AND MAINTENANCE.

(A) License eligibility.

(1) Prior to requesting of the City Council a certificate of public convenience and necessity or the use and operation of any vehicle or replacement thereof under the provisions of this chapter, such vehicle as desired to be operated shall be thoroughly examined and inspected by the Police Department and found to be sanitary, mechanically sound and to comply with such reasonable rules and regulations as may be prescribed by the City Council. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the City Council shall deem necessary therefor.

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(2) When the Police Department has determined that a vehicle has met the standards established by the City Council, the Police Department shall issue to the City Clerk a statement of eligibility for license, which shall also state the authorized seating capacity of such vehicle.

(B) Periodic inspections. Every vehicle operating under this chapter shall be periodically inspected by the Police Department at such intervals as shall be deemed necessary to insure the continued maintenance and upkeep of each vehicle. If during the course of such an inspection any vehicle should be found to be unsafe or unfit for operation, notice shall be given by the Police Department to the holder of the certificate of convenience and necessity issued under this chapter and such vehicle shall not thereafter be operated as a vehicle for transporting persons for hire until the vehicle has been placed back into a safe condition for such operation. Nothing herein shall be construed to relieve any owner or operator of any vehicle from all or any duties imposed by law nor relieve such owner or operator from liability resulting from the unfitness of such vehicle or the negligent operation thereof.

(C) Vehicles must be kept in a clean and sanitary condition. Every vehicle operating under this chapter shall be kept in a sanitary condition and a daily state of cleanliness according to the rules and regulations promulgated by the City Council. In an effort to advance the clean and sanitary environment of each vehicle's interior, a minimum of two no smoking signs shall be visibly posted inside each taxicab, the provision of which shall be enforced to the best of each operator's ability.

114.56 TAXICAB DESIGNATION.

(A) Each taxicab operated within the city shall bear on the outside of each rear door, in legibly painted letters not less than two and one-half inches in height nor more than five inches in height and spaced at least one-inch apart, the name of the owner and the number of the permit assigned to him. If the taxicab is being operated by a lessee, the name of the lessee shall be prominently displayed on or inside such taxicab. In addition any taxicab may bear an identifying design approved by the City Council. No vehicle covered by the terms of this chapter shall be authorized to operate whose color scheme, identifying design, monogram or insignia to be used thereon shall, in the opinion of the City Council, conflict with or imitate any color scheme, identifying design, monogram or insignia used on a vehicle or vehicles already operating under this chapter, in such a manner as to be misleading or tend to deceive or defraud the public and provided further, if, after a license has been issued for a vehicle hereunder, the color scheme, identifying design, monogram or insignia thereof is changed or altered without Police Department examination and approval so as to be, in the opinion of the City Council, in conflict with or imitate any color scheme, identifying design, monogram, or insignia used by any other person, owner or operator, in such a manner as to be misleading or tend to deceive the public, the license of or certificate covering such taxicab(s) shall be suspended or revoked.

(B) The numbering and printing of letters and names as provided in this section shall be considered a condition precedent to the operation in taxicab service or for hire until the same has been marked, numbered and lettered as required by this section.

114.57 SOLICITATION OF PASSENGERS BY DRIVER.

No driver shall solicit passengers for a taxicab except when sitting in the driver's compartment of such taxicab or while standing immediately adjacent to the curbside thereof. The driver of any taxicab shall remain in the driver's compartment or immediately adjacent to his vehicle at all times when such vehicle is upon the public street, except upon request to assist in the handling of baggage by a passenger or prospective passenger.

114.58 PROHIBITED SOLICITATION.

No driver shall solicit patronage in a loud or annoying tone of voice or by sign or in any manner annoy any person(s), obstruct the movement of any person(s), or follow any person(s) for the purpose of soliciting patronage.

114.59 RECEIPT AND DISCHARGE OF PASSENGERS ON SIDEWALK ONLY.

Drivers of taxicabs and limousines shall not receive or discharge passengers in the roadway but shall pull up to the right-hand sidewalk as nearly as possible or in the absence of a sidewalk, to the extreme right-hand side of the road and there receive or discharge passengers, except on one-way streets, where passengers may be discharged at either the right- or left-hand sidewalk, or side of the roadway in the absence of a sidewalk. If in the event the sidewalk or side of the roadway is obstructed for a distance of 60 feet or greater by parked vehicles, it shall be permissible to discharge or pick up passengers in the roadway provided that the taxicab or limousine is situated upon the right-hand side of the road, is not within 25 feet of an intersection, does not impede the orderly movement of traffic by more than three vehicles or does not remain stationary for a period longer than two minutes.

114.60 CRUISING.

No driver of a limousine, the operation of which is authorized under the provisions of this chapter, shall cruise in search of passengers nor solicit passengers or prospective riders from within the compartment of his vehicle.

114.61 SOLICITATION OF OTHER COMMON CARRIER PASSENGERS PROHIBITED.

No driver, owner or operator shall solicit passengers at the terminal of any other common carrier, nor at any intermediate points along any established route of any other common carrier without first entering into a contractual agreement with such common carrier.

114.62 ADDITIONAL PASSENGERS.

No driver shall permit any other person to occupy or ride in his taxicab, unless the person(s) first employing the taxicab shall consent to the acceptance of additional passenger(s) or a contract service is being provided. A charge of \$0.25 shall be assessed for each individual of a party in excess of the first two passengers. For determining fares relative to multiple passengers, please refer to § 114.85.

114.63 RESTRICTIONS ON NUMBER OF PASSENGERS.

No driver shall permit more persons to be carried in a taxicab or limousine as passengers than the rated seating capacity of his taxicab or limousine as stated by the Police Department on its statement of eligibility of license and on the license issued by the Police Department for such vehicle. A child in arms shall not be counted as a passenger.

114.64 REFUSAL TO CARRY ORDERLY PASSENGERS PROHIBITED.

No driver shall refuse or neglect to carry any orderly person(s), upon request, for reasons of race, color, ethnic background, sex, age, religion or physical disability unless previously engaged in or unable or forbidden by the provisions of this chapter to do so.

114.65 PROHIBITIONS OF DRIVERS.

It shall be a violation of this chapter for any driver of a taxicab or limousine to engage in selling intoxicating liquors and narcotics or to solicit business for any house of ill repute or use his vehicle for any purpose other than the transporting of passengers.

114.66 TAXICAB OR LIMOUSINE SERVICE.

(A) All persons engaged in the taxicab or limousine business in the city operating under the provisions of this chapter shall render an overall service to the public desiring to use taxicabs or limousines. Holders of certificates of public convenience and necessity shall maintain a central place of business and keep the same open from 5:00 a.m. until 12:00 midnight for the purpose of receiving calls and dispatching taxicabs or limousines. Two or more certificate holders may enter into an agreement for the joint utilization of a taxi stand. All taxicab stands shall be maintained in a safe and sanitary condition. All grounds shall be kept up with grass and weeds regularly mowed and trash and litter removed on a daily basis. Stand facilities shall be kept in a good state of repair. Taxi stand parking lots shall be used solely for the purpose of parking and dispatching taxicabs or limousines. Taxi stands and their corresponding parking lots shall not be sites for the general public to gather or for the conduction of activities which may produce an unusual amount of unrest, volume of noise or generally disturb the privacy of the surrounding property. Violation of these provisions after notifications by the Police Department of the need for correction shall result in an automatic 30-day suspension of all certificates of the holder operating from the stand in violation.

(B) Holders of certificates of public convenience and necessity shall answer all calls received by them for services inside the corporate limits of the city as soon as they can do so and if such services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before such call can be answered and give the reason therefor. Any holder who shall refuse to accept a call any where in the corporate limits of the city at any time when such holder has available vehicles; or who shall fail or refuse to give overall service, shall be deemed a violator of this chapter and the certificate granted to such holder shall be revoked at the discretion of the City Council.

114.67 MANIFESTS.

Every driver shall maintain a daily manifest upon which shall be recorded all trips made each day, showing time and place of origin and destination of each trip and the amount of fare, and all such completed manifests shall be returned to the owner by the driver at the conclusion of his tour of duty. The forms for each manifest shall be furnished to the driver by the owner and shall be of a character approved by the Police Department. Every holder of a certificate of public convenience and necessity shall retain and preserve all drivers' manifests in a safe and orderly fashion for at least one year following the year for which the manifests were completed, and upon request such daily manifests shall be available to the Police Department.

114.68 HOLDER'S RECORDS AND REPORTS.

(A) Every holder shall keep accurate records of receipts from operations, operating and other expenses, capital expenditures, and such other operating information as may be required by the City Council. Every holder shall maintain the records containing such information and other data required by this chapter at a place readily accessible for examination by the City Council.

(B) The holder of a franchise shall submit a quarterly report to City Council, through the Police Department, detailing the average number of taxis in operation during the preceding quarter.

(C) All accidents arising from or in connection with the operation of taxicabs which result in death or injury to any person, or in damage to any vehicle, or to any property in an amount exceeding the sum of \$100 shall be reported within 24 hours from the time of occurrence to the Police Department in a form of report to be furnished by the Police Department.

(D) It shall be mandatory for all holders to file with the Chief of Police copies of all contracts, agreements, arrangements, memoranda or other writings relating to the furnishing of taxicab or limousine service to any individual(s), hotel, theater, hall, public resort, railway or bus station or other place of public gathering, whether such arrangement is made with the holder or any corporation, firm or association with which the holder may be interested or connected. Failure to file such copies within

seven days of their execution shall be sufficient cause for the revocation of a certificate of any offending holder or the cancellation of any taxicab stand privileges.

114.80 TAXIMETERS REQUIRED.

As of July 1, 1978, it shall be unlawful for any person to operate any taxicab in the city unless such taxicab is equipped with a Model C Cabometer taximeter or a taximeter of equal design and capabilities the installation of which shall first be approved by the Police Department. Specifications for this variety of taxi meter may be obtained from either the Police Department or the city's purchasing agent. It shall be the duty of the person operating such taxicab and also the driver thereof to keep such meters operating at all times within 5% of absolute accuracy. No passenger shall be carried in such taxicab except under the provisions of a contract 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. Since limousine service shall be operated on a contract basis for pre-established fees, the installation of a metering device shall not be required within vehicles of this category.

114.82 HOW CHARGE INDICATED BY TAXIMETER; FLAG; TELL-TALE LIGHT.

Taximeters installed under this chapter 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. Each taximeter shall be equipped with a tamper-proof switch and electrical system so that when the flag is in the non-earning position a light operating at the same time, located on the exterior of the cab, will be lighted. The type, design and location of the tell-tale light shall be approved by the Police Department. No taxicab shall be driven or operated for hire if the tell-tale light is out of order. At all times, while the taxicab is engaged unless under contract copies of which are on file with the Police Department, the flag of the taximeter shall be placed in the 6 o'clock position to register charges for mileage or into the 9 o'clock position to register charges for waiting time whichever is applicable. It shall be unlawful for any driver of any taxicab, while carrying passengers to display the flag attached to the taximeter in such a position as to denote that such vehicle is unemployed or to fail to place the flag of the taximeter to a position indicating that such vehicle is unemployed at the termination of each and every service. The flag shall not be changed to the non-earning position until after the fare is paid. In addition, the flag shall not be placed in the 9 o'clock position to register waiting time unless such waiting time conforms to the definition of this activity as noted in § 114.01.

114.83 INSPECTIONS, APPROVAL, AND THE LIKE, OF TAXIMETERS.

No person shall drive a taxicab to which is attached a taximeter that has not been duly inspected and approved by the Police Department. All taxi meters shall be inspected and checked for accuracy by the Police Department periodically at the times and places prescribed by the Police Department. In addition, every taxi meter 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 the 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. No defective taximeter shall be repaired without the Police Department being notified nor placed back into operation without Police Department approval. The Police Department shall maintain a listing available to all certificate holders of the date and name of each individual whose taximeter had been inspected and the nature of any findings.

114.84 SEALING AND REPAIR OF TAXIMETERS.

It shall be unlawful for any person other than the owner's repair person, previously approved by the Police Department, and the person designated by the Police Department to break the seal on or

undertake to repair any taximeter installed under this chapter. After any taximeter has been repaired and the seal has been broken, the taxicab must be presented to the Police Department for inspection and approval for accuracy and proper operation before such taxicab is again placed in operation for hire.

114.86 TAXI RATES.

No person owning, operating, leasing or controlling any taxicab within the corporate limits of the city shall assess, collect or receive any charge the sum of which has been determined by the taximeter at rates either greater or less than those set by the City Council. These rates are subject to review and revision by City Council at their discretion.

114.89 REFUSAL OF PASSENGER TO PAY LEGAL FARE.

It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this chapter after having hired the same, and it shall be unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service.

CHAPTER 116: LICENSING FOR BOARDING AND ROOMING HOUSES¹⁹

116.01 DECLARATION OF NECESSITY.

It is deemed necessary in order to promote good order and safety of the City of Goldsboro and its residents that owners of rooming and boarding businesses be licensed. A system of licensing will:

- (A) Reduce the likelihood that these residential housing accommodations will become public nuisances in violation of G.S. § 19-1(b).
- (B) Promote responsible management of these housing accommodations.
- (C) Assist in providing a safe habitat for residents and neighbors of these facilities.
- (D) Safeguard property values.

116.02 LICENSE AND INSPECTION FEE REQUIRED.

(A) BOARDINGHOUSE or ROOMING HOUSE. A residential use consisting of at least one dwelling unit together with more than two rooms that are rented out or designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. A BOARDINGHOUSE or ROOMING HOUSE is distinguished from tourist accommodations by its occupation by longer-term residents as opposed to overnight or weekly guests.

(B) Every boardinghouse or rooming house operator engaged in the business of renting any room or equivalent dwelling unit to another person for accommodation shall first apply for and procure from the City Revenue Collector a city license for the privilege of transacting or engaging in such business within the city.

(C) In addition to a privilege license, an inspection fee of \$500 is required to ensure that the standards of § 116.03 are met. This fee will be required in addition to any other applicable inspection fees. This inspection fee is required on an annual basis to ensure continued compliance and shall be due and payable in the same manner as prescribed for privilege licenses issued by the city pursuant to this code.

116.03 STANDARDS.

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(A) A resident manager shall reside on the licensed premises. The residential manager shall be able to be at the rooming house within 30 minutes after being summoned by the Goldsboro Police Department. A telephone shall be located in the resident managers living quarters.

(B) The licensee shall post a copy of this license in the resident managers living quarters at a location visible from the entranceway of the living quarters.

(C) All sleeping quarters shall be served by working heating facilities and a bed with a mattress.

(D) The licensee shall meet each prospective tenant to determine that such tenant does not intend to use the living quarters for illegal activities.

(E) The licensee shall commence eviction proceedings against any tenant who engages in unlawful activity in or on the leased premises.

(F) The business location shall not be in violation of any applicable zoning, demolition by neglect, minimum housing code or fire prevention code regulation.

(G) An up-to-date floor plan and current list of occupants shall be maintained by the resident manager. This floor plan shall be posted in a conspicuous location.

(H) Each room occupied for sleeping purposes may not be less than 200 square feet in area and no more than two unrelated people may share a room. Existing boarding houses that legally existed prior to the adoption of this section may utilize rooms less than 200 square feet of area provided such rooms contain at least 70 square feet of floor area for one occupant and an additional 50 square feet for an additional occupant. No more than two persons may share a room in new or existing rooming houses.

(I) All existing and new rooming houses shall have a monitored fire alarm system. All boarding houses shall have a monitored fire alarm system installed and operational within 180 days of the adoption of this section.

(J) All existing and new rooming houses shall have hardwired smoke detectors installed in all common areas and in sleeping quarters.

(K) Fire extinguishers shall be provided in all common areas and sleeping areas. The exact location of fire extinguishers and type of extinguishers shall be approved by the Fire Inspector.

(L) A key box shall be installed at a location determined by the Fire Inspector. The key box shall be of an approved type and contain keys necessary to gain access to the building.

116.04 COMPLIANCE.

(A) All persons required by this chapter to have a license that are operating a business shall have 30 days from the application of this chapter to file for any required license.

(B) The Inspections Department and Fire Department shall inspect each rooming business annually to determine compliance.

(C) Boarding and rooming houses that do not comply with the provisions of § 116.03 and have not brought their facility into compliance with § 116.03 as outlined above shall cease operation no later than 180 days from the adoption of this chapter.

CHAPTER 117: PUSH CART AND MOBILE FOOD UNIT VENDORS²⁰

117.01 AREA COVERED.

The City Manager or his or her designee may issue a permit for the serving of food and non-alcoholic beverages from a mobile pushcart or mobile food unit on government-owned sidewalks, public and

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private parking lots and publicly- or privately-owned property in the area of the city known as the Central Business District.

117.02 DEFINITIONS.

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

MOBILE FOOD UNIT. A vehicle or trailer designed to be readily moved and that is designed to serve food and drinks to the public. *MOBILE FOOD UNITS* must meet any applicable Health Department requirements.

PARKING LOT. Any area, whether publicly or privately owned, approved to park automobiles on a temporary basis.

PEDESTRIAN WAY. An improved walk or passageway intended for use by pedestrians, but not adjacent to any city street.

PUSHCART. Any rubber-wheeled vehicle used for displaying, keeping or storing any article by a vendor or peddler (other than a motor vehicle, bicycle or trailer) which may be moved without the assistance of a motor and which does not require registration by the state Department of Motor Vehicles.

SIDEWALK. That portion of public street between the curb line, or the lateral lines of a roadway if there is no curb, and the adjacent property line, that is intended for the use of pedestrians.

117.03 APPLICATION.

Any pushcart or mobile food unit vendor desiring to operate shall prepare and file an application with the City Manager or his or her designee which shall contain the following information:

(A) The name, address and telephone number of the person desiring to operate a pushcart or mobile food unit.

(B) The type of food, beverage or other products to be sold and served from the pushcart or mobile food unit.

(C) The hours of operation of the proposed pushcart or mobile food unit business.

(D) A site plan showing the section of sidewalk, pedestrian way, parking lot, private property or other location of the property to be used for the pushcart or mobile food unit.

(E) Proof of an insurance policy issued by an insurance company licensed to do business in the State of North Carolina, showing a policy of the comprehensive general liability including coverage for products, completed operations and contractual liability for the indemnification provision in the vendors permit, in the amount of not less than \$300,000 for bodily injury per occurrence and \$100,000 for property damage per occurrence. Such policies shall not be canceled until 30 days written notice of such cancellation shall be given to the City Clerk. Any termination or lapse of such insurance shall automatically revoke any permit issued by this chapter. Such insurance limits and requirements shall be subject to revision by the City Manager. Certificates of insurance shall be kept on file with the vendors application.

(F) An indemnity statement, approved by the City Attorney, whereby the pushcart or mobile food unit operator agrees to indemnify and hold harmless the city and its officers, agents and employees from any claim arising from the operation of the pushcart or mobile food unit.

(G) Additional information as required by the Chief of Police to perform the necessary background investigation.

117.04 ISSUANCE OF PERMITS.

No permit for the operation of a pushcart or mobile food unit may be issued unless the application is complete and unless the following requirements are met:

(A) The pushcarts or mobile food units location as shown on the drawing submitted must be done in such a manner that at least four feet unobstructed space (as measured from the streetside edge of the sidewalk) remains on the sidewalk or pedestrian way for the passage of pedestrians.

(B) Pushcarts or mobile food units shall not be located within 50 feet of any currently established restaurant.

(C) Pushcarts or mobile food units shall provide a refuse receptacle and shall dispose of waste generated through their operation at the end of each day in an approved landfill or drop-off container site.

(D) Pushcarts or mobile food units shall comply with all Wayne County Health Department requirements.

(E) No pushcart or mobile food unit shall be located within 100 feet of any other legally established pushcart or mobile food unit.

(F) Pushcarts or mobile food units shall be located in such a manner so as to not interfere with the commerce of existing businesses.

(G) Except as elsewhere permitted, the operation of a pushcart or mobile food unit shall involve no permanent alteration to or encroachment upon any street, sidewalk, pedestrian way or parking lot.

(H) There shall be adequate lighting available in the area of the pushcart or mobile food unit for the safety of the patrons and public use of the sidewalk.

(I) A filing fee of \$100 is required to accompany all permit applications or renewals.

(J) A \$500 bond or security deposit shall be filed with the City Clerk prior to operation of the pushcart or mobile food unit.

(K) Mobile food units shall be located in such a way as to not constitute a nuisance. Mobile food units shall meet all applicable setbacks of the Central Business District.

(L) All mobile food units shall be removed at the end of the business day and may not be located overnight within the Central Business District.

117.05 APPROVAL PROCESS.

Applicants interested in a pushcart or mobile food unit license shall apply to the City Manager or his or her designee and provide the information as required under § [117.03](#).

117.06 PERMIT DURATION.

Permits issued for pushcart or mobile food unit operation are valid for a period of one year. It is the responsibility of the applicant to make timely application for permit renewal. Permit renewals shall follow the same process as a new permit.

117.07 PERMIT DENIAL.

A permit may be denied if it is found that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a pushcart or mobile food unit shall receive a written statement outlining the grounds on which the denial is based. Appeals of the City Managers denial shall be considered by the City Council.

117.08 PERMIT REVOCATION.

The City Manager may revoke a permit issued pursuant to this section in he or she finds that the pushcart operator has:

(A) Deliberately misrepresented or provided false information in the permit application.

(B) Violated any provision of city or county Health Department regulations.

(C) Violated any law, regulation, or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances.

(D) Operated the pushcart or mobile food unit in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare; specifically including failure to keep the area around the pushcart or mobile food unit free of refuse.

(E) Failed to maintain any health, business or other permit or license required by law for the operation of a pushcart or mobile food unit operation. Before the revocation of a permit, the City Manager or his or her designee shall notify the permit holder of the intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the questions of such revocation. After the hearing, the City Manager, or his or her designee, shall notify the permit holder in writing of his or her decision regarding the revocation. Such revocation may be appealed to the City Council.

117.09 RESERVATION OF RIGHTS.

The city reserves the right to require any pushcart or mobile food unit established pursuant to this section to cease part or all of its operation in order to allow for construction, maintenance, or repair of any street, sidewalk, utility or public building by the city, its agents or employees or by any other governmental entity or public utility; and to allow for use of the street or sidewalk in connection with parades, civic festival, and other events of a temporary nature as permitted by the city.

CHAPTER 130: OFFENSES AGAINST CITY REGULATIONS ²¹

130.01 FIREARMS, AIR GUNS.

Firing prohibited; exception. It shall be unlawful for any person to shoot or discharge, or to cause to be shot or discharged, within the city any firearms, or any air rifle, gun or pistol, or any spring gun, pistol, slingshot or similar device which impels with force a shot or pellet of any kind, except when the same is done in defense of person or property in a manner excusable under state law, or at military funerals and other public events under proper supervision of the Police Department or as permitted by conditional use for a firing range when properly approved by the City Council as detailed in Chapter 153 entitled Zoning of the Unified Development Code. The Chief of Police or any member of the Police Department is authorized to seize and hold, subject to order of court, any such air rifle, gun or pistol or spring gun or pistol, or other similar device which impels with force any shot or pellet of any kind, which shall be used, shot or discharged within the city in violation of this section.

130.02 FIREBOMBS.

(A) Definitions. For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FIREBOMB. Any type of object designed or constructed so that upon being propelled it will explode or ignite its area of impact.

MOLOTOV COCKTAIL. Any breakable container or any container which is designed in such manner that upon being propelled it will at impact empty its contents, which is filled with an inflammable fluid or substance, and which is fitted with a fuse or wick.

(B) Prohibited acts. It shall be unlawful for any person or persons to manufacture, possess, transport or use any Molotov cocktail or other firebomb.

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[http://library.amlegal.com/nxt/gateway.dll/North%20Carolina/goldsbor/titlexiii/general/offenses/chapter130/offenses/against/city/regulations?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:goldsboro_nc\\$anc=JD_Chapter130](http://library.amlegal.com/nxt/gateway.dll/North%20Carolina/goldsbor/titlexiii/general/offenses/chapter130/offenses/against/city/regulations?f=templates$fn=default.htm$3.0$vid=amlegal:goldsboro_nc$anc=JD_Chapter130)

(C) Possession of materials restricted. It shall be unlawful for any person or group of persons to possess all the items or materials needed to manufacture Molotov cocktails or other firebombs, other than on his or their premises.

(D) Prima facie presumption of guilt as to parent. Any parent, guardian or other person standing in loco parentis who knowingly allows his child or ward, who is under the age of 21, to wilfully and unlawfully violate the provisions of this section shall be deemed to have knowingly aided and abetted the violation of this section and the prima facie presumption of guilt shall arise as to such parent, guardian or other person standing in loco parentis to such child or ward and he shall be punished as herein provided.

130.03 CONSUMPTION OF ALCOHOLIC BEVERAGES ON PUBLIC PROPERTY.

No person shall consume any alcoholic beverage, as defined by G.S. § 18B-101, on property owned or occupied by the city, including but not limited to public streets, boulevards, alleys, rights-of-way, sidewalks, buildings, and parks, unless a valid permit is obtained from the City Manager. The City Manager is hereby authorized to issue a special permit that will allow the consumption of alcoholic beverages, as defined by G.S. § 18B-101 upon filling out and filing of a proper application with the City Manager.

130.04 SPITTING ON SIDEWALKS.

It shall be unlawful to spit on any paved sidewalk, street, upon any paving or platform connected with any railroad or bus passenger station, or upon the floor or wall of any public building.

130.05 SELLING PAPERS, MAGAZINES FROM AUTOMOBILES.

It shall be unlawful to sell or offer for sale any paper, magazine or periodical from any stationary automobile or other vehicle parked on the streets.

130.06 LOITERING.

(A) Definitions. For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) LOITERING. Remaining idle in essentially one location and shall include the concepts of spending time idly; being dilatory; lingering; standing around aimlessly; sauntering, remaining in one locale for no meaningful purpose and shall also include the colloquial expression "hanging around."

(2) PUBLIC PLACE. Any place to which the general public has access and a right to resort for business, entertainment, recreation or any other lawful purpose, but does not necessarily mean a place devoted solely by the uses of the public. It shall also include the front or immediate area of any store, shop, tavern, restaurant or other place of business and also public areas and grounds.

(B) Prohibited acts. It shall be unlawful for any individual to loiter, loaf, wander aimlessly, stand or remain idle either alone and/or in consort with others in a public place in such a manner so as to:

(1) Obstruct or make dangerous any public street, alley, highway, sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic and/or pedestrians.

(2) Commit in or upon any public street, alley, highway, sidewalk or any other public place or building any act or thing which is dangerous to and/or is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, alley, highway, sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress, therein, thereon and thereto.

(C) Police order to disperse. When any person causes or commits any of the conditions enumerated in division (A) of this section, a police officer or any law enforcement officer shall order that person to stop

causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this chapter.

130.07 CONCEALED HANDGUNS.

(A) No person shall carry a concealed handgun or other dangerous weapon on or within any city-owned building and/or their appurtenant premises or in any city-owned park. An appropriate notice of the prohibition shall be posted in a conspicuous place in each city-owned building, their appurtenant premises and in each city park notifying persons of the prohibition against carrying a concealed handgun therein.

(B) This chapter shall not apply to law enforcement or other government personnel acting within the scope of their employment.

CHAPTER 131: REGISTERED SEX OFFENDERS IN CITY PARKS AND RECREATION²²

131.02 PROHIBITION.

No registered offender shall enter into or upon any park or recreation facility owned, operated or maintained by the city except as permitted by § 131.03.

CHAPTER 150: BUILDING AND CONSTRUCTION²³

150.01 BUILDING CODE ADOPTED BY REFERENCE.

For the purpose of regulating the erection, construction, maintenance and repair of buildings, structures and residences within the municipality there are hereby adopted and incorporated into this chapter by reference, as fully as if the same were set out at length herein, the North Carolina State Building Codes, most current editions, as they may be from time to time revised, modified and amended.

150.02 FIRE DISTRICT.

The following shall be and are hereby declared to be the fire district of the city:

Beginning at the northeastern intersection corner of West Chestnut Street and South James Street and runs thence in a northerly direction along the eastern boundary of James Street to the southeastern intersectional corner of James Street and West Mulberry Street; thence in an easterly direction along the southern boundary of Mulberry Street to the southwestern intersectional corner of Mulberry and North John Street; thence in a southerly direction along the western boundary of John Street to the southeastern intersection corner of John Street and Walnut Street; thence in an easterly direction along the southern boundary of East Walnut Street to the southwest intersection corner of East Walnut Street and Ormond Avenue; thence in a southerly direction along the western boundary of Ormond Avenue to the northwestern intersectional corner of Ormond Avenue and East Chestnut Street; thence continuing in a westerly direction along the northern boundary of East Chestnut Street to the northeastern intersectional corner of West Chestnut Street and North James Street, the point of beginning.

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150.03 PENALTY.

Whoever violates any provisions of this chapter for which another penalty is not already herein provided, shall be subject to the penalty provisions of § 10.99.

BUILDING REGULATIONS

150.15 DUTIES OF BUILDING INSPECTOR.

The duties of the Building Inspector shall be to examine the dwellings and buildings in the city and its extraterritorial jurisdiction for the purpose of locating and taking action in respect to any of them being unfit for human habitation for any cause or dangerous or unsafe to other persons or other property and to perform any other duties imposed upon the office by statute, ordinance or other direction of the City Council.

150.16 ASSISTANT INSPECTORS.

There may be appointed as needed, assistant building inspectors.

150.17 RIGHT OF ENTRY.

The Building Inspector shall have the right in the discharge of his duties to enter any building or other premises in his jurisdiction.

150.18 BUILDING PERMIT REQUIRED.

(A) (1) Subject to division (A)(2) of this section, no person shall commence or proceed with the construction, reconstruction, alteration, repair, removal or demolition of any building or structure; the installation, extension or general repair of any plumbing system; the installation, extension, alteration or general repair of any heating or cooling equipment system; or the installation, extension, alteration or general repair of any electrical wiring, devices, appliances or equipment having a value greater than \$300 without first obtaining a building permit.

(2) No permit shall be required for any construction, installation, repair, replacement or alteration costing \$5,000 or less in any single-family residence or farm building unless the work involves: the addition, repair or replacement of load-bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning or electrical wiring, devices, appliances or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing.

(B) The fees to be charged shall be established by resolution.

150.19 MOVING BUILDING PERMIT FEE.

For all moving building permits, the fee shall be established by resolution of the City Council.

150.20 DEMOLITION PERMIT FEES.

For the demolition of any building or structure, the fee shall be established by resolution of the City Council, according to the size of the building.

150.21 INSULATION PERMIT REQUIRED.

No person, firm or corporation may, for consideration, install, alter or restore any insulation or other materials or energy utilization equipment designed or intended to meet the North Carolina State

Building Codes requirements for insulation and energy utilization without first securing a permit from the Inspections Division for each item of work. Permit fees shall be in accordance with § 150.18.

ELECTRICAL REGULATIONS

150.35 NATIONAL ELECTRICAL CODE ADOPTED BY REFERENCE.

There is hereby adopted by the city for the purpose of establishing rules and regulations for the installation, maintenance and repair of electrical wiring, apparatus or equipment for light, heat or power inside of or attached to buildings within the limits of the city and its extraterritorial jurisdiction or attached to the service company's lines, a certain code known as the National Electrical Code, most recent edition, and the same is hereby adopted and incorporated as fully as if set out at length herein.

150.36 DUTIES OF ELECTRICAL INSPECTOR.

It shall be the duty of the Electrical Inspector to enforce the regulations established by ordinance or law relating to the placing of wires or other appliances for electric light, heat or power, in the city to the end that all such wires or appliances shall be so placed, constructed and guarded as to prevent fires or accidents.

150.37 ASSISTANT INSPECTORS.

There may be appointed as needed, assistant electrical inspectors.

150.38 RIGHT OF ENTRY.

The Electrical Inspector shall have the right in the discharge of his duties, in his jurisdiction, to enter any building or other premises or to go upon any pole or fixture for the purpose of examining and testing the electric appliances or installation.

150.39 DUTY TO INSPECT WIRING AND ELECTRICAL EQUIPMENT; OWNER TO BE NOTIFIED; ISSUANCE OF CERTIFICATE.

When notified by the owner or contractor that the wiring or electric equipment is ready for his inspection, it shall be the duty of the Electrical Inspector or his deputy, to inspect the same and determine whether such wiring and equipment conforms to the regulations prescribed therefor. If he shall approve the same, he shall issue a written certificate thereof to the owner of such building, and if he does not approve the same, it shall be his duty to so notify the owner or contractor and state what is necessary to be done before he will approve the wiring and equipment.

150.40 ELECTRICAL PERMIT FEE.

No person shall commence or proceed with the installation, extension, alteration or general repair of any electrical wiring, devices, appliances or equipment without first obtaining an electrical permit. The fees charged for the electrical permit and/or inspections shall be established by resolution.

PLUMBING REGULATIONS

150.45 DUTIES OF PLUMBING INSPECTOR.

It shall be the duty of the Plumbing Inspector to:

(A) Inspect the system of drainage, sewerage and plumbing in any building in the city, when called upon to do so by the owner.

(B) Inspect any building if called upon by the tenant or adjoining owner, or if directed to do so by the City Manger.

(C) Make at least two inspections of all work in process of construction, and give a certificate of inspection when the installation is found to be in accordance with the Building Code.

(D) Not be interested, either directly or indirectly in the plumbing business or receive any fees or commissions, other than allowed by the City Council.

150.46 ASSISTANT INSPECTORS.

There may be appointed as needed, assistant plumbing inspectors.

150.47 RIGHT OF ENTRY.

The Plumbing Inspector, as far as his duties are concerned, shall have the right to enter any building that has a connection to the city sewer or other means of sewage disposal, and the Inspector shall have the power to condemn all unsanitary work. If after due notice, the defects are not remedied, the Inspector shall then cause a warrant to be issued against the responsible person.

150.48 INSPECTION OF HOUSE CONNECTIONS, APPLICATION OF TESTS.

It shall be the duty of the Plumbing Inspector to inspect house connections and all other connections from time to time during its installation to see that the plumbing, drainage and sewerage work is done in accordance with the rules and regulations prescribed by the city ordinances and state law; and immediately, upon notification by the plumber or person licensed to make sewer connections, to inspect and pass upon the work, apply such tests as may from time to time be prescribed, have all defects remedied, condemn and order the removal of any defective material used, condemn all defective work done, and such other duties as may be imposed by the City Council.

150.49 PLUMBING PERMIT FEES.

No person shall commence or proceed with the installation, extension or general repair of any plumbing system without first obtaining a plumbing permit. The fees charged for a plumbing permit and/or inspection shall be established by resolution.

MECHANICAL REGULATIONS

150.55 MECHANICAL PERMIT FEES.

No person shall commence or proceed with the installation, extension, alteration or general repair of any heating or cooling system without first obtaining a heating/air conditioning permit. The fee for these permits shall be established by resolution.

GAS REGULATIONS

150.65 GAS PERMIT FEES.

No person shall commence or proceed with the installation, extension, alteration or general repair of any gas piping or system without first obtaining a gas permit. The fees charged for a gas permit and/or inspection shall be established by resolution.

DEMOLITION OF ABANDONED STRUCTURES

150.70 FINDING; INTENT.

It is hereby found that there exist within the city abandoned structures which the City Council find to be hazardous to the health, safety and welfare of the residents of the city due to the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. Therefore, pursuant to the authority granted by G.S. § 160A-441, it is the intent of this subchapter to provide for

the repair, closing or demolition of any such abandoned structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing or demolition of dwellings unfit for human habitation.

150.71 DUTIES OF BUILDING INSPECTOR.

The Building Inspector is hereby designated as the city officer to enforce the provisions of this subchapter. It shall be the duty of the Building Inspector to:

- (A) Locate abandoned structures within the city and determine which structures are in violation of this subchapter;
- (B) Take such action pursuant to this subchapter as may be necessary to provide for the repair, closing or demolition of such structures;
- (C) Keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this subchapter; and
- (D) Perform such other duties as may be prescribed herein or assigned to him by the City Council.

150.72 POWERS OF BUILDING INSPECTOR.

The Building Inspector is authorized to exercise such powers as may be necessary to carry out the intent and the provisions of this subchapter, including the following powers in addition to others herein granted:

- (A) Investigate the condition of buildings within the city in order to determine which structures are abandoned and in violation of this subchapter;
- (B) Enter upon premises for the purpose of making inspections;
- (C) Administer oaths and affirmations, examine witnesses and receive evidence; and
- (D) Designate such other officers, agents and employees of the city as he deems necessary to carry out the provisions of this subchapter.

150.73 STANDARDS FOR ENFORCEMENT OF PROVISIONS.

(A) Every abandoned structure with the city shall be deemed in violation of this subchapter whenever such structure constitutes a hazard to the health, safety or welfare of the city citizens as a result of:

- (1) The attraction of insects or rodents;
- (2) Conditions creating a fire hazard;
- (3) Dangerous conditions constituting a threat to children; or
- (4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(B) In making the preliminary determination of whether or not an abandoned structure is in violation of this subchapter, the Building Inspector may by way of illustration and not limitation, consider the presence or absence of the following conditions:

- (1) Holes or cracks in the structure's floors, walls, ceilings or roof which might attract or admit rodents and insects, or become breeding places for rodents and insects;
- (2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents and insects;
- (3) Violations of the State Building Code, the State Electrical Code, the Fire Prevention Code which constitutes a fire hazard in such structure;
- (4) The collection of garbage, rubbish or combustible material which constitute a fire hazard in such structure;
- (5) The use of such structure or nearby grounds or facilities by children as a play area;
- (6) Violations of the State Building Code which might result in danger to children using the structure or nearby grounds or facilities as a play area; and

(7) Repeated use of such structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking or eating.

150.74 PROCEDURE FOR ENFORCEMENT.

(A) Preliminary investigation; notice; hearing. Whenever a petition is filed with the Building Inspector by at least five residents of the city charging that any structure exists in violation of this subchapter or whenever it appears to the Building Inspector, upon inspection, that any structure exists in violation hereof, 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 structure a complaint stating the charges and containing a notice that a hearing will be held before the Building Inspector at a place therein fixed, not less than ten 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 structure. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Building Inspector.

(B) Procedure after hearing.

(1) After such notice and hearing, the Building Inspector shall state in writing his determination whether such structure violates this subchapter.

(2) If the Building Inspector determines that the dwelling is in violation he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such structure or else remove the same within a specified period of time not to exceed 90 days.

(C) Failure to comply with order.

(1) In personam remedy. If the owner of any structure shall fail to comply with an order of the Building Inspector within the time specified therein, the Building Inspector may submit to the City Council at its next regular meeting a resolution directing the City Attorney to petition the superior court for an order directing such owner to comply with the order of the Building Inspector, as authorized by G.S. § 160A-446 (g).

(2) In rem remedy. After failure of an owner of a structure to comply with an order of the Building Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in division (C)(1) of this section, the Building Inspector shall submit to the City Council an ordinance ordering the Building Inspector to cause such structure to be removed or demolished, as provided in the original order of the Inspector, and pending such removal or demolition, to placard such dwelling as provided by G.S. § 160A-443.

(D) Petition to superior court by owner. Any person aggrieved by an order issued by the Building Inspector shall have the right, within 30 days after issuance of the order to petition the superior court for a temporary injunction restraining the Building Inspector pending a final disposition of the cause, as provided by G.S. § 160A-446 (f).

150.75 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Building Inspector shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Building Inspector in the exercise of reasonable diligence, the Building Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such persons may be made by publication in the manner prescribed in the North Carolina Rules of Civil

Procedure. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

150.76 IN REM ACTION BY INSPECTOR; PLACARDING.

(A) After failure of an owner of a structure to comply with an order of the Building Inspector issued pursuant to the provisions of this subchapter, 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 § 150.49(C) of this section, the Building Inspector shall proceed to cause such structure to be removed or demolished, as directed by the ordinance of the City Council and shall cause to be posted on the main entrance of such structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

(B) Each such ordinance shall be recorded in the Office of the County Register of Deeds, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443 (5).

150.77 COSTS A LIEN ON PREMISES.

As provided by G.S. § 160A-446 (6), the amount of the cost of any removal or demolition caused to be made or done by the Building Inspector pursuant to this subchapter 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 through 160A-239.

150.78 ALTERNATIVE REMEDIES.

Neither this subchapter 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 subchapter by criminal process, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

CHAPTER 152: HOUSING REGULATIONS²⁴

152.03 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

(A) 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 premises thereof.

(B) 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 thereof which he occupies and controls.

(C) 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 the availability of rubbish and garbage storage facilities.

(D) 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 the proper use and operation of same.

(E) Care of facilities, equipment and structure. No occupant shall willfully destroy, deface or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

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152.04 CERTIFICATE OF OCCUPANCY REQUIREMENT.

(A) When the Housing Inspector finds that a dwelling is unfit for human habitation as set forth in this chapter, and has notified and issued to the owner the findings of fact and order designating the defects, and the time limit as provided in § 152.38 for the correction of the defects has expired, no person shall occupy as owner-occupant, rent or let to another for occupancy or use as a human habitation any dwelling or dwelling unit that is vacant which does not comply with all of the minimum standards of fitness for human habitation and all the requirements of §§ 152.16 through 152.21.

(B) Prior to occupying a vacant dwelling upon which the findings of fact and order have been issued by the Inspector, an owner-occupant or renter shall obtain a written certificate of occupancy from the Inspector certifying that the vacant dwelling complies with §§ 152.16 through 152.21. The Inspector upon compliance with §§ 152.16 through 152.21 shall issue a certificate of occupancy for a dwelling.

152.15 DWELLINGS AND DWELLING UNITS.

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 §§ 152.16 through 152.21.

152.16 STRUCTURAL CONDITION.

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

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

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

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

(E) Adequate facilities for egress in case of fire or panic shall be provided

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

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

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

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

152.17 BASIC EQUIPMENT AND FACILITIES.

(A) Plumbing system.

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All plumbing fixtures shall meet the standards of Chapter 153 of this Code of Ordinances and shall be maintained in a state of good repair and in good working order.

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

(B) Heating system. Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either division (B)(1) or (2) of this section.

(1) Central and electric heating systems. Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 70°F. measured at a point three feet above the floor during ordinary winter conditions.

(2) Other heating facilities. Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of 70°F. measured three feet above the floor during ordinary winter conditions.

(C) Electrical system.

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by Chapter 151 of this Code of Ordinances. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling, or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric convenience receptacles.

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

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with Chapter 151.

152.18 VENTILATION.

(A) General. Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light obstructing structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least 15% of the total floor area of such room.

(B) Habitable rooms. Every habitable room shall have at least one window or skylight which easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.

(C) Bathroom and water closet rooms. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

152.19 SPACE, USE AND LOCATION.

(A) Room sizes.

(1) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the North Carolina Uniform Residential Building Code, amended, as described in Chapter 150.

(2) 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.

(3) 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 and 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 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as 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:

(1) The floor and walls are substantially watertight;

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

(3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well, or accessway.

(F) Kitchen facilities.

(1) Each living unit shall have a specific kitchen space, which contains a sink with counter work space and has hot and cold running water, adequate space for installing cook and refrigeration equipment, and for storing cooking utensils. Minimum areas of kitchen storage space should be as follows:

(a) Total shelving in wall and base cabinets - 30 square feet.

(b) Drawer area - five square feet.

(c) Usable storage shelving in cooking range or under sink may be counted in the total shelving needed.

(2) Kitchen storage space of living units having two or more bedrooms should be appropriately increased in total area to accommodate the needs of more occupants.

152.20 SAFE AND SANITARY MAINTENANCE.

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

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

- (C) Windows and doors. Every window, exterior door, basement or cellar door, and hatchway shall be substantially weathertight, watertight, and rodent proof; and shall be kept in sound working condition and good repair.
- (D) Stairs, porches, and appurtenances. Every inside and outside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.
- (E) Bathroom floors. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
- (F) Supplied facilities. Every supplied facility, piece of equipment, or utility which is required under this chapter 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 so as to obtain thorough drainage and so as 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 which are noxious or detrimental to health.
- (I) Egress. Every dwelling unit shall be provided with adequate means of egress as required by Chapter 150 of this Code of Ordinances.

152.21 CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

- (A) Screens. In every dwelling unit, for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device; and every window or other devices with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed. Where an air conditioning system is installed in lieu of screens, whether a central system or package room or zonal air conditioners, the installation shall comply with the provisions of the North Carolina State Building Code, Volume III, Heating, Air Conditioning, Refrigeration and Ventilation, 1971 edition.
- (B) Rodent control. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.
- (C) Infestation. Every occupant of a dwelling containing a jingle dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.
- (D) Rubbish storage and disposal. Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by Chapter 50 of this Code of Ordinances. The owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.
- (E) Garbage storage and disposal. Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an incinerator unit, to be approved by the Inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage can as required by Chapter 50 of this Code of Ordinances.

152.22 ROOMING HOUSES; EXCEPTIONS.

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

(A) Water closet, hand lavatory, and bath facilities. At least one water closet, lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever said 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 not 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.

(B) 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.

(C) Sanitary conditions. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house; and 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.

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