

## CITY OF HICKORY LIST OF ORDINANCES PROVIDED PURSUANT TO SESSION LAW 2018-69

### Hickory Code of Ordinances

#### Chapter 3 - AIRCRAFT AND AIRPORTS

##### Sec. 3-26. - Airport manager—Generally.

The management and control of the Hickory Municipal Airport shall be vested in an airport manager, who shall be appointed by the city manager. The airport manager shall have such authority and perform such duties as may be assigned to him by the city manager.

##### Sec. 3-27. - Same—Rules and regulations affecting airport activities.

The airport manager, with the approval of the city manager, shall promulgate such rules and regulations affecting the activities of the airport as may be necessary and proper to carry out the purposes of this article. Such regulations shall provide the airport manager with the power to refuse the use of the facilities of the airport to any person violating such regulations or failing to pay charges incurred or for failure to comply with any applicable regulations of the Federal Aviation Administration or other such governmental agency.

##### Sec. 3-28. - Property, obligations, revenue and appropriations.

No obligation shall be assumed or property leased or disposed of in connection with the Hickory Municipal Airport, nor shall any revenue of the airport be appropriated or used, except as provided by the city council.

##### Sec. 3-29. - Trespass upon airport property.

- (a) It shall be unlawful for any person to walk, operate any vehicle or otherwise go upon or trespass upon any portion of the Hickory Municipal Airport without the express permission of the airport manager or, in his absence, of the city manager, except:
  - (1) The travel of aircraft upon and across runways, taxiways and aprons provided for that purpose, and as authorized by the airport manager and the controllers of the Federal Aviation Administration.
  - (2) The travel of motor vehicles upon streets, driveways and parking areas designated for that purpose.
  - (3) Pedestrian traffic on sidewalks and in areas reserved for and designated and kept for the use of the public at the terminal building and the fixed base operation.
  - (4) Service and business vehicles authorized to operate in areas not open to the general public.
  - (5) Emergency vehicles responding to a bona fide or potential emergency, such as fire, collision or crash.
  - (6) Other use or travel authorized by the rules and regulations of the airport manager.

#### GENERAL FIXED BASE OPERATORS

##### Sec. 3-49. - Compliance with rules, laws, etc.

All general fixed base operators shall abide by and comply with all state, county and city laws and ordinances, the rules and regulations of the airport manager, subject to the provisions of any contract between such operators and the city, governing the airport and the rules and regulations of the Federal Aviation Administration.

### ARTICLE III. - AIRPORT ZONING

#### (a) *Future uses.*

- (1) No person shall erect or alter any structure, nor shall any person plant any tree, within 500 feet from the end of each runway and within the aerial approach zones as indicated on the zoning

map on file in the office of the city clerk, without first applying for and receiving a permit in accordance with the provisions of this article.

- (2) No person shall erect or alter any structure, nor shall any person plant any tree, within 500 feet from the end of each runway and within the area described by any of the aerial contours or zones herein referred to, which is or will be greater than 50 feet in height, without first applying for and receiving a permit in accordance with the provisions of this article.
- (b) *Existing uses.* Before any existing use, structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher or replanted, which will be greater than 50 feet in height, as provided in section 3-73, within any approach zone, transition zone, horizontal surface zone or conical surface zone, a permit must be secured authorizing such replacement, change or repair. No such permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to be made or become higher than the height limit as determined by the aerial contours appearing on the zoning map referred to in section 3-72.

#### Chapter 4 - ANIMALS AND FOWL

##### Sec. 4-3. - Purpose.

It shall be the purpose of this chapter to prohibit certain acts, omissions and conditions which interfere with the health, safety and general welfare of the inhabitants of the city; to protect the public from unvaccinated, diseased, stray, roaming, or dangerous animals; to make unlawful acts of animals that interfere with the enjoyment of property or the peace and safety of the community; to protect animals from abuse or conditions harmful to their well-being; and to provide for the peace and dignity of the city.

##### Sec. 4-8. - Interference, or concealment.

- (a) It shall be unlawful for any person to interfere with, hinder, resist, or obstruct the animal control officer while the animal control officer is carrying out any duty created under this chapter.
- (b) It shall be unlawful for any person to conceal any animal for the purpose of evading any federal, state or local law.

##### Sec. 4-9. - Wild animals.

No person shall keep or permit to be kept on his/her premises a wild animal. This section shall not apply to zoological parks, animal exhibitions or circuses nor apply to the possession, exhibition or handling of reptiles by employees or agents of duly constituted museums, laboratories, educational or scientific institutions in the course of their educational or scientific work.

##### Sec. 4-10. - Injunctions.

Any provision of this chapter that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement. When a violation of such a provision occurs, the city or any resident of the city may apply to the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property.

##### Sec. 4-11. - Vicious animals.

- (a) The animal control supervisor has the authority to declare an animal vicious. Any animal declared to be a vicious animal shall be immediately impounded and held for a ten calendar-day quarantine period and then humanely destroyed unless an appeal is filed as prescribed in this chapter. If an appropriate appeal is filed, the dog shall be held at the shelter, at the owner's expense, pending the final outcome of the appeal.
- (b) The owner shall deposit with the shelter the anticipated fee for the estimated time of the appeal beginning with the first day of quarantine. Such amount shall be calculated based on transportation fees, boarding fees and any known veterinary care the animal is in need of at the time the quarantine period begins. Payment of the fees is a required part of the appeals process. If the owner fails to pay the determined amount of fees, the appeal application will be deemed incomplete and no appeal heard.
- (c) Nothing in this section shall prohibit the owner from voluntarily releasing the dog to be destroyed in a humane way.

#### ARTICLE II. - REGULATION AND DISPOSITION OF ANIMALS

Sec. 4-21. - Restraint of animals.

- (a) Every person owning or having possession, charge, care, custody or control of any animal shall keep such animal exclusively upon the owner's real property. However, such animal may be off the owner's real property if it is under the physical control of a person and physically restrained by a chain, leash or harness and held in the hand of said person. An animal is not considered restrained if it is on a chain, leash, or harness, but not under the control of the owner or caregiver. Exceptions to this section are as follows:
- (1) Service animals trained to provide assistance to persons impaired in sight, hearing, mobility, or any other impairment, do not have to be under physical restraint while off the owner's premises if the dog is under the impaired person's direct control and is obedient to that person's commands. The animal control officer or any sworn police officer may request proof of assistance animal registration to satisfy this exception.
  - (2) A working police dog in the course and scope of its duties.
  - (3) Dogs in city dog parks.
- (b) If an animal is kept on the premises by a fence, the fence must be adequate to contain the animal. If such fence is an effective, working invisible fence, then there must be a visible, permanent sign on the premises stating that there is an invisible fence.

Sec. 4-22. - Public nuisance.

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.
- (2) The keeping of any animal which is at large.
- (3) Allowing or permitting an animal to damage the 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.
- (4) Maintaining animals in an unsanitary environment which results in unsightly or offensive animal waste, litter, or odor which would disturb a reasonable person.
- (5) The keeping, possession, harboring or feeding of animals; wild, feral or domesticated, which threaten the public health, safety and welfare of the community.
- (6) Failing to confine a female animal while in heat in a secure enclosure in such a manner that she will not be in contact with another animal, or attract other animals.
- (7) The tethering of any animal to public property or in a public right-of-way.
- (8) An animal which damages or scratches the property of another.
- (9) This section shall not apply to a working police dog in the course and scope of its duties.

Sec. 4-23. - Preventive measures for regulation of animals.

- (a) Upon the finding of any violation in this chapter, or the animal control supervisor making a declaration that a dog is potentially dangerous pursuant to G.S. 67-4.1, the animal control supervisor shall have the authority to require the owner of a dog to comply with specific preventive measures, as described below. Said list is for illustrative purposes only and is not intended to be comprehensive or to exclude any act of the animal control supervisor:
- (1) Necessary repairs to any fence or enclosure.
  - (2) Measures to ensure that a gate will remain secure.

- (3) A secure fence or any other similar device that would provide greater assurance for the confinement of the dog.
- (4) Requiring the owner to tattoo or microchip the dog at the owner's expense.
- (5) Posting of "Beware of Dog" signage.
- (6) The city may impound the animal until such fence or gate is fabricated or improved to the satisfaction of the city. The owner of the animal is responsible for all impoundment fees and costs incurred in fabricating or improving such fence or gate.
- (7) In addition to the preceding measures, if a dog is found to be potentially dangerous or dangerous pursuant to G.S. 67-4.1 et seq., the city shall require the following preventive measures in addition to any remedies set forth in said statute:
  - a. The dog may not be left unattended on the owner's real property unless confined indoors or in a secure enclosure. The city may impound the animal until such a structure is properly erected with the owner being responsible for all impoundment fees in addition to costs incurred in constructing such pen. The owner shall notify the Hickory Police Department immediately if said dog escapes or is otherwise freed from the secure enclosure other restraint.
  - b. The dog may not go beyond the owner's real property unless securely restrained and muzzled.
  - c. As an alternative to subsection a. and b., the owner is permitted to transfer ownership of the dog to an individual outside Hickory city limits or to the Catawba County Animal Shelter. If the owner wishes to transfer the dog outside the city limits, the dog in the interim may be impounded. The owner shall be responsible for all impoundment fees. The owner of a dangerous dog must provide the Hickory Police Department with written notice of transfer of ownership or possession stating the name and address of the new owner or possessor of the dog and with written notice to the new owner or possessor specifying the dog's dangerous behavior and the animal control supervisor's declaration that the dogs are dangerous. Additionally, the owner of a dangerous dog must notify the Hickory Police Department in writing of any change in the owner's address or location where the dog resides.
- (b) If the animal control officer determines that a dog owner must take specific preventive measures, the animal control officer shall make reasonable efforts to notify the owner by a written order, stating the reasons that preventive measures are required, identifying the specific preventive measures that must be implemented, and stating the designated time period for compliance with the written order. The written order shall further state that failure to comply within the time period prescribed may result in the assessment of civil penalties and/or seizure of the animal. The animal control officer shall have the authority to allow for reasonable extensions of time limits based on good faith progress of implementation of the preventive measures. Any approved extensions shall be in writing.
- (c) It shall be unlawful for an owner to fail to comply with a written order to take preventive measures within the designated time for compliance stated in the written order or any extension thereof. Additionally, the animal control officer shall have authority to seize and impound the animal if the owner fails to comply with the aforementioned order. Each day of non-compliance shall constitute a new violation.
- (d) Any dog previously declared to be dangerous or potentially dangerous that has been subsequently found to 1) inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization, 2) killed or inflicted serious injury upon a domestic animal when not on the owner's real property, 3) approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent manner of attack, shall be impounded and destroyed in a humane manner.

- (a) In addition to the provisions set forth in section 4-23, an animal which the animal control supervisor or his designee believes is either abused, overcrowded, or receiving insufficient care, or an animal in violation of section 4-22 may be subject to immediate seizure and impoundment. If necessary, an animal control officer may tranquilize the animal by way of a dart gun or other method to subdue or trap such animal. Any person finding any animal upon his/her property, in violation of section 4-22, to his/her injury or annoyance, shall be authorized to restrain such animal in a humane manner and to thereupon notify the Hickory Police Department, who shall take possession of the animal for impoundment. The animal may, consistent with the provisions of this chapter, be redeemed by the owner upon payment of all civil citations pursuant to Hickory City Code 1-9 and impoundment fees. Upon failure of the owner to redeem the animal as set forth herein, the animal shall be disposed of by the animal shelter pursuant to county regulations. Neither the City of Hickory nor the Hickory Police Department shall be under any obligation to notify the owner of the seizure the animal, however the Hickory Police Department shall make a good-faith effort to notify said owner.
- (b) In addition to the provisions established in section 4-23 regarding potentially dangerous dogs and dangerous dogs, the potentially dangerous dog or dangerous dog may be impounded during the appeals process. When the animal control officer serves the owner with a written order of seizure, it shall be unlawful for the owner to fail to comply with the order or to interfere with the animal control officer. A sworn officer shall accompany the animal control officer to seize the animal.
- (c) Any animal which appears to be lost, running at large, stray or unwanted, or which is found to be not wearing a currently valid rabies vaccination tag, as required by state law or this chapter or not under restraint in violation of this chapter, may be impounded by animal control and confined in the animal shelter in a humane manner. Impoundment of such an animal shall not relieve the owner thereof from any penalty that may be imposed for violation of this chapter.
- (d) Upon impounding an animal, the animal control officer shall inspect the animal for identification such as a tag, microchip or tattoo and make a reasonable effort to notify the owner and inform such owner of the condition whereby the animal may be reclaimed. Any owner concerned about the loss or possible impoundment of an animal must check the animal shelter since all animals seized or impounded under this chapter shall be available for inspection and reclamation during the shelter's normal business hours.

Sec. 4-25. - Animals at events.

- (a) *Applicability.* This section shall apply to any public event on city property, in which a special event application is required. The presence of animals at these events poses health and safety concerns for both the spectators and animals. Sponsors of other events may also request the city manager or his authorized designee in writing to apply the provisions of this section to such events.
- (b) *Unlawful to have animal at an event.* It shall be unlawful for any person owning, having possession, charge, custody or control of any animal, as defined in subsection (f) herein, to take that animal, whether on a leash or otherwise, into or allow the animal to enter the boundaries of any event. The boundaries and the interior of a special event shall consist of any area part of the event or parade route and shall include any public street, road, highway, sidewalk, alley, parking lot, grassy area, right-of-way or other publicly owned area.
- (c) *Failure to remove animal.* It shall be unlawful for any person with an animal within the boundaries of a special event to fail to obey the command of a law enforcement officer or animal control officer to remove such animal from the event.
- (d) *Exceptions.* This section shall not apply to those animals part of an authorized event, exhibit, or parade. The special event operator and sponsor shall be responsible for immediately cleaning up and removing any animal waste from animals that are part of an authorized exhibit or parade. All animal waste shall be disposed of properly. This section also shall not apply to service dogs or other animals relied upon by persons with disabilities, to animals owned and controlled by public law enforcement agencies, or to animals used by a vehicle for hire in accordance with applicable city ordinances.
- (e) *Waivers.* An organizer of an event to which this section applies may request a waiver from this section. The sponsor shall submit plans specifying how the public will be protected from the animals. Requests

shall be reviewed as part of the special event permitting process and may be approved or denied as part of that process.

- (f) *Definitions.* For the purposes of this section, the term "animal" shall mean every vertebrate and invertebrate nonhuman species of animal, wild or domestic, male or female, including but not limited to, dogs, cats, livestock and other mammals, birds, reptiles, amphibians and fish. The term "event" is applicable to all public events on city property for which a special event application is required.

Sec. 4-26. - General care; prohibited acts.

All animals shall be kept and treated under sanitary and humane conditions, and it is unlawful for any person to engage in one or more of the following acts:

- (1) *Failure to provide adequate food.* All animals, unless otherwise indicated in this chapter, must be given at suitable intervals, at least once in a 24-hour period, a quantity of wholesome foodstuff in a container suitable for the age and species of the animal and sufficient to maintain a healthful level of nutrition.
- (2) *Failure to provide adequate water.* All animals must have access to a supply of clean, fresh, potable water. If access is not constant, then adequate amounts of water must be provided at least twice in a 24-hour period.
- (3) *Failure to provide adequate shelter.* Animals must be provided with adequate shelter to reasonably protect them from the elements and from the weather at all times. It shall be a structure with a roof, floor, and four walls with an entry way. This section does not apply to aquatic animals or livestock and other large animals which are normally pastured or otherwise live in the open. Examples of inadequate shelter include, but are not limited to, the following:
  - a. Underneath outside steps, decks and stoops.
  - b. Underneath houses.
  - c. Inside or underneath motor vehicles.
  - d. Inside metal barrels.
  - e. Inside cardboard boxes.
  - f. Inside temporary animal carriers or crates.
  - g. Shelters located in flood prone areas or areas that lack a suitable method of drainage so as to eliminate excess water or moisture.
  - h. Shelters surrounded by waste, debris, obstructions or impediments that may endanger an animal.
- (4) *Failure or refusal of an owner of a sick, diseased or injured animal to provide proper medical treatment for the animal.* The owner of an animal must provide the animal with adequate veterinary care and must take steps necessary to protect the health of the animal. All dogs, cats and ferrets, over the age of four months are required to have rabies vaccinations.
- (5) *Animal cruelty.* Examples of animal cruelty include, but are not limited to, the following:
  - a. Allowing a collar, rope or chain to become embedded in or cause injury to an animal's neck.
  - b. Allowing a choke or pinch collar to be used as a primary collar when the animal is left unsupervised.
  - c. Allowing a dog or cat to be left outside in inclement weather or extreme temperatures without adequate shelter.
  - d. Intentionally allowing animals to engage in a fight.
  - e. Allowing animals to live in unsanitary conditions.
  - f. Allowing animals to live in crowded conditions.

- g. Failure or refusal to obtain medical treatment for an animal when in an animal control officer's opinion treatment is needed.
  - h. Trapping a dog or cat without the use of a recognized humane live animal trap.
  - i. Permitting any exhibit, function or activity where animals are being cruelly treated or animals run the risk of causing injury to the public or themselves. The animal control unit shall have the authority to inspect and to close down public exhibits of animals which are part of fairs, carnivals, festivals, fundraising events, petting zoos and any other activity or function carried out in the city if it is determined that animals are being cruelly treated, abused or run the risk of causing injury to the public or themselves.
  - j. Animals being confined to or restrained on the premises of a vacant or abandoned structure.
  - k. Failure to provide adequate drainage to prevent surface water from standing in the area where the animal is kept or restrained. It shall be within the discretion of animal control as to what constitutes adequate drainage.
- (6) *Chaining or tethering an animal to a stationary object for a period of time or under conditions that an animal control officer deems harmful or potentially harmful to the animal.* Examples of improper chaining or tethering include, but are not limited to the following:
- a. Using a length or weight of a chain or other tether that is not appropriate for the size, weight and age of the animal. Note: Under no circumstances should the weight of the tether exceed ten percent of the total body weight of the animal, but the tether must be of sufficient strength to prevent breakage.
  - b. Using a chain or tether made of rope, twine, cord or similar material, unless such chain or tether is sold commercially for the purpose of chaining or tethering an animal.
  - c. Using a chain or tether that is less than ten feet in length and/or does not have swivels on both ends. All chains or tethers must be attached to the animal by means of a properly fitting harness or collar of not less than one inch in width.
  - d. Allowing an animal to be chained or tethered such that the animal is not confined to the owner's property or the chain or tether can become entangled and prevent the animal from moving about freely, lying down comfortably or having access to adequate food, water and shelter.
  - e. Using a chain as a primary collar. All collars used for the purpose of chaining or tethering an animal must be made of nylon or leather.
- (7) *Leaving an animal in a closed vehicle, etc.* Leaving an animal in a closed vehicle or other enclosure for such duration or at such temperatures as an animal control officer deems harmful or potentially harmful to the animal.
- (8) *Failure or refusal to report injured domestic animals.*
- a. All persons who injure a domestic animal by running over, into or otherwise coming into contact with an animal with an automobile, motorcycle, bicycle or other vehicle must notify the owner of the animal immediately.
  - b. If the owner is unknown, the person who injured the animal must immediately notify animal control through the 911 center by giving his or her name and address, a description of the animal and the location of the incident.

Sec. 4-27. - Sanctions, penalties, fines, remedies.

An animal control officer may undertake one or more of the following actions when a person fails or refuses to abide by or otherwise violates this article:

- (1) Obtain a magistrate's order to take possession of the animal.

- (2) Immediately seize the animal if the conditions pose an immediate threat to the health or safety of the animal or the public. A notice of seizure describing the exigent circumstances warranting the seizure will be left with the owner or affixed to the premises.
- (3) Issue a written notice of violation directing the owner or possessor of the animal to correct the problem within 72 hours, in lieu of subsection (1) or (2) above, if it is determined by the animal control officer that the animal is not in immediate danger, or the problem which gives rise to the inadequate treatment or abuse can be corrected within 72 hours. If the condition or problem is not corrected within 72 hours, the animal control officer may take action as outlined in subsection (1) or (2) above.
- (4) Issue a civil penalty for violation of any provision of this section in accordance with section 6-10.
- (5) Obtain a criminal summons or warrant.

### ARTICLE III. - LIVESTOCK, FOWL AND EXOTIC PETS

#### Sec. 4-31. - Keeping of domestic animals.

- (a) The keeping of large and small domestic animals is permitted outright only in the R-1 and IND zoning districts. The following standards apply to keeping of animals in these districts:
  - (1) Three large domesticated animals per gross acre may be kept on irrigated land;
  - (2) One large domesticated animal per gross acre may be kept on non-irrigated land.
  - (3) One small domestic animal per 2,000 square feet of land.
- (b) Except as permitted within this section, the keeping of large domestic animals is strictly prohibited in R-2 zoning districts.
- (c) Large domestic animals used for ground clearing and nuisance plant removal shall be allowed on a temporary basis upon the issuance of a temporary permit issued by the animal control administrator. The fee for said permit shall be established in the city's fee schedule. All conditions as specified in this chapter for animal care shall apply and no temporary permit shall be issued for longer than 14 days. Any violation of this chapter shall allow the animal control administrator to order the immediate removal of said animals.
- (d) Small domestic animals are permitted to be kept as household pets in R-1, R-2, and other zoning districts where dwelling units are permitted in accordance with the following standards:
  - (1) Up to an aggregate of five animals per dwelling unit is permitted.
  - (2) Six or more dogs or cats constitute a kennel and is prohibited.
  - (3) Small birds (canary, parakeet, etc.); small amphibian/reptile (turtle, lizard, etc.); rodent (rat, hamster, gerbil, etc.); and tropical fish and animals that are always housed entirely within the dwelling unit are excluded from the numerical limitations.
  - (4) One and only one pig may be kept as a family pet, provided that such pig shall not weigh more than 100 pounds and be of that strain or type of pig known as Sus, species scrofa, variety f. domestica (popularly known as Vietnamese pot-bellied pig), and provided further that the place where the pig is kept shall be maintained in a clean and sanitary condition and maintained in a manner approved by the director of sanitation, and shall further be kept in such a manner that no odors from such pig shall be offensive or disturbing to residents of surrounding or adjoining properties.

#### Sec. 4-32. - Maintenance of pens, coops, etc., where fowl are kept.

Any person who owns or maintains pens, coops or shelters in which chickens, turkeys, ducks or other fowl are kept shall maintain such pens, coops or shelters in a sanitary condition. Manure accumulating in such pens, coops or shelters shall be placed in a bin which shall be watertight and so constructed that it is fly-proof, or in a watertight barrel with a tight-fitting lid, every five days. Effective fly control methods, such as the use of an approved insecticide, shall be practiced during the fly breeding period from April 15 to November 1 of each year.



Sec. 4-33. - Maintenance of stables.

It shall be unlawful for any person who owns, operates or maintains a stable in the corporate limits, in which horses, mules or cows are kept, to keep such stable in an unclean or unsanitary condition. There shall be provided a bin or pit which shall be watertight to prevent seepage and so arranged that it is fly-proof, or a watertight barrel with a tight-fitting lid. Manure accumulating in such stable shall be placed in the bin, pit or barrel each day, and the same shall be removed from such stable at intervals not longer than five days, beginning on March 15 and continuing until the following September 15, and at intervals of one week from each September 16 to the following March 14.

Sec. 4-34. - Location of stables, lots, pens, etc., near residences.

No person shall erect, locate or maintain upon any lot within the city any cow, horse or mule stable or any chicken lot, pen or shelter nearer than 50 feet to any residence other than the owner's personal dwelling. No shelter, pen or lot or group of shelters, pens or lots housing three or more dogs over the age of six months shall be erected, located or maintained within 50 feet of any residence other than the residence of the owners of such dogs within the city.

Sec. 4-35. - Fowl running at large.

No person within the city shall permit chickens, guineas, turkeys, geese, ducks, pigeons, or other domesticated fowl to run at large.

Sec. 4-36. - Bird sanctuary.

The area embraced within the corporate limits and all parks and grounds used for municipal purposes are hereby declared a sanctuary for the protection of birds. The police officers of the city shall enforce strictly the state law for the protection of birds within such area. The city may post appropriate signs indicating that such area is a bird sanctuary.

Sec. 4-37. - Catching, shooting, etc., squirrels.

No person shall catch, shoot, kill or entrap any squirrel within the city limits; provided, that this section shall not apply to squirrels killed, caught or trapped with the permission of and under the supervision of the police department.

Sec. 4-38—4-40. - Reserved.

ARTICLE IV. - APPEALS/MISCELLANEOUS

Sec. 4-41. - Severability.

If any section or part of this chapter should be held invalid for any reason, such determination shall not affect the remaining sections or parts, and to that end, the provisions of this chapter are severable.

Sec. 4-42. - Appeals.

- (a) An owner of a dog declared potentially dangerous or dangerous shall follow the appeal process established in G.S. 67-4.1 et seq.
- (b) To appeal any other determination or finding in this chapter such as a finding or determination that an animal is vicious or is a public nuisance, the following provisions shall apply:
  - (1) The filing of a written appeal stays all proceedings in furtherance of the action appealed, unless the animal control supervisor whose decision is being appealed certifies to the chief of police, after the appeal is filed, because of facts stated in the certification: (i) that a stay would cause immediate peril to life or property; or (ii) that the solution appealed from is transitory in nature, and therefore an appeal would seriously interfere with enforcement of the provisions of the Hickory City Code or the operation of any program in the City of Hickory.
    - a. In such case, proceedings shall not be stayed other than by a restraining order, which may be granted by a court of record having jurisdiction in Catawba County, North Carolina.
    - b. The animal control supervisor shall transmit to the chief of police, as appropriate, all papers constituting the record upon which the action appealed is taken and shall provide a copy of such record to the city clerk.
  - (2) Within 30 days of the receipt of the written appeal, the chief of police shall hold at least one hearing on the appeal. Following the close of the hearing, the chief of police shall take final action based on the procedures and requirements of this section.

- a. In exercising the appeal power, the chief of police shall have all the powers of the official from whom the appeal is taken, and the chief of police may reverse or affirm wholly or partly or may modify the decision being appealed.
  - b. If the chief of police determines that it is necessary to obtain additional evidence in order to resolve the matter, he shall remand the appeal to the animal control supervisor from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence.
- (3) The chief of police may reverse or modify an order, requirement, decision, or determination of the animal control supervisor. The decision of the chief of police shall be supported by written findings of fact. After the hearing, the chief of police has ten days to make the final decision.
  - a. Within five days after a final decision of an administrative appeal is made by the chief of police, copies of the written decision shall be sent to the appellant and filed in the office of the city clerk, where it shall be available for public inspection during regular office hours.
  - b. Contemporaneous with the filing of the decision of the chief of police, a written copy of the chief of police's decision shall be sent, via first class mail or personal service, to the appellant at the appellant's last known address, or such other addresses as the appellant may request in writing in the appeal documents.
- (4) Any person who is directly affected by a decision of the police chief may appeal the decision to the Superior Court of Catawba County, North Carolina. An appeal to superior court must be filed within 30 days of the filing by the chief of police of the decision in the office of the city clerk.
- (5) Individuals participating in the appeals process set forth above may, at their own cost and expense, be represented by legal counsel if they so desire.
- (6) Only individuals licensed as attorneys to practice law in the State of North Carolina are permitted to represent individuals in these proceedings.
- (7) If an animal has already been found to be a nuisance, vicious, dangerous, potentially dangerous, or otherwise found to be in violation of this chapter, and the appeal process has either lapsed or has been exhausted, no appeals may be filed regarding future citations written under these sections.

## Chapter 5 - BICYCLES

### Sec. 5-1. - Applicability of traffic regulations to riders.

Every person riding a bicycle upon a public way shall be granted all rights and shall be subject to all duties applicable to the driver of a vehicle by the laws of the state and applicable provisions of this Code and other ordinances of the city, except as to special regulations in this chapter and except as to those provisions of laws and ordinances which, by their nature, can have no applicability.

### Sec. 5-2. - Use of available paths required.

Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

### Sec. 5-3. - Emerging from alley, driveway or building.

The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching thereon.

### Sec. 5-4. - Riding or carrying passengers on handlebars, etc.

No person riding a bicycle upon a city street shall carry any other person upon the handlebars, frame or any other portion of such bicycle not designed for the carriage of passengers, nor shall any person so ride as a passenger upon any bicycle.

### Sec. 5-5. - Riding without hands on handlebars.

No person shall ride a bicycle on any street without having his hands upon the handlebars.

Sec. 5-6. - Signalling devices and other equipment.

- (a) A bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle. No person shall ride a bicycle upon any roadway, unless such bicycle is equipped with a bell or horn capable of giving a signal audible for a distance of at least 100 feet.
- (b) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

Sec. 5-7. - Riding on sidewalks.

- (a) No person shall ride a bicycle upon a sidewalk within a business district of the city.
- (b) No person ten or more years of age shall ride a bicycle upon any sidewalk in any district of the city.

Sec. 5-8. - Parents and guardians not to authorize or permit violation of chapter.

No parent of any child or guardian of any ward shall authorize or knowingly permit any such child or ward to violate any provision of this chapter.

## Chapter 6 - BUILDINGS

Sec. 6-31. - Building code.

The 1978 edition of the North Carolina State Building Code, Volume I, General Construction, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the building code of the city to the extent such Code is applicable for safe and stable design, methods of construction, minimum standards and use of materials in buildings or structures hereafter erected, enlarged, altered, repaired or otherwise constructed or reconstructed.

Sec. 6-32. - Plumbing code.

The 1980 edition of the North Carolina Plumbing Code (North Carolina State Building Code, Volume II, Plumbing), as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the plumbing code for the city.

Sec. 6-33. - Heating code.

The 1980 edition of the North Carolina Heating Code (North Carolina State Building Code, Volume III, Heating), as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the heating code for the city.

Sec. 6-34. - Electrical code.

The 1972 edition of the North Carolina Electrical Code (North Carolina State Building Code, Volume IV, Electrical), adopting by reference the 1971 edition of the National Electrical Code of the National Fire Protection Association, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the electrical code for the city.

Sec. 6-35. - Residential building code.

The 1968 edition or later edition of the North Carolina Uniform Residential Building Code, as adopted by the North Carolina Building Inspectors Association and as published by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth herein as the residential building code for one- and two-family residential buildings in the city.

Sec. 6-36. - Amendments.

Amendments to the regulatory codes adopted by reference in this article, which are from time to time adopted and published by the agencies or organizations referred to herein, shall be effective in the city at the time such amendments are filed with the city clerk as provided in section 6-38.

Sec. 6-37. - Compliance.

- (a) All buildings or structures which are constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished or moved shall conform to the requirements, minimum standards and other provisions of either the North Carolina State Building Code, General Construction, Volume I or the North Carolina Uniform Residential Building Code, whichever is applicable, or of both if both are applicable.
- (b) Every building or structure intended for human habitation, occupancy or use shall have plumbing, plumbing systems or plumbing fixtures installed, constructed, altered, extended, repaired or

reconstructed in accordance with the minimum standards, requirements and other provisions of the North Carolina Plumbing Code (North Carolina State Building Code, Volume II, Plumbing).

- (c) All mechanical systems consisting of heating, ventilating, air conditioning and refrigeration systems, fuel burning equipment and appurtenances shall be installed, erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements and other provisions of the North Carolina Heating Code (North Carolina State Building Code, Volume III, Heating).
- (d) All electrical wiring, installations and appurtenances shall be erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements and other provisions of the North Carolina Electrical Code (North Carolina State Building Code, Volume IV, Electrical).

Sec. 6-38. - Official copies.

An official copy of each regulatory code adopted in this article, and official copies of all amendments thereto, shall be kept on file in the office of the city clerk. Such copies shall be the official copies of the codes and the amendments.

ARTICLE III. - INSPECTION DEPARTMENT

Sec. 6-63. - Powers of inspection officials.

- (a) Inspectors are hereby authorized, empowered and directed to enforce all the provisions of this chapter and the regulatory codes herein adopted.
- (b) Inspectors shall have the right of entry on any premises within the jurisdiction of the regulatory codes herein adopted at reasonable hours for the purpose of inspection or enforcement of the requirements of this chapter and the regulatory codes, upon presentation of proper credentials.
- (c) Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered or repaired in a hazardous manner, or in violation of any provision of this chapter or any other city ordinance, or in violation of any provision of any regulatory code herein adopted, or in violation of the terms of the permit issued therefor, or in such manner as to endanger life or property, the appropriate inspector may order such work to be immediately stopped. Such order shall be in writing to the person doing the work and shall state the reasons therefor and the conditions under which the work may be resumed.

Sec. 6-64. - Conflicts of interest.

No officer or employee of the inspection department shall be financially interested in the furnishing of labor, material or appliances for the construction, alteration or maintenance of a building or any part thereof, or in the making of plans or specifications therefor, unless he is the owner of such building. No officer or employee of the inspection department shall engage in any work which is inconsistent with his duties or with the interests of the city.

Sec. 6-65. - Records, reports.

The inspection department and each inspector shall keep complete, permanent and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made and all other work and activities of the inspection department. Periodic reports shall be submitted to the city manager and to other agencies, as required.

ARTICLE IV. - ENFORCEMENT

Sec. 6-86. - Contractors—Registration.

Every person carrying on the business of building contractor, plumbing contractor, heating-air conditioning contractor or electrical contractor within the city shall register at the office of the inspection department, giving his name and place of business.

Sec. 6-87. - Same—Bond.

Every person required to register at the office of the inspection department under section 6-86 shall also give a good and sufficient bond in the sum of \$1,000.00, to be approved by the city attorney, conditioned upon faithful performance of duty in doing any work which he may have contracted to do, indemnifying the city against loss in any manner whatsoever for any unskillful or negligent work or conduct in the performance of the duties imposed by the provisions of this chapter or any regulatory code herein adopted, or any damage to any utility lines, streets or sidewalks in the city, or for the use of defective or

improper material in such work, or for any damage which may accrue to any person by reason of any default of the contract, or for the payment of any inspection or other fees required by this chapter.

Sec. 6-88. - Inspection procedure—Generally.

- (a) The inspection department shall inspect all buildings and structures and work therein for which a permit of any kind has been issued as often as necessary in order to determine whether the work complies with this chapter and the appropriate codes. When deemed necessary by the appropriate inspector, materials and assemblies may be inspected at the point of manufacture or fabrication, or inspections may be made by approved and recognized inspection organizations; provided, that no approval shall be based upon reports of any such organization, unless the same are in writing and certified by a responsible officer of such organization.
- (b) All holders of permits, or their agents, shall notify the inspection department and the appropriate inspector at each of the following stages of construction, so that approval may be given before work is continued:
  - (1) A foundation inspection shall be made after trenches are excavated and the necessary reinforcement and forms are in place, and before concrete is placed. Drilled footings, piles and similar types of foundations shall be inspected as installed.
  - (2) A framing inspection shall be made after all structural framing is in place and all roughing-in of plumbing, electrical and heating has been installed, after all fire blocking, chimneys, bracing and vents are installed, but before any of the structure is enclosed or covered. Poured in place concrete structural elements shall be inspected before each pour of any structural member.
  - (3) A fireproofing inspection shall be made after all areas required to be protected by fireproofing are lathed, but before the plastering or other fireproofing is applied.
  - (4) A final inspection shall be made after the building or structure has all doors hung and fixtures set and is ready for occupancy, but before the building is occupied.

Sec. 6-89. - Same—Calls for inspections.

- (a) Requests for inspections may be made to the office of the inspection department or to the appropriate inspector. The inspection department shall make inspections as soon as practicable after requests are made therefor, provided such work is ready for inspection at the time any such request is made.
- (b) Reinspections may be made at the convenience of the inspector. No work shall be inspected until it is in proper and completed condition ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate inspector in the form of a notice posted on the building or given to the permit holder or his agent. Failure to call for inspections or proceeding without approval at each stage of construction shall be deemed a violation of this chapter.

Sec. 6-90. - Same—Street or alley lines.

Where the applicant for a permit proposes to erect any building or structure on the line of any street, alley or other public place, he shall secure a survey of the line of such street, alley or other public place, adjacent to the property upon which such building or structure is to be erected, before proceeding with construction of such building or structure. It shall be the duty of the building inspector to see that the building does not encroach upon such street, alley or other public place.

Sec. 6-91. - Certificates of occupancy.

No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building, after being altered or moved, shall be occupied, and no change of occupancy shall be made in any existing building or part thereof, until the building inspector has issued a certificate of occupancy therefor in compliance with section 153 of the zoning ordinance; provided, that in addition to compliance of the work performed with the zoning ordinance as a prerequisite to issuance, as provided by section 153 of the zoning ordinance, no certificate of occupancy shall be issued until such work has been inspected and found to likewise comply with this chapter and the appropriate regulatory codes.

Sec. 6-92. - Oversight, etc., not to legalize violations.

No oversight or dereliction of duty on the part of any inspector or other official or employee of the inspection department shall be deemed to legalize the violation of any provision of this chapter or any provision of any regulatory code herein adopted.

#### PERMITS

Sec. 6-106. - Required.

- (a) *Building permit.* No person shall commence or proceed with the construction, reconstruction, alteration, repair, removal or demolition of any building or other structure, or any part thereof, without a written permit therefor from the building inspector, issued in compliance with this chapter and the zoning ordinance; provided, that notwithstanding section 151 of the zoning ordinance, no building permit shall be required for work in a single-family residence or farm building the total cost of which does not exceed \$5,000.00, as provided in G.S. 160A-417; and no building permit shall be required for work the total cost of which does not exceed \$100.00 and which does not involve any change of the structural parts or the stairways, elevators, fire escapes or other means of egress of the building or the structure in question, in other buildings. Local board of health approval of property for septic tank is required where the sewage system cannot be connected to the city sewer.
- (b) *Bond for demolition of buildings.* In all cases of removal or demolition of a building or structure, a good and sufficient bond in the sum of \$500.00 shall be posted by the property owner or by his contractor at the time of application for a permit, to insure complete removal or demolition, including all rubble and debris. Failure on the part of the property owner or his contractor to completely demolish, remove and clear the premises, after 30 days' notice by the building inspector, shall be cause for forfeiture of such bond.
- (c) *Plumbing permit.* No person shall commence or proceed with the installation, extension or general repair of any plumbing system, without a written permit therefor from the plumbing inspector; provided, that no permit shall be required for minor repairs or replacements on the house side of a trap to an installed system of plumbing, if such repairs or replacements do not disrupt the original water supply or the waste or ventilating systems. Local board of health approval of property for septic tank is required where the sewage system cannot be connected to the city sewer.
- (d) *Heating-air conditioning permit.* No person shall commence or proceed with the installation, extension, alteration or general repair of any heating or cooling equipment system, without a written permit from the heating-air conditioning inspector; provided, that no permit shall be required for minor repairs or minor burner services or filter replacements of warm air furnaces or cooling system.
- (e) *Electrical permit.* No person shall commence or proceed with the installation, extension, alteration or general repair of any electrical wiring, devices, appliances or equipment, without a written permit therefor from the electrical inspector; provided, that no permit shall be required for minor repair work, such as the replacement of lamps or the connection of portable devices to suitable receptacles which have been permanently installed; provided, further, that no permit shall be required for the installation, alteration or repair of the electrical wiring, devices, appliances and equipment installed by or for an electrical public utility corporation for the use of such corporation in the generation, transmission, distribution or metering of electrical energy or for the use of such corporation in the operation of signals or the transmission of intelligence.

Sec. 6-107. - Application—Generally.

Written applications shall be made for all permits required by this article and shall be made on forms provided by the inspection department. Each such application shall be made by the owner of the building or structure affected or by his authorized agent or representative and, in addition to such other information as may be required by the appropriate inspector to enable him to determine whether the permit applied for should be issued, shall show the following:

- (1) Name, residence and business address of owner.
- (2) Name, residence and business address of authorized representative or agent, if any.

- (3) Name and address of the contractor, if any, together with evidence that he has obtained a certificate from the appropriate state licensing board for such contractors, if such is required for the work involved in the permit for which application is made.

Sec. 6-108. - Same—Accompanying plans and specifications.

- (a) Each application for a building permit shall be accompanied by plot plans, in duplicate, fulfilling the requirements of section 152 of the zoning ordinance.
- (b) Detailed plans and specifications shall accompany each application for a plumbing, heating-air conditioning or electrical permit, when the estimated total cost of the building or structure is in excess of \$20,000.00, and for any other building or structure where plans and specifications are deemed necessary by the appropriate inspector in order for him to determine whether the proposed work complies with the appropriate regulatory codes.
- (c) Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and the plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this chapter and the appropriate regulatory codes. Where plans and specifications are required, a copy of the same shall be kept at the work until all authorized operations have been completed and approved by the appropriate inspector.

Sec. 6-109. - Issuance—Generally.

When proper application for a permit has been made and the appropriate inspector is satisfied that the application and the proposed work comply with the provisions of this chapter and the appropriate regulatory codes, he shall issue such permit, upon payment of the proper fee as provided in section 6-114.

Sec. 6-110. - Same—Limitations.

- (a) No building permit shall be issued for any building or structure, the estimated total cost of which is more than \$20,000.00, unless the work is to be performed by a licensed general contractor.
- (b) No building permit shall be issued for any building or structure, other than a one- or two-family dwelling, the estimated total cost of which is more than \$20,000.00, unless the plans bear the state seal of a registered architect or a registered engineer.
- (c) Where any provision of the General Statutes of North Carolina or of this Code or any other city ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for such work shall be issued unless it is to be performed by such licensed specialty contractor.
- (d) Where detailed plans and specifications are required under this chapter or section 152 of the zoning ordinance, no building permit shall be issued unless such plans and specifications have been provided.

Sec. 6-111. - Revocation.

The appropriate inspector may revoke and require the return of any permit by notifying the permit holder in writing, stating the reason for such revocation. Permits shall be revoked for any material departure from the approved application, plans or specifications; for refusal or failure to comply with proper orders of the inspector; for refusal or failure to comply with requirements of this chapter and the appropriate regulatory codes; or for false statements or misrepresentations made in securing such permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

Sec. 6-112. - Time limitations on validity of plumbing, heating-air conditioning and electrical permits.

All plumbing, heating-air conditioning and electrical permits issued under this article shall expire by limitation six months after the date of issuance, if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any permit which has expired shall thereafter be performed until a new permit therefor has been secured.

Sec. 6-113. - Changes or deviations in work after issuance.

After a permit has been issued, changes or deviations from the terms of the application and permit, or changes or deviations from the plans or specifications involving any work under the jurisdiction of this chapter or of any regulatory code adopted herein, shall not be made until specific written approval of such changes or deviations has been obtained from the appropriate inspector.

Sec. 6-114. - Fees.

Fees for permits shall be based upon the total estimated cost of the proposed work, including all subcontracts, if any, but in no case shall the total estimated cost be less than the market value of similar completed work in the city as determined by the appropriate inspector. Permit fees shall be as established from time to time by the city council. Schedules of such fees shall be maintained on file in the offices of the appropriate inspectors.

Sec. 6-136. - Duties generally of building inspector; order of condemnation.

- (a) Any building or structure or part thereof, partially destroyed or otherwise, which is found by the building inspector to be in such a dilapidated state of disrepair or other substandard condition as to be dangerous to life, health or other property, or to constitute a fire or safety hazard or a public nuisance, shall be declared by the building inspector to be unsafe.
- (b) Such unsafe condition may be caused by defective construction, overloaded structural parts, decay, susceptibility to fire, exits or any other hazardous conditions or circumstances.
- (c) The building inspector shall have authority, and it shall be his duty, to declare all such buildings or structures unsafe and to take appropriate action to have such conditions corrected or removed.
- (d) Such declaration by the building inspector shall constitute an order of condemnation for the purposes of this article.
- (e) The building inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of such building.

Sec. 6-137. - Duty of owner to remedy or demolish; procedure upon failure or refusal of owner to act.

Whenever any building or structure has been condemned by the building inspector, and the existence of such building or structure in a dilapidated state of disrepair or other substandard condition is found and determined by the building inspector or, upon appeal from or report by the building inspector as provided in this article, by the city council, to be dangerous to life, health or other property, or is in such condition as to constitute a fire or safety hazard or a public nuisance, the owner of such building or structure shall demolish and remove the same or remedy such conditions under the regulations and procedures provided in this article. If such owner fails or refuses so to do within the time directed by the building inspector or by the city council, as hereinafter provided, the city council may, in its judgment, cause the same to be demolished and removed or such other steps taken as it may find to be necessary to suppress and abate the nuisance and remove the fire or safety hazard and the danger to life, health or other property found to exist, and specially assess the cost and expense of doing such work against the lot or parcel of land on which such building or structure is located.

Sec. 6-138. - Notice and hearing by building inspector.

- (a) Before any building or structure may be ordered to be demolished and removed as provided in section 6-137, the building inspector shall notify the owner thereof, in writing, by certified or registered mail to the last known address of such owner, or by personal service of such notice by the building inspector or his assistant, or by posting notice as hereinafter provided, that such building or structure is in such condition as appears to constitute a fire or safety hazard or is dangerous to life, health or other property, or is a public nuisance, and that a hearing will be held before the building inspector at a designated place, at a time not later than ten days after the date of such written notice, at which time and place the owner shall be entitled to be heard, in person or by counsel, upon all legal or factual questions relating to the matter and shall be entitled to offer such evidence as he may desire which is relevant or material to the questions sought to be determined or the remedies sought to be effected, and that following the hearing the building inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.
- (b) If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice herein referred to shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least ten days prior to the date fixed for the hearing and a notice of the hearing is published one time in a newspaper having general circulation in the city at least one week prior to the date fixed for such hearing. Such notice shall state the address or location of the building or structure and the time, place and purpose of the hearing.



Sec. 6-139. - Building inspector's order to remedy or demolish.

If, upon the hearing provided for in section 6-138, the building inspector shall find that the building or structure in question is in such a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard or to be dangerous to life, health or other property, or is a public nuisance, he shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy such conditions so found to exist by demolishing and removing such building or structure or taking such other steps as may be necessary to abate the nuisance and remove the hazards, within such period, not less than 60 days, as the building inspector may prescribe; provided, that where the building inspector finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

Sec. 6-140. - Appeal to city council; finality of building inspector's order if not appealed.

The owner of any building or structure ordered by the building inspector to be demolished and removed, or who is directed by the building inspector to take any other steps to abate a nuisance or remove hazards found by the building inspector to exist, shall have the right of appeal from such orders to the city council; provided, that such owner gives notice of appeal to the building inspector at the time of the hearing at which the order is made or, within ten days after such order is made, files with the building inspector and the city clerk a written notice of such appeal. Notice of appeal shall state the grounds therefor. Unless an appeal is taken within the time and in the manner herein prescribed, the action of the building inspector shall be deemed final, subject only to such action as the city council may take as herein elsewhere provided. Where an appeal has been properly taken and notice thereof given in accordance with the provisions of this section, it shall be the duty of the building inspector to report the same to the city manager, who shall cause the matter to be placed on the agenda for action by the city council at its next ensuing regular meeting. The city council shall have the right to continue the hearing of the appeal from time to time, in its discretion. The city council may affirm, modify and affirm, or revoke the order.

Sec. 6-141. - Report of owner's failure to comply with building inspector's order.

If the owner does not appeal from the final order or direction of the building inspector requiring that the building or structure be demolished and removed or the taking of such other steps as may be required to abate the nuisance and remove the hazards, and fails or refuses to comply with such order and direction, it shall be the duty of the building inspector to file a written report thereof with the city manager, who shall cause such report to be placed on the agenda for action by the city council at its next ensuing regular meeting or at some subsequent meeting to which the city council may continue the same. The building inspector shall mail a copy of such report by certified or registered mail to the owner at his last known address or have a copy of such report delivered to such owner. Such report shall specify the date of the meeting of the city council for which the matter will be docketed for action.

Sec. 6-142. - Order of city council to demolish, etc.; assessment of cost against land; lien.

In all cases referred to in this article which reach the city council for action, either upon appeal of the owner from the ruling of the building inspector or upon report of the building inspector that the owner fails or refuses to comply with his order or direction, the city council shall hear the matter, and if it finds and determines that the building or structure in question is in such a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard, or to be dangerous to life, health or other property, or is a public nuisance, and that the owner of such building or structure has failed or refused to abate the nuisance and has failed or refused to have such building or structure demolished and removed, or has failed or refused to take such other steps as may be necessary to abate the nuisance and remove the hazards found to exist, it may cause the demolition and removal of such building or structure to be done or effect such other remedies as may be necessary to abate the nuisance and remove the hazards, and specially assess the cost of such work against the lot or parcel of land on which the building or structure was situated. Such assessment shall constitute a specific lien upon such lot or parcel of land, which may be enforced by an action instituted in the name of the city in the nature of an action to foreclose a mortgage in the case of ad valorem taxes and local improvement assessments.

Sec. 6-143. - Notice of hearing by city council.

In cases in which the building inspector has been unable to give the owner actual notice of hearing in the manner hereinabove provided, and has given such notice by posting and publishing the same as authorized in section 6-138, and the owner has failed or refused to comply with the order or direction of the

building inspector to demolish and remove the building or structure or take such other remedial action as will remove the hazards, and such case is referred to the city council for action, the city council shall, before taking such action, cause to be posted on the outside of the building or structure in question, at least ten days prior to the date fixed for the hearing, and published one time in a newspaper having general circulation in the city, at least one week prior to the date fixed for such hearing, a written notice stating the address or location of the building or structure involved and the time, place and purpose of the hearing, and such other information as the city council may deem advisable.

Sec. 6-144. - Presumption of public danger necessitating summary abatement.

In all cases in which the city council, under authority of this article, causes the demolition and removal of any building or structure to be carried out or directs such other remedial steps to be taken as may be necessary to abate the nuisance and remove the hazards, it shall be conclusively presumed that the public nuisance and the fire and safety hazard and danger to life, health or other property, created and maintained by the continued presence of such building or structure in such condition as is found to exist, constitute a clear and present danger amounting to a situation of emergency involving the public health, safety and general welfare, which requires entry upon private property for the summary abatement and removal of such danger, in the public interest.

Sec. 6-145. - Willful failure or refusal to comply with orders of building inspector or city council; violations.

It shall be unlawful for any person to willfully fail or refuse to comply with any final order or direction of the building inspector or city council made by virtue and in pursuance of this article. Any person violating this article shall, upon conviction, be punished as provided by section 1-9, and every day such person shall willfully fail or refuse to comply with any final order or direction of the building inspector or city council made by virtue and in pursuance of this article shall constitute a separate and distinct offense.

## ARTICLE II. - CEMETERY OPERATION

Sec. 7-17. - Purchase of lots; prices, sale and management of burial spaces.

(a) Individuals desiring to purchase a burial space in the city cemetery must pay the fee designated for such burial space to the finance department of the city prior to use.

- (1) The schedule of fees for cemetery charges shall be established by the city council annually as a part of the fee schedule adopted during the budget process.
- (2) In the absence of an adopted fee schedule, the next preceding fee schedule shall be applied.

(b) The cemetery sexton may close the sale of burial spaces in the cemetery or any portions thereof as may, in the sexton's discretion, promote the orderly development and operation of the cemetery.

- (1) Recognizing that many of the city's cemetery grounds have been in use in excess of a century, and that a significant number of unmarked graves are discovered during cemetery operations, the cemetery sexton is given the authority to close any cemetery or portion thereof when, in the sexton's opinion, the number of usable gravesites is significantly impacted by the number of unmarked graves.

a. Such authority shall carry the ability to determine whether the cemetery or portion thereof shall be closed solely to the sale of future gravesites, or whether no further apparently unused gravesites shall be opened for purposes of interment.

b. In the event that a cemetery or portion thereof has been closed to the opening of apparently unused gravesites, the cemetery sexton may make an exception if, in the sexton's opinion, the likelihood of a gravesite in question being previously occupied but unmarked is low given the information available either from the sexton's records, from information provided by next of kin or parties with knowledge of adjacent gravesites, or from other sources of information which may be available to the sexton.

- (2) The cemetery sexton shall notify the city manager in writing of the decision to close any cemetery or part thereof, and the city manager shall thereafter notify the council.

- (3) In the event that an original purchaser shall have previously purchased a burial space in an area which has been closed to the opening of further gravesites, such original purchaser shall be allowed alternative burial spaces in another city cemetery or, alternatively and at the option of the

original purchaser of the interment rights for a particular gravesite, the original purchaser may receive a refund of the original purchase price paid. This right shall not extend to any individual other than the original purchaser.

- (c) The cemetery sexton may limit the sale of burial spaces to a particular area or section of the cemetery until such time as the sale and use of such section warrants the opening of additional areas.

Sec. 7-18. - Limitation on sale of lots.

- (a) An individual may purchase no more than eight contiguous standard burial spaces, sometimes known as a "family plot" or "multiple grave burial space" at any one time.

- (1) No burial space may be purchased for speculation or sold for a price higher than that paid to the city.
- (2) The city may repurchase from any individual desiring to convey and at the original sale price, burial spaces at any time prior to use.
- (3) The city retains, in all burial spaces, the right to repurchase any lot offered for sale or attempted to be conveyed to any other individual if, in the opinion of the city, recovery of the burial space is necessary for the efficient operation of the cemetery or for any other reason.
- (4) The city shall not be obligated to recognize any attempt to convey or transfer burial spaces unless the same shall have been submitted to and approved by the city on the appropriate form.

- (b) Burial spaces will be sold to funeral homes or mortuaries only for purposes of interment of a specific individual, and may not be held by any individual or entity for speculation or resale.

- (1) The sale of burial spaces to a funeral home or mortuary is intended as a convenience to the individuals and families affected by the death of a loved one, and to allow commercial entities to make arrangements on their behalf.
- (2) Any funeral home or other commercial entity making arrangements for the purchase of a burial space shall remain responsible to the city for payment of fees associated with such purchase.
- (3) Cemetery deeds intended to convey interment rights in a burial space shall be issued only to individual human beings, and not to any artificial or corporate entity.

- (c) *Use of burial spaces.*

- (1) Burial spaces shall not be used until the fee for the same shall have been paid in full.
- (2) A burial space immediately adjacent to a used or reserved space may be reserved for a period of 60 days from the date of use of the initial space. If the fee for such space shall not be paid within such time, the burial space shall be released and may be resold as any other lot.

- (d) *Certificates and deeds.*

- (1) Upon payment of the sum required, the finance director, or the finance director's designee, shall advise the cemetery sexton of the sale of the designated burial space.
- (2) A cemetery deed, in the case of a burial space in the ground, or columbarium niche purchase agreement, as may be appropriate, shall be prepared and executed by the required municipal officials.
  - a. A cemetery deed shall be signed by the mayor or city manager, and shall be attested by the city manager or city clerk. The city manager may not sign as principal and attest the same document.
  - b. The city clerk shall retain records of the issuance of cemetery deeds. The primary responsibility for maintaining such records and physical location of the same may be assigned to other city departments with the approval of the city manager, although the city clerk shall retain ultimate responsibility for maintaining the records.
- (3) The purchaser shall remain responsible for filing the cemetery deed with the registrar of deeds of the county where the cemetery is located.

- a. The deed need not be filed with the register of deeds to be effective as between the city and the purchaser. However, in order to fully protect the purchaser's rights, it is strongly encouraged that the deeds be filed with the register of deeds. The purchaser is responsible for the expense of filing this document.
  - b. Columbarium niche purchase agreements shall not be recorded with the county registrar of deeds, but records of such sale shall be maintained by the city clerk.
- (e) In the event of the loss or destruction of an original cemetery deed prior to the filing of the same with the registrar of deeds, the city clerk, upon concurrence with the staff attorney, may issue a replacement cemetery deed to the original holder without charge.
  - (1) If a replacement cemetery deed is requested by the original purchaser or a surviving spouse of the original purchaser remains alive, the replacement cemetery deed shall be reissued in the name of the original purchaser or the surviving spouse of the original purchaser, as may be appropriate.
  - (2) If the original purchaser is deceased and there is no surviving spouse of the original purchaser, a replacement cemetery deed may be issued to an individual purporting to be entitled to the burial space by reason of either being named as an heir, devisee or legatee of the burial spaces pursuant to a properly probated will or pursuant to the laws of intestate succession of the State of North Carolina.
    - a. In the event that an individual is claiming to be entitled pursuant to the laws of intestate succession, the burden of providing proof of such entitlement rests with the individual making such claim.
    - b. Prior to the issuance of a replacement cemetery deed to an individual claiming pursuant to a will or intestate succession, such individual shall execute an agreement to indemnify the city for any costs or loss incurred, including reasonable attorney fees, in the event that a challenge is raised as to ownership of the burial space.
- (f) Conveyance of a burial space in a city cemetery, whether in the earth, a mausoleum or columbarium niche, does not imply ownership of the underlying fee estate, but instead carries only the right to use a location for the interment of a deceased human.
- (g) The use of any cemetery property is limited by the provisions of the North Carolina General Statutes, Hickory City Code, and any rules or regulations promulgated by any regulatory entity having jurisdiction for the safe, efficient and respectful use of the city cemetery.

Sec. 7-19. - Descent of burial rights.

- (a) Inasmuch as questions will arise as to the rights of kindred of the original purchaser of a burial space to inter upon said burial space after the original purchaser's death, it is hereby declared, in order to make such rights more certain and definite, as follows:
- (b) The original purchaser may stipulate who is to receive the use of any remaining burial spaces.
  - (1) Such designation may be made in writing, either at the time of purchase or at a later date, signed by the original purchaser and properly attested.
  - (2) Any such direction must carry an agreement to indemnify the city for any costs incurred due to the challenge of such action.
- (c) Should the original purchaser of a lot expire without having designated the persons to be buried therein or without having transferred the burial right to such burial space to another person, then the right of burial on said burial space shall pass pursuant to the laws of intestate succession of the State of North Carolina.
  - (1) The city shall be bound by any decree of a court of competent jurisdiction entering an appropriate finding and order identifying the individual entitled to the burial rights of any unused burial space.

- (2) In the event that a burial space may be owned by a number of individuals upon the demise of a prior owner or owners, the following procedures shall occur in determining the interment rights to a burial space:
  - a. Two-thirds of the living descendants of the original purchaser must, by an agreement in writing, duly signed, notarized, and deposited with the city clerk, designate who has burial rights in said burial space.
  - b. Such agreement must be accompanied by satisfactory evidence in writing that the persons signing the same are surviving heirs of the original purchaser.
  - c. Each such agreement must carry an indemnification from each signatory thereto indicating that the city will be held harmless from any claim whatsoever, including court costs and reasonable attorney fees, for honoring such request.
- (3) In the event the original purchaser of a burial space has not made such designation and the descendants have not entered into such an agreement, then interments in said burial space shall be made in the following order:
  - a. Space must be reserved for any surviving spouse, regardless of whether such surviving spouse shall remarry after the death of the original purchaser, and such surviving spouse shall have first right to interment to the exclusion of all other persons.
  - b. The direct lineal descendants of the original purchaser in nearest degree of blood or consanguinity shall have next right of burial in the order of their death, provided that grandchildren of the purchaser and kindred of more remote degree shall not be buried on said lot without the written consent of at least two-thirds of all the then living lineal descendants of nearer degree of blood or consanguinity to the purchaser.
  - c. If there remain unoccupied spaces after providing for interments as aforesaid or if there be no lineal descendants, then collateral kindred of the original purchaser in the nearest degree of blood or consanguinity are entitled to interment therein.
- (4) Notwithstanding the foregoing provisions, in the event that more than three individuals would be entitled to interment rights in a particular burial space, the city may repurchase said burial space from such individuals, with or without their consent, by paying the greater of either the original purchase price of the burial space or \$100.00, divided among such individuals as their interests may appear.
- (d) In determining the ownership of interment rights, the city shall not at anytime be bound to recognize any person as grantee or owner of any rights except the original purchaser named in the original conveyance and successors as herein specified, nor shall the city at any time be bound to recognize any agreement or understanding affecting such rights not in compliance with the provisions of this chapter and filed with the city clerk.

Sec. 7-20. - Errors.

- (a) The city reserves and shall have the right, without any liability or damages therefore, to correct errors that may be made by it in allowing interments, disinterments or removals.
- (b) The city shall further have the right to correct errors in the description, transfer or conveyance of any burial space, either by canceling such conveyance and substituting and conveying in lieu thereof other burial space of equal value and similar location as far as reasonably possible, or, in the sole discretion of the city, by refunding the price paid for such burial space or spaces.
- (c) In the event the error shall involve the interment of the remains of any person in such space, the city reserves and shall have the right to remove and re-inter the remains to such other space of equal value and similar location as may be substituted and conveyed in lieu thereof.

ARTICLE III. - CEMETERY MANAGEMENT AND REGULATIONS

Sec. 7-36. - Cemetery sexton's duties.

No activities shall occur in the cemetery without the acquisition, in advance, of the appropriate permit for the same and oversight by the cemetery sexton or the cemetery sexton's designee.

Sec. 7-37. - Supervision of interments and disinterments.

- (a) The cemetery sexton shall supervise the digging of all graves in the cemetery and the disinterment or exhumation of any bodies therein interred whether in the earth, in a mausoleum or other crypt, or in a columbarium niche.
  - (1) No interment shall occur until the appropriate fee has been paid to the city, as established in the fee schedule, and a permit for the interment shall have been obtained from the cemetery sexton.
  - (2) No interment shall occur if any dispute exists regarding interment rights associated with a particular burial lot.
- (b) The cemetery sexton shall be advised at least 24 hours prior to an interment or other event to be held in any cemetery. In the event of an interment scheduled for Monday or the day after any municipal holiday, notice must be given not later than noon of the preceding workday.
- (c) The normal hours of the cemetery sexton shall be Monday through Friday, from 8:30 a.m. until 3:00 p.m., except for designated municipal holidays or in cases of inclement weather.
  - (1) No interments shall be permitted on New Years Day, Good Friday, Easter Sunday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday subsequent to Thanksgiving Day, Christmas Eve or Christmas Day.
  - (2) No funeral procession or rite shall continue for a period of more than three hours in the cemetery, and all proceedings must be concluded not later than 7:00 p.m.
  - (3) No person shall enter the cemetery after the same shall have been closed for the day. Entry in the cemetery after visiting hours shall constitute trespass.

ARTICLE IV. - CONDUCT AND ACTIONS WITHIN CEMETERIES

Sec. 7-46. - Regulation of other contractors in the cemetery conduct within the cemetery.

- (a) It is the policy of the city that regardless of race, religion, creed or other belief, those interred there and their families and loved ones are entitled to expect that the cemetery shall be treated as a sacred place, deserving of the respect of all.
  - (1) Events occurring at the cemetery are likely to be of such a nature that they cannot be delayed or performed at another time.
    - a. If a conflict exists between differing individuals who have legitimate purposes in the cemetery, those with the most immediate need, as determined by the cemetery sexton after consultation with any individual deemed necessary by the cemetery sexton, shall have the right to request that other individuals be moved a reasonable distance from the first location so as to no longer disrupt proceedings.
    - b. An interment service shall be deemed to have the highest priority of any event occurring in the cemetery.
  - (2) The cemetery is municipal property, and as such is subject to all rules, regulations or restrictions generally applicable to municipal facilities whether set forth in this chapter or elsewhere.
    - a. Individuals who are unwilling or unable to act in accordance with these regulations may be ejected or temporarily or permanently banned from the cemetery.
    - b. Any individual ejected or banned from the cemetery shall be entitled to appeal such determination in accordance with the appeal procedure established in the appropriate city policy.
- (b) Conduct with respect to funerals. Employees of the city as well as employees of outside contractors who may be working in the cemeteries should stop work and stand respectfully if a funeral procession should pass near them, if the same may be reasonably and safely done. If working in the immediate vicinity of a funeral procession, employees must stop work during the committal service and withdraw to a respectful distance.

- (c) All persons entering the cemetery shall have a bona fide purpose for doing so, including, but not limited to, visiting a burial space, attending ceremonies or services held in the cemetery, or such other purpose as may be reasonably related to the cemetery.
- (1) Loud or boisterous conduct shall not be allowed in the cemetery.
    - a. Any activity of a noisy nature by any person in any area of the cemetery shall cease during ceremonies or services.
    - b. Persons within the cemetery grounds shall use only the avenues, walks, alleys, roads and streets and shall not walk across gravesites or on the grass unless that is the only way to reach a burial space.
    - c. Picnicking, lunching, camping, hunting, gathering berries, fruits or nuts, running, romping, playing, loitering, lounging, lying full length or sitting on the ground shall not be allowed in the cemetery.
    - d. No person shall sit or climb on any mausoleum, monument, marker or fixture of any kind.
    - e. No chairs, furnishings, coverings, tents or awnings will be allowed in the cemetery except when installed by a funeral home preparing to conduct services in the cemetery, and the same shall be removed from the cemetery as soon as reasonably possible after the services.
  - (2) The scratching, marring, defacing, injuring or otherwise disturbing of any monument or marker, mausoleum, floral arrangement, building or other thing being a part of or placed or used in connection with the cemetery, or any burial space, pathway, street, alley or roadway therein is prohibited.
  - (3) No person shall put, deposit or leave any paper, rubbish, dead or wilted flowers, unwanted artificial floral arrangements or any part thereof, shrubs, plants, branches or any other unwanted thing on any burial space, pathway, street, alley or roadway or any other place in the cemetery, except in receptacles provided for that purpose.
  - (4) No dogs or other pets shall be allowed in the cemetery at any time.
  - (5) Except for law enforcement officers and special ceremonies, horses are not permitted in the cemetery.
  - (6) No person shall fish, hunt, trap, molest or kill any birds, water fowl, game or animal of any kind in the cemetery, except an authorized animal control officer of the city or the state, acting in the performance of such officer's duties to control such birds, water fowl, game or other animal.
  - (7) No commercial advertising shall be allowed in the cemetery at any time.
    - a. There shall be no display or distribution of signs, cards, handbills, circulars, or anything relating to any business, profession, office or other commercial enterprise, except, identifying information regarding a funeral home conducting services in the cemetery may be allowed either to direct individuals to the appropriate burial space, or as is customarily included on memorial folders.
    - b. Soliciting by any party for the sale of decorations, plants, floral arrangements or any other item or purpose is prohibited within the cemetery.
  - (8) No individual shall peddle, beg, or solicit for any purpose, whether charitable or commercial, at any time.
  - (9) No individual may play games or engage in similar conduct in the cemetery.
  - (10) No individual may protest, picket, distribute leaflets or otherwise engage in similar conduct in the cemetery.
  - (11) Intoxicating beverages or other controlled substances are prohibited within the cemetery.
  - (12) Firearms are prohibited in cemeteries, other than for honor guards at military funerals, special ceremonies, police officers or security guards.

- (13) Gates of cemeteries will open at approximately 8:30 a.m. Monday through Saturday, and will be closed at approximately sundown.
- a. All persons must enter and leave the cemeteries through designated entrances only.
  - b. Vehicular traffic must use only designated roads.
  - c. No traffic of any kind should be permitted to pass immediately by a location where a committal service is being held.
  - d. Cemetery roads are not to be used as a shortcut or in lieu of other public streets or highways.
  - e. Speed limits within the cemetery shall be as established in the Hickory Traffic Ordinance, and shall be posted.
  - f. Skateboards, roller skates, and scooters, whether motorized or manual, are prohibited in the cemetery. Bicycles, motorcycles and mopeds must remain on paved roadways and otherwise obey applicable traffic ordinances.
- (14) No individual shall be allowed to take photographs during an interment or during the period three hours prior to beginning or three hours subsequent to the completion of an interment, other than a member of the family of the person interred or their duly authorized agent.
- a. The city reserves the right to permit pictures of a burial space, monument, marker or any other part of the cemetery at any other time.
  - b. A representative of the funeral home directing an interment service may take photographs during this period if necessary to protect the interest of the funeral home, or if done at the request of a member of the family.
- (15) The conduct of genealogical research, whether or not the individual conducting such research is related to any individual interred in the cemetery, shall be considered a bona fide purpose as long as:
- a. The research is being conducted by not more than three persons in the cemetery at any particular time, except in the case of classes or instruction in genealogical research being presented by or in conjunction with any public library or institution of higher learning, in which case classes of no more than 20 persons, including the instructor or instructors may be allowed upon receipt of prior approval by the cemetery sexton; and
  - b. The research is being conducted by individuals over 18 years of age, or if involving individuals younger than 18, under the direction of a responsible adult over the age of 18; and
  - c. The research is being conducted during normal operating hours of the cemetery.

Sec. 7-47. - Motor vehicles.

- (a) All motor vehicles operated within the cemetery are required to follow any posted regulatory or traffic control devices, which shall control over the regulations set forth herein. In the absence of specific traffic control devices, the regulations set forth herein shall control.
- (b) All vehicles shall strictly observe a speed limit of ten miles per hour inside the cemetery.
- (c) No vehicle shall be driven across or upon any burial space or lawn, except as necessary for operations in the cemetery with the permission of the cemetery sexton.
- (d) No vehicle shall be parked or left upon any driveway or roadway within the cemetery at such location or in such position as to prevent any other vehicle from passing the stopped vehicle. If so parked or left, the vehicle may be towed without further notice and at the vehicle owner's expense.
- (e) No vehicle may make a complete or partial reverse turn on any road or driveway within the cemetery. Vehicles must continue forward to the next intersection of the drive before changing direction of progress.
- (f) The city may exclude or limit vehicles from the grounds when the cemetery is unusually crowded.



- (g) No commercial vehicle of any kind may enter the cemetery or use the roadways through the cemetery, except those commercial vehicles which have specific business in the cemetery, and they must obtain permission from the cemetery sexton prior to entering the cemetery.

#### ARTICLE V. - MAUSOLEUMS, MONUMENTS AND MARKERS

##### Sec. 7-61. - Mausoleums.

- (a) No private mausoleums or vaults shall be erected on plots or lots within the cemetery unless said plots or lots are purchased for the particular purposes of erecting such mausoleums or vaults in an area designated as such by the cemetery sexton, and any mausoleums or vaults erected must be located on such plots or lots in such a way that it does not interfere with any of the surrounding property or landscape.
- (b) Family mausoleums must be located on not less than two nor more than ten consecutive burial lots.
- (c) Family mausoleums may not be designed to hold more than 12 standard caskets.
  - (1) Not more than one row containing four caskets may be below grade.
  - (2) Not more than three rows containing four caskets may be above grade.
- (d) Prior to the construction of any family mausoleum, a building permit must be obtained from the city and plans must be submitted to the city engineer for approval.
  - (1) All construction of family mausoleums must comply with the applicable provisions of the North Carolina Building Code.
  - (2) At the time a permit is issued for construction of a family mausoleum, the applicant must deposit with the city a bond, equal to the cost of purchase and construction of the family mausoleum, to be held to insure completion of the structure.
- (e) A family mausoleum, whether constructed above or below ground, must be provided with an appropriate system of ventilation and with crypts entirely and separately enclosed independent of the walls thereof, arranged so that when an interment occurs any crypt may be opened without the requirement of opening any other crypt, and further so that each crypt, after use, may be hermetically sealed.
- (f) A family mausoleum must be so located on the underlying burial lots that no grave will be within three feet of the edges of the base of the family mausoleum.
- (g) The city reserves the right, in the event that any family mausoleum shall be damaged or fall into disrepair such that it is unsightly or unsafe, to disinter any remains located therein, demolish or remove the mausoleum, and re-inter the remains on the site to the extent possible on the site where the family mausoleum was located.
  - (1) Prior to taking the action described above, the city shall attempt to give notice to any known interested parties at least ten days prior to demolition, in order to allow the interested parties to take remedial action.
  - (2) Any materials which may be salvaged, or unused lots which exist after removal of a family mausoleum, may be sold or disposed of to provide funds to offset the costs of such demolition and re-interment.
- (h) Family mausoleums must provide space, visible to the exterior of the structure, identifying all remains located therein, including the full name, date of birth and date of death of individuals located therein through permanent inscription etched into the exterior material of the mausoleum or by permanent attachment of a bronze plaque or plaques.

##### Sec. 7-62. - Monuments or benches.

- (a) Either one monument or one bench may be allowed on a multiple grave burial space under the conditions set forth in this section.
- (b) All monuments or benches must be constructed of marble, granite or bronze.

- (1) No monuments may be constructed of wood, iron, rough or unworked stone, or any other material which is subject to degrade due to exposure to the elements.
  - (2) Synthetic materials which provide an appearance similar to that of marble, granite or bronze may be approved by the cemetery sexton as long as such materials are warranted by the manufacturer to be substantially as durable as their natural counterpart and their appearance is harmonious with other monuments and benches in the cemetery.
- (c) Any monument currently existing in the cemetery shall be allowed to remain regardless of whether it meets the criteria of this chapter, so long as it is in good condition and does not constitute a health or safety hazard.
- (1) Monuments which are repaired or restored may be returned to their original size and configuration, regardless of whether they comply with the criteria of this chapter, so long as the condition to which it is being restored does not constitute a health or safety hazard. Monuments which are replaced must comply with the requirements of this chapter.
  - (2) Monuments which have been ordered prior September 1, 2004, and which are delivered and installed in the cemetery prior to December 31, 2005, shall be deemed conforming and allowed, regardless of whether they shall meet the criteria of this chapter, so long as they do not constitute a health or safety hazard.
  - (3) In the event of the repair or restoration of a monument, the same shall be installed in accordance with the criteria set forth in this chapter with regard to location, ground preparation, foundation and other criteria established to insure the safe and stable installation of the monument, regardless of the original placement or method of installation.
- (d) All monuments must comply with the requirements set forth herein.
- (1) Monuments for two, four or six contiguous burial spaces comprising a single multiple grave burial space shall be not larger than two feet, eight inches high by five feet, zero inches long by ten inches thick, resting on a stone base not more than two feet, zero inches wide by seven feet, zero inches long by eight inches thick, set in a concrete foundation as required in this chapter.
  - (2) Monuments for eight consecutive burial lots shall meet the above requirements, except that they may be a maximum of eight feet, zero inches long, with the base size adjusted proportionally.
  - (3) Each monument must be supported by an appropriate foundation, created of structural concrete poured in place to a minimum depth of four inches below grade, or to a depth sufficient to support the monument, whichever is greater, and which leaves no visible margin above grade around the base of the monument.
- (e) All benches must be constructed of granite, marble, or bronze, and must be not larger than 16 inches wide by 48 inches long, and an appropriate height for an adult to sit comfortably thereon.
- (f) Subsequent to September 1, 2004, only one monument and one bench will be allowed on a multiple grave burial space comprised of four or more burial lots.
- (1) Either one monument or one bench will be allowed on a multiple grave burial space comprised of two or three burial spaces.
  - (2) Neither a monument nor a bench will be allowed on a single burial space.
- (g) Monuments shall be generally centered on the multiple grave burial space which they serve. The cemetery sexton may direct reasonable variations in location to accommodate appearance, maintenance or other functions of the cemetery.
- (1) Individual markers which comply with the requirements of this chapter may be placed over each burial space, in addition to the monument serving a multiple grave burial space.
  - (2) A burial space in a multiple grave burial space may contain, at most, one marker for a standard burial space plus one marker for an infant grave.

- (a) Only flat markers, set horizontal to the grade in such a manner as to permit mowers and equipment to pass over them without damage to the marker and without adjustment to the equipment, will be allowed on single burial lots, to mark the interment of cremated remains, or to mark infant graves, subject to the conditions set forth in this chapter.
- (b) All markers must be constructed of marble, granite or bronze.
  - (1) No markers may be constructed of wood, iron, rough or unworked stone, or any other material which is subject to degrade due to exposure to the elements.
  - (2) Synthetic materials which provide an appearance similar to that of marble, granite or bronze may be approved by the cemetery sexton as long as such materials are warranted by the manufacturer to be substantially as durable as their natural counterpart and their appearance is harmonious with other monuments and benches in the cemetery.
- (c) Any marker currently existing in the cemetery shall be allowed to remain regardless of whether it meets the criteria of this chapter, so long as it is in good condition and does not constitute a health or safety hazard.
  - (1) Markers which are repaired or restored may be returned to their original size and configuration, regardless of whether they comply with the criteria of this chapter, so long as the condition to which it is being restored does not constitute a health or safety hazard. Markers which are replaced for any reason must comply with the requirements of this chapter.
  - (2) Markers which have been ordered prior September 1, 2004, and which are delivered and installed in the cemetery prior to December 31, 2005, shall be deemed conforming and allowed, regardless of whether they shall meet the criteria of this chapter, so long as they do not constitute a health or safety hazard.
  - (3) In the event of the repair or restoration of a marker, the same shall be installed in accordance with the criteria set forth in this chapter with regard to location, ground preparation, foundation and other criteria established to insure the safe and stable installation of the marker, regardless of the original placement or method of installation.
- (d) All markers must comply with the requirements set forth herein.
  - (1) Markers for single graves or cremated remains may be a maximum of 18 inches by 36 inches.
  - (2) Markers shall be installed flat against the grade, so that mowers and other equipment may pass safely over them, except for markers in a multiple grave burial space which are being matched to adjacent burial lots, in which those located either at the head or the foot of the grave may be installed to match, as nearly as reasonably possible, those adjacent markers.
  - (3) Any vase intended to hold decorations or floral arrangements shall be constructed of marble, granite, or bronze and must be permanently incorporated into the marker or its foundation and must fit within the allowable space for the marker.
  - (4) Each marker must be supported by an appropriate foundation, created of structural concrete poured in place to a minimum depth of four inches below grade, or to a depth sufficient to support the marker, whichever is greater, and which leaves no visible margin above grade around the base of the marker.
- (e) Subsequent to September 1, 2004, a maximum of four markers will be allowed on a single burial space used for an adult interment.
  - (1) In the absence of a monument, the marker shall normally be located at the head end of the burial space.
  - (2) Memorial markers, to commemorate individuals buried elsewhere or whose exact burial location is unknown, may be placed over single burial spaces occupied by others if desired by the owner.
- (f) Only markers located either at the head or the foot of the burial space may have vases that protrude above grade incorporated into them.

- (g) Markers shall generally be located either at the head or the foot of the burial lot. The cemetery sexton may direct reasonable variations in location to accommodate appearance, maintenance or other functions of the cemetery.
- (h) No marker shall be removed from any burial lot without first obtaining a permit for the same from the cemetery sexton.
  - (1) No marker shall be removed from any burial lot until arrangements have been made, including payment of the full purchase price, for the installation of a replacement marker.
  - (2) In the event that it is necessary to move or remove any marker to allow the opening, closing or maintenance of any adjacent burial lot, the cost of such moving or removing shall be born by the owner of the burial lot with the marker which must be moved or removed.
- (i) Burial spaces which are marked with a leger or slab may not have an additional marker installed.

#### ARTICLE VI. - COLUMBARIUM

##### Sec. 7-77. - Inurnment and removal.

- (a) Inurnments may occur only during normal cemetery business hours and when either the cemetery sexton or a designated representative is available to oversee the opening and closing of the niche.
  - (1) The cemetery sexton may limit the number of openings/closings scheduled for a particular day to conform to staffing abilities.
  - (2) The fee for opening and closing a niche is as established in the city fee schedule.
  - (3) Only the cemetery sexton or the cemetery sexton's designee may open or close columbarium niches, and then only under the direction of a licensed funeral director.
- (b) Each niche shall contain two spaces, intended to contain the cremains of one human in each space.
- (c) No items shall be allowed to be placed in any niche, or in any container placed in any niche, other than cremated human remains and any identifying information as required by the laws of the state.
- (d) Urns may be made of metal, glass, wood, or plastic, but may not be made of cardboard or any other material not reasonably designed to contain the remains in the event the same must be transported.
  - (1) Urns must be a rigid container which does not exceed a size of 11 inches tall by 11 inches wide by five inches deep, and which is specifically intended for the permanent containment of cremated human remains.
  - (2) Urns must be sealed under the direction of a licensed funeral director. If any personal items or memento (jewelry, etc.) are to be included, the same must be placed in the container prior to sealing.
  - (3) Urns must have a flat bottom which allows them to remain stable and upright.
  - (4) Each urn must have, either permanently affixed to the outside or within the sealed container, the identity of the remains contained therein.

##### Sec. 7-78. - Removal of cremains.

- (a) A surviving spouse or lawfully appointed personal representative of an estate may remove cremated remains from a niche after inurnment upon payment of any fees associated with opening and closing the niche and any other expenses associated with such action.
- (b) Other individuals will be allowed to remove remains from a niche only upon a showing of lawful authority to do so and after posting an indemnity to the city in an amount of not less than \$5,000.00, and upon further agreeing to indemnify the city for all costs and expenses, including reasonable attorney fees, associated with such action and compliance with all requirements of state, municipal or other requirements of law.

##### Sec. 7-79. - Decorations and exterior appearance.

- (b) No flowers, vases, decorations or memorial items may be attached to the columbarium, any stone plate or identifying plaque at any time, including Easter, holiday or memorial seasons.

- (1) Floral arrangements may be attached to nearby memorial areas.
- (2) Floral arrangements will be removed and discarded according to the provisions of this chapter.

ARTICLE VII. - SHRUBS, PLANTINGS AND FIXTURES

Sec. 7-96. - Plantings and trees.

- (a) The indiscriminate planting of trees and shrubs in the cemetery is prohibited.
  - (1) Only such landscaping as shall be directed by the cemetery sexton shall be allowed in the cemetery. Individual owners of burial lots shall not install permanent plantings at any location in the cemetery.
  - (2) Any planting or sowing done within the cemeteries in violation of this section will be immediately removed without notice, and the plant materials may be discarded or otherwise used by the cemetery sexton.
  - (3) The cemetery sexton shall have the right to trim, prune, remove or destroy, in whole or in part and without notice, all trees, shrubs, plants, herbage of any type or other things which, in the cemetery sexton's opinion, are diseased, unsightly, dangerous, detrimental, undesirable or otherwise objectionable or renders access to any lot inconvenient.
- (b) No trees or shrubs shall be trimmed, pruned, cut, broken, removed, destroyed or otherwise modified by any individual except the cemetery sexton or individuals acting under the cemetery sexton's direction.
- (c) The cemetery sexton shall have the authority, after consultation with the appropriate resource persons, to prune, trim, or remove any tree, shrub or other plant which may become dangerous or detrimental to adjacent burial lots, paths, alleys, roads, or individuals lawfully using the cemetery.
  - (1) The cemetery sexton shall have no obligation to remove trees, shrubs or other plants simply because the same shall have overgrown or invaded any burial lot or other location within the cemetery.
  - (2) The city shall not be responsible for the growth of, or damage to, any planting, irrespective of the cause of origin, either within or beyond its control.

Sec. 7-97. - Curbs, coping and fencing.

- (a) No coping, curbing, fencing, hedging, borders, corner posts or enclosures of any kind shall be permitted around any burial space in the cemetery.
- (b) Any poured-in-place coping, curbing, fencing, hedging, border, corner post or enclosure at grade existing as of July 1, 2005 shall be allowed to remain regardless of whether it meets the criteria of this chapter, so long as it is in good condition and does not constitute a health or safety hazard.
- (c) Any coping, curbing, fencing, hedging, border, corner post or enclosure at grade which is removed or falls into disrepair shall not be replaced after the same is removed.
- (d) No coping, curbing, fencing, hedging, border, corner post or enclosure comprised of modular or pre-cast segments shall be allowed around any burial space in the cemetery.

ARTICLE VIII. - MEMORIALS AND DECORATIONS

- (1) Floral arrangements must be placed either on top of the monument or marker, and not on the grass adjacent thereto.
- (2) Vases to contain a floral arrangement must be of marble, granite or bronze, and must be permanently affixed to the monument or marker.
- (3) Vases which drop into a cavity in the ground flush with the grade may be placed immediately in front of a memorial or marker.
  - a. Such vases must be set in concrete flush with the grade and extending no more than 12 inches from the memorial or marker.

- b. Such vases may only be used during the Easter, holiday or memorial seasons, and must be retracted into the ground during the mowing season, unless such vase is incorporated into a permanent foundation of the monument or marker and does not interfere with mowing or grounds maintenance.
- (4) No floral arrangements may be displayed in glass containers at any time.
- (5) Floral arrangements attached to a monument must be securely affixed to the monument in such a way as to prevent them from becoming dislodged by the weather in normal conditions.
- (i) Items such as vases which are not integral to a monument or marker, trinkets, shells, toys, metal sculpture, ornaments, chairs, glass crockery, wood or iron items of any type, bird houses, figurines of any type, balloons, music boxes, wind chimes, metal or wooden poles, artificial lights (either solar or battery operated), stuffed animals, or Shepard's Crooks holding any of these or similar items, are prohibited in the cemetery.
  - (1) Prohibited items which are discovered in the cemetery will be removed by the sexton and discarded without notice.
  - (2) Flags not exceeding eight inches by 12 inches, on stakes not more than 18 inches long, honoring individuals who have served in the Armed Services of the United States of America or the Confederate States of America or in any fraternal or eleemosynary organization with a history of displaying flags on the graves of members shall be allowed during Easter, holiday or memorial seasons, and up to seven days preceding and seven days following organized memorial services held in honor of such organization in the cemetery.
- (j) Only the cemetery sexton or the individual who has placed a prohibited item on a burial space shall be authorized to remove the same.
- (k) The cemetery sexton may remove and discard or otherwise dispose of, without notice, any floral arrangement which becomes faded, wilted, or otherwise unsightly.
- (l) The cemetery sexton may discard or otherwise dispose of, without notice, any floral arrangement which is not properly secured to a monument or which has become dislodged from a vase, regardless of the reason that the same may have become dislodged or unattached, except in the event that it shall have become dislodged or unattached through the action of the cemetery sexton, in which event the cemetery sexton shall replace or reattach the floral arrangement, as may be appropriate.
- (m) Floral frames which are clearly marked with identifying information of the florist of origination may be retrieved by the florist within 30 days subsequent to placement at a burial space either at the time of interment or during the Easter, holiday or memorial seasons.
  - (1) The cemetery sexton shall have no obligation to notify the florist of the existence or availability of the frames.
  - (2) The cost of retrieving the frames shall remain with the florist.
  - (3) If no florist has appeared to retrieve the frames after the 30-day period, the cemetery sexton may dispose of them without notice in any manner deemed appropriate, including releasing them to another florist or individual requesting them.

#### ARTICLE IX. - INTERMENT AND DISINTERMENT

##### Sec. 7-128. - Casket required.

- (a) For all interment in the earth, or entombment in a mausoleum, the body must be contained in a casket sufficiently durable in construction and workmanship so as to contain and support the remains while being transported and during interment, and to encase the remains to protect those involved with the interment from exposure.
- (b) Containers must be of a rigid material. Cloth or fabric containers or pouches are not allowed.
- (c) Cardboard or paper fiber containers are not allowed.
- (d) All remains to be entombed in a mausoleum must be embalmed.

Sec. 7-129. - Outer burial container.

- (a) Prior to interment, any burial space to be used in conjunction with a standard casket shall have an outer burial container installed to prevent the collapse or settling of the earth surrounding the burial space.
- (b) No outer burial container is required for interment of an infant casket.
- (c) No outer burial container is required for interment of cremains.

Sec. 7-130. - Interment.

- (a) After each interment, burial spaces in the earth shall be filled, thoroughly tamped, and sod replaced with the top of the grave left even with the surrounding grade of the cemetery.
- (b) All waste shall be removed from the cemetery or placed in an approved location as designated by the cemetery sexton.
- (c) No dirt or fill material shall be added or removed from the cemetery without the express direction of the cemetery sexton.
- (d) The responsibility of the funeral director shall end when the grave has been properly closed.

Sec. 7-131. - Disinterment.

- (a) No body will be disinterred without a properly completed permit for disinterment obtained from the county health department, and any other permits required by any body or organization having regulatory authority over the same.
- (b) No disinterment shall occur without having first obtained a permit for the same, and paying the required fee therefore, from the cemetery sexton. The fee shall be established annually in the city fee schedule.
- (c) No disinterment shall occur except under the supervision of a licensed funeral director who shall agree to indemnify and hold the city harmless from any costs or liability whatsoever, including court costs and attorney fees incurred as the result of any litigation which may occur as the result of such disinterment.
- (d) Other than at the request of law enforcement agencies or any regulatory body of the State of North Carolina or the United States of America, no disinterment shall happen without seven days' prior notice in writing to the cemetery sexton.
- (e) No disinterment shall occur after 4:00 p.m. on any weekday or on Saturday, Sunday, or any municipal holiday or other day as defined in section 7-2 of this chapter.

Sec. 7-132. - Installation of mausoleums, monuments and markers.

- (a) All persons are required to acquire a monument installation permit for each monument, marker, ledger, mausoleum or crypt installed within the cemetery.
  - (1) Procurement of this permit shall be made through the cemetery sexton.
  - (2) A fee for the permit shall be determined by the city council and established in the fee schedule annually.
  - (3) All persons installing mausoleums, monuments or markers shall be required to adequately protect the surrounding turf areas by bridging as necessary and shall be responsible for damages to any roadway, pathway, burial space, tree, shrub, water or sewer line, or any other fixture or item damaged within the cemetery as a result of negligence or mishap during the installation process.
- (b) *Insurance.* Any individual other than a city coworker providing services in the cemetery shall provide public liability insurance in accordance with the policy established by the city.

Sec. 7-133. - Rights and obligations of the city.

- (a) The city shall exercise the utmost care in acting responsibly for the interment and disinterment of remains, but assumes no liability nor shall it be held responsible for damages incurred to outer burial containers, caskets or urns while making the interment or disinterment.

- (b) The city shall be in no way responsible for any delay in the interment of a body which may arise from causes beyond its reasonable control and, especially from delays caused by the elements, an act of God, key equipment breakdowns, common enemy, thieves, vandals, strikes, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots or the order of any military or civil authority.
- (c) The city shall in no way be liable for any delay in the interment or disinterment of a body where a protest to the interment or disinterment has been made, if there has not been full compliance with this chapter or any rules or regulations promulgated in accordance with this chapter.
- (d) The city may, at any time it deems advisable in the discretion of the cemetery sexton or city manager, require a court order be obtained prior to the interment or disinterment of any body.

#### ARTICLE XI. - MODIFICATIONS TO CEMETERY GROUNDS AND AMENDMENTS TO CODE

- (c) It shall be unlawful for any person, except for city coworkers in the performance of their duties, to perform any work in the cemetery without having previously obtained a permit for such work.

#### Chapter 10 - EMERGENCIES

##### Sec. 10-1. - When state of emergency deemed to exist.

A state of emergency shall be deemed to exist whenever, during times of great public crisis, disaster, rioting, civil disturbance, catastrophe or for any other reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives, safety, health, welfare or property.

##### Sec. 10-2. - Issuance of proclamation and curfew order by mayor; proclamation of end of emergency and curfew.

- (a) In the event of a state of emergency threatening or endangering the lives, safety, health and welfare of the people within the city or threatening damage to or destruction of property, the mayor is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of such a state of emergency and, in order more effectively to protect the lives, safety and property of people within the city, to define and impose a curfew applicable to all persons within the jurisdiction of the city.
- (b) The mayor is hereby authorized and empowered to limit the application of such a curfew to any area specifically designated and described within the jurisdiction of the city and to specific hours of the day or night; and to exempt from the curfew police officers, firefighters, doctors, nurses and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the city.
- (c) The mayor shall proclaim the end of such state of emergency and curfew as soon as circumstances warrant or when directed to do so by the city council.
- (d) The city council shall be called into session within 24 hours after a state of emergency has been proclaimed by the mayor.

##### Sec. 10-3. - Restrictions during curfew.

During the existence of a proclaimed state of emergency, when a curfew has been defined and imposed, it shall be unlawful for any person subject to curfew:

- (1) To be or travel upon any public street, alley or roadway or upon public property, unless such travel is necessary to obtain medical assistance.
- (2) To possess off his own premises, buy, sell, give away or otherwise transfer or dispose of any explosives, firearms, ammunition or dangerous weapons of any kind.
- (3) To sell beer, wines or intoxicating beverages of any kind or to possess or consume the same off his own premises.
- (4) To sell gasoline or any other similar petroleum products, or any other combustible or inflammable substances, except as expressly authorized by the provisions of the curfew imposed.

#### Chapter 11 - FIRE PREVENTION AND PROTECTION

##### Sec. 11-1. - Composition of fire department and qualifications of members.



- (a) The fire department of the city shall consist of the chief, a number of firefighters, and other personnel as the city council shall deem necessary.
- (b) The members of the fire department shall be not less than 18 years of age.

Sec. 11-2. - Powers and duties of the chief of the fire department.

The chief of the fire department shall be the executive officer of the department, under the direction of the city manager, and shall perform all the duties prescribed for the chief. With the city manager's approval, the chief of the fire department may designate a deputy to perform his functions temporarily during any particular absence or disability.

Sec. 11-3. - Rules and regulations of fire department.

The chief of the fire department, with the approval of the city manager, shall have power to adopt such rules and regulations as are necessary and proper for the government of the department; provided, that such rules and regulations shall not be inconsistent with state law, the charter of the city or this Code.

Sec. 11-4. - Establishment and supervision of bureau of fire prevention; appointment of fire marshal.

There is hereby established within the fire department the bureau of fire prevention, which shall be operated under the supervision of the chief of the fire department. The fire marshal in charge of the bureau of fire prevention shall be appointed by the chief of the fire department upon the approval of the city manager.

Sec. 11-5. - Deputy fire marshals, inspectors, fire prevention personnel.

The chief of the fire department may detail such members of the fire department as deputy fire marshals, fire inspectors, or other staff as shall, from time to time, be necessary. The chief of the fire department may recommend to the city manager the employment of fire inspectors or other staff, who, when such authorization is made, shall be selected in accordance to the fire department promotional policy.

Sec. 11-6. - Interfering with firefighters; loitering around the fire department.

No person shall obstruct or interfere in any way with any firefighter while engaged in the performance of his/her duty, nor loiter about the fire department stations. It shall be unlawful for persons to congregate in the streets, lanes, alleys, or squares adjacent to a fire so as to interfere with the operations of the fire department. The fire officer in charge of a firefighting operation may declare a safety zone around the fire within which no unauthorized person may enter.

Sec. 11-7. - Riding of fire department vehicles.

It shall be unlawful for any person, not a member of the fire department, to ride or attempt to ride on any fire truck or other vehicle of the fire department, when going to or returning from a fire, unless so authorized by the fire chief.

Sec. 11-8. - Damaging, removing, or interfering with fire apparatus, equipment, or implements.

If anyone willfully or carelessly breaks, injures, destroys, carries away, or interferes with any of apparatus, equipment, or implements belonging to the fire department, they shall be guilty of a misdemeanor.

Sec. 11-12. - Attended and unattended automotive service stations.

- (a) Every automotive service station open to the public shall have an attendant or supervisor on duty whenever the station is open for business. Unattended automotive service stations open to the public shall not be permitted.
- (b) The definition of "automotive service station" is a place of retail business at which outdoor refueling is carried on using fixed dispensing equipment connected to underground storage tanks by a closed system of piping, and at which goods and services generally required in the operation and maintenance of motor vehicles and fulfilling of motorist needs may also be available.
- (c) Fueling stations that dispense only compressed natural gas (CNG) shall not be included in the definition of an "automotive service station" and are not required to have an attendant or supervisor on duty when open for business.

## ARTICLE II. - FIRE PREVENTION CODE

### Sec. 11-36. - Fire Code adopted by reference.

- (a) For the purpose of prescribing regulations governing conditions hazardous to life and property from fire, explosion, or exposure to hazardous materials, the provisions of the current edition of the North Carolina Fire Code, as amended, is incorporated herein by reference and is set forth herein as the Fire Code for the city.
- (b) The current edition of the North Carolina Administration and Enforcement Requirements Code, as amended is incorporated herein by reference for the administration of the North Carolina Fire Code.
- (c) The current edition of the North Carolina Existing Buildings Code, as amended, is incorporated herein by reference for provisions regarding periodic inspections of buildings altered, repaired or rehabilitated in accordance with the North Carolina Existing Buildings Code.

### Sec. 11-37. - Amendments.

Amendments to the North Carolina Fire Code, North Carolina Administration and Enforcement Requirements Code, North Carolina Existing Buildings Code, and the North Carolina Building Code, which are adopted and published by the North Carolina State Building Code Council, shall be effective in the city and all areas within the city's jurisdiction on the date prescribed by the North Carolina State Building Code Council.

- Sec. 11-38. - Permits.
- (a) A general inspection use permit must be obtained from the city fire prevention bureau after periodic inspections of all buildings as required in the current edition of the North Carolina Fire Code, as amended.
    - (1) A general inspection use permit must be obtained prior to the occupancy or use of any building.
    - (2) Buildings must be re-inspected and a new general inspection use permit obtained according to the schedule established in the current edition of the North Carolina Fire Code, as amended.
  - (b) An operational permit must be obtained from the city fire prevention bureau for all operations requiring a mandatory operational permit as defined in the current edition of the North Carolina Fire Code, as amended.
  - (c) An operational permit must be obtained from the city fire prevention bureau for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground.
    - (1) An operational permit is not required for recreational burning as defined by the current edition of the North Carolina Fire Code, as amended.
    - (2) All open burning shall be conducted in accordance with the North Carolina Fire Code.
    - (3) No open burning may occur at any time that the North Carolina Department of Forestry has determined that such burning would pose a potential hazard to the health, safety or well being of the residents of the State of North Carolina.
    - (4) No operational permit may be issued, nor shall any open burning occur, in violation of any regulation, rule, edict or directive issued by any regulatory body of the State of North Carolina or the United States of America.
    - (5) The North Carolina Department of Forestry or one of their authorized burning permit agents can issue open burning permits for residential yard debris for individuals provided they reside within the extraterritorial jurisdiction of the city and the open burning takes place on their property.
  - (d) A construction permit must be obtained from the city fire prevention bureau for all operations requiring a mandatory construction permit as defined in the current edition of the North Carolina Fire Code, as amended.
  - (e) No permit of any type shall be issued by the city fire prevention bureau for any activity until proof of financial responsibility has been provided to the city fire prevention bureau.
    - (1) No proof of financial responsibility shall be required unless the same is required under the provisions of the current edition of the North Carolina Fire Code, as amended.

- (2) In the event that any instrument evidencing financial responsibility is revoked, terminated, rescinded or otherwise restricted by the issuing authority, any permit issued on the basis of such evidence of financial responsibility shall be terminated effective of the date and time of such revocation, termination, rescission or restriction.

Sec. 11-39. - Fee administration.

No permit as required herein shall be issued until the appropriate fee shall be paid to the City of Hickory for the same.

- (1) All fees shall be in the amounts established in the city fee schedule, as the same may be amended from time to time.
- (2) In the event that any permit shall be issued without payment of any required fee, or in the event that any payment made for any permit shall fail to be honored by any financial institution upon which such payment was drawn, such permit shall be void.

Sec. 11-40. - Smoking prohibited in specified public places.

- (a) In addition to the prohibitions against smoking in certain places pursuant to the Fire Code, no person shall smoke or carry a lighted cigar, cigarette, pipe or match, or use any spark, flame or fire-producing device not specifically authorized by the fire marshal for use in such place in any of the following places:
  - (1) *Elevators.* Elevators, regardless of capacity, in any public place.
  - (2) *Public and private hospitals.* Smoking is permitted only in waiting rooms, lounge areas, offices and restaurants and other designated areas; smoking also may be allowed in a patient's room with permission of the attending physician or hospital staff.
- (b) *Violation by persons having control.* It shall be unlawful for any person, or his agent, having control of any premises or place to knowingly permit violation of this section.
- (c) *Placarding required.* Every person or agent having control of premises upon which smoking or the carrying of lighted objects is prohibited by or under the authority of this section shall conspicuously display upon the premises signs of the type specified by the fire marshal. The fire marshal shall designate the size, type, and location of these signs.
- (d) *Violation of sign.* No person shall smoke in any properly placarded place, nor shall any person remove any placard required to be erected by or under authority of this section.

Sec. 11-41. - Warning signs required in coin-operated dry cleaning establishments.

Each coin-operated dry cleaning establishment using the solvent mentioned below shall display prominently upon or near each dry cleaning machine a sign warning the public of the danger of excessive solvent vapor inhalation or prolonged or repeated contact with skin or eyes of the dry cleaning solvent known as "Perchloroethylene."

Sec. 11-42. - Establishment of limits of districts in which storage of flammable liquids in outside aboveground tanks is prohibited.

- (a) The storage of Class I liquids in aboveground tanks outside of buildings is prohibited in all fire districts as established, described, and defined under the City Code, per section 902.1.1 of the Fire Code.
- (b) No new bulk plant shall be constructed within any fire districts as established, described, and defined under the City Code, or in any residential areas, neighborhood trading areas, business districts, and institutional districts as established, described, and defined in the zoning map and ordinance per section 906.1 of the Fire Code.
- (c) Aboveground storage tanks utilized for the storage of Class I or Class II liquids at automotive service stations shall not be permitted. Aboveground tanks and dispensers for K-1 kerosene may be allowed provided all of the provisions of section 907.3.5 of the Fire Code are met.

Sec. 11-43. - Establishment of limits in which location of containers storing liquified petroleum gases is restricted.

Restrictions on the location of containers storing liquified petroleum gas as set forth in section 1701.4 of the Fire Code shall be held applicable to all residential areas, neighborhood trading areas, institutional districts and commercial districts as established, described and defined in the zoning map and ordinance.

Sec. 11-44. - Establishment of limits in which bulk storage of liquified petroleum gases is prohibited.

Bulk storage of liquified petroleum gases is prohibited in all fire districts as established, described, and defined under the City Code and city zoning ordinance.

Sec. 11-45. - Design of automatic sprinkler systems, standpipe systems, fire alarm systems, and fixed fire extinguishing systems.

Plans and specifications for automatic sprinkler systems and for standpipe systems, as required under section 603.15.5 of the Fire Code, shall require the stamp of a state professional engineer certifying the plans as true and correct. All automatic sprinkler systems, standpipe systems, fire alarm systems, and fixed fire extinguishing systems that are to be installed or renovated shall have plans and specifications submitted to the fire marshal for plan review. These plans shall be reviewed and approved by the fire marshal with the appropriate permit issued prior to commencement of any work.

Sec. 11-46. - Plan review.

All building plans submitted to the inspection division of the city for the issuance of a building permit shall be reviewed by the fire marshal. This review will be for the determination of compliance with this chapter and the Fire Code. This review shall be completed within a reasonable time of receipt of the plans. The results of this plan review shall be submitted to the chief building official giving either denial or approval for the issuance of a building permit. This plan review shall not apply to one- and two-family dwellings.

Sec. 11-47. - Fire lanes.

- (a) *Fire lanes required.* In accordance with section 602.6 of the Fire Code, the fire marshal shall have the authority to designate fire lanes necessary for fire apparatus accessibility.
- (b) *Marking.* All designated fire lanes shall be marked as specified by the fire marshal. A "no parking" sign of the type specified by the fire marshal shall be installed adjacent to the fire lane at the beginning and end of the fire lane perimeter. Additional signs shall be posted at intervals not exceeding 75 feet.
- (c) All fire lanes previously designated and described by the city Code prior to this amendment shall remain as fire lanes and maintained as such. The parking of motor vehicles or otherwise obstructing a required fire lane shall be prohibited at all times per section 602.6 of the Fire Code.
- (d) Any person who shall park in a fire lane shall be subject to a \$10.00 civil citation, issued either by the office of the fire marshal or by the police department.

Sec. 11-48. - Hazardous materials disclosure.

Hazardous materials disclosure shall be as specified in G.S. 95-173 through 95-218.

Sec. 11-49. - Hazard identification signs.

- (a) *Signs required.* Per section 2201.3.4 of the Fire Code, hazard and identification signs as outlined in NFPA 704 shall be placed accordingly at all entrances to and in locations where hazardous materials are stored, handled, or used.
- (b) *Size of signs and types.* The size and type of signs used to identify hazardous materials shall be of the type and size specified in Chapter 6 of NFPA 704. A reference guide on the sizes of signs and signals will be made available to the public from the fire marshal's office upon request.

Sec. 11-50. - Display of address numbers.

- (a) In accordance with section 603.17 of the Fire Code, all new and existing buildings shall display their assigned address numbers in accordance with sections 29-58 and 29-59 of the city Code.
- (b) All property numbers required by section 29-58 of the city Code to be displayed shall be a minimum size of three inches high per section 29-59 of the city Code. These numbers shall be of a contrasting color to the background of which they are attached and located in such a manner as to be readily identified by emergency personnel at all times.
- (c) It shall be the responsibility of the bureau of fire prevention to enforce the displaying of assigned address numbers in accordance to the Fire Code and the city Code.

Sec. 11-51. - Enforcement.

The Fire Code shall be enforced primarily by the bureau of fire prevention of the fire department of the city. All designated Fire Code enforcement officials to enforce the Fire Code shall be certified by the North Carolina Code Officials Qualification Board. However, this section shall not preempt or interfere with any authority vested in law enforcement to enforce the provisions of the Code.

Sec. 11-52. - Notice of violation.

Any person who shall violate any of the provisions of the Fire Code adopted by this article or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the fire marshal or by a court of competent jurisdiction, within the time fixed therein shall, severally for each such violation and noncompliance respectively, be subject to penalties as specified in the service and permit fee schedule approved by city council to be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalties within a period of 72 hours after the issuance of the notice of violation. The notice of violation shall be in writing, signed by the fire marshal and/or the fire official charged with the enforcement of the Fire Code, and shall be delivered or mailed to the offender either at the residence or the place of business or at the place where the violation occurred. Each day's continuing violation shall be a separate and distinct offense. Any action to recover such penalties may be joined in an action for appropriate equitable remedy, including injunctions and orders of abatement and including an action to recover damages owing to the city by reason of expenses incurred by the city in abating, correcting, limiting, and otherwise dealing with the harmful effects of the offending action.

Secs. 11-53—11-70. - Reserved.

ARTICLE III. - FIRE HYDRANT PROTECTION POLICY

Sec. 11-73. - New development, building additions, or changes of occupancy.

(a) The following guidelines shall apply to new buildings for which a building permit is required, new subdivisions approved by the city subdivision review board, or any new commercial, industrial, or residential project. Any such new project shall be considered as new development.

- (1) The fire marshal's office shall review all plans that fall under any of the categories of "New Development" at the time of building plans review to determine fire hydrant protection requirements for the proposed building or development. Sufficient information as required by the fire marshal shall be submitted to determine the criteria for fire flow quantity, hydrant number, location and spacing.
- (2) Hydrants shall be installed in accordance with the requirements of the city, and shall be available for service prior to the beginning and development of building construction. Hydrant installations shall be in accordance to the policy stated herein.

Exception: For new subdivisions approved by the subdivision review board where a performance guarantee is accepted for completion of water utilities in lieu of actual completion of the utility work prior to acceptance of the final plat, single-family dwelling construction may begin without hydrants and water mains being ready for service. Construction sites shall be limited so as not to cause an undue fire hazard, with the fire marshal being notified prior to the beginning of each construction. No dwelling shall be occupied until all fire protection requirements have been met and are ready for service. For those new subdivisions where water mains are not available, then the fire protection requirements necessary to compensate for this deficiency shall be approved by the fire marshal. This may include but is not limited to, draft points, proper road construction to allow for tanker operations, water fill points, etc.

- (3) Unless otherwise agreed to by the public utilities department of the city, hydrants shall be installed at the developer's or owner's expense, including but not limited to:
  - a. Extension of city owned waterlines in order to provide service for the new development as required by this policy.
  - b. Addition of fire hydrants to existing waterlines.

- c. Private fire lines.
  - d. The cost of possible upgrading of existing lines to provide the necessary water flow capacity for the building or project.
- (b) For buildings which are under renovation or remodeling of which a building permit is required or a certificate of occupancy is being applied for due to a change in ownership, change in type of occupancy, or any other reason, the existing water system shall be deemed as adequate for the existing building, so long as a required number of hydrants with a flow certified as adequate by the fire marshal's office is acceptable to the fire marshal. If hazardous materials or dangerous processes are part of the change of occupancy, then additional water flow requirements shall meet Fire Code requirements.

Sec. 11-74. - Existing development.

The following guidelines shall apply to existing industrial, commercial, and residential projects, buildings, and subdivisions.

- (1) The city shall determine the deficient areas in fire hydrant protection which are located in the public right-of-way. A plan of correction shall be developed in accordance to monies available.
- (2) Where existing development poses a danger to life and property due to fire hydrant deficiencies existing on private property, the fire department may require the deficiency to be corrected. The cost of this type of fire hydrant protection shall be borne by the owner.

Sec. 11-75. - Required fire flow tables.

(a) *Generally.*

- (1) The following tables shall be used to determine the minimum fire flow requirements needed for a building. The fire-flow requirement is the quantity of water in gallons per minute needed to control an anticipated fire in a building or group of buildings. Fire flows determined from these tables shall be required to be available for a duration of at least 60 minutes, with a minimum of 20 PSI residual pressure available. This will assure of sufficient flow for fire protection while allowing other water users in the area to maintain a normal usage without any interruption or damage to the user's system.
  - (2) These fire flow requirements may be modified by the fire official of the fire department to allow for exposure problems of adjacent buildings, storage of hazardous materials, occupancy classification, or any other such condition that may warrant an increase in fire flow to provide adequate fire protection.
- (b) *Definition.* To define fire area, this is the total floor area in square feet for all floor levels within the exterior walls, or under the horizontal projection of the roof of a building. Four-hour fire separation walls may be considered in dividing a building into separate fire areas for the purpose of determining fire flow.

(c) *Notes to tables.*

- (1) The minimum fire-flow requirements for one- and two-family dwellings shall be 1,000 GPM. Exception: This requirement may be reduced 50 percent if the building is equipped with an approved sprinkler system.
- (2) The minimum fire flow requirement determined by the following tables for buildings other than one- or two-family dwellings may be reduced 50 percent if the building is equipped with an approved sprinkler system. However, the flow requirement shall not be reduced below the requirements of the sprinkler system as determined per NFPA 13.
- (3) Multi-story buildings may have modifications to the fire flow. The fire official of the fire department shall assist in these determinations.
- (4) Hydrants installed to meet the provisions of the fire flow requirements shall be calculated at providing 1,500 GPM each. If the required fire flow does not exceed the hydrant flow calculation by 500 GPM or more, then an additional hydrant shall not be required. (See Table 5.)

- (5) Additional hydrants may be necessary for the adequate fire protection of a building above the minimum calculated by Table 5, due to the accessibility of fire apparatus, extended hose lays or other such situations that may dictate fire department procedures. The fire official of the fire department will be able to help the developer in making these determinations. In no case shall the spacing distance of hydrants that are installed under the provisions of this policy be more than is allowed under these guidelines.
- (d) *Conversion chart.* The following conversion chart shall be used to determine the proper table to be used in the fire flow requirements:

*Table 1* —Type VI Construction (Wood frame),  
C = 1.5

*Table 2:* —Type V Construction (Masonry exterior walls with wood construction elsewhere),  
C = 1.0

*Table 3:* Type IV Construction (Noncombustible construction such as metal buildings), C = 0.8

*Table 4:* Type I & II Construction (Fire resistive construction), C = 0.6

Note: For buildings of Type III (Heavy timber) Construction, the same formula shall be used for determining fire flow using a co-efficient of 0.9 in the calculation. The calculation used for these determinations is as follows:

$$F = 18 C (A)^{0.5}$$

where "F" equals required fire flow, "C" equals co-efficient for each type of construction, and "A" equals total floor area being considered.

**TABLE 1**

HICKORY FIRE DEPARTMENT  
REQUIRED FIRE FLOW  
PER FIRE AREA OF STRUCTURE  
*Fire area in square feet per story*  
Type VI

*Wood Frame Construction*

GPM	Stories					
	1	2	3	4	5	6
500	500	300	200	100	100	100
750	1,100	600	400	300	200	200
1000	1,700	900	600	400	300	300
1250	2,600	1,300	900	700	500	400
1500	3,600	1,800	1,200	900	700	600
1750	4,800	2,400	1,600	1,200	1,000	800
2000	6,200	3,100	2,100	1,600	1,200	1,000

2250	7,700	3,900	2,600	1,900	1,500	1,300
2500	9,400	4,7000	3,100	2,400	1,900	1,600
2750	11,300	5,700	3,800	2,800	2,300	1,900
3000	13,400	6,700	4,500	3,400	2,700	2,200
3250	15,600	7,800	5,200	3,900	3,100	2,600
3500	18,000	9,000	6,000	4,500	3,600	3,000
3750	20,600	10,300	6,900	5,200	4,100	3,400
4000	23,300	11,700	7,800	5,800	4,700	3,900
4250						

**TABLE 2**

HICKORY FIRE DEPARTMENT  
REQUIRED FIRE FLOW  
PER FIRE AREA OF STRUCTURE  
*Fire area in square feet per story*  
Type V  
*Ordinary Construction*

GPM			Stories			
	1	2	3	4	5	6
500	1,200	600	400	300	200	200
750	2,400	1,200	800	600	500	400
1000	3,900	2,000	1,300	1,000	800	700
1250	5,800	2,900	1,900	1,500	1,200	1,000
1500	8,200	4,100	2,700	2,100	1,600	1,400
1750	10,900	5,500	3,600	2,700	2,200	1,800
2000	13,900	7,000	4,600	3,500	2,800	2,300
2250	17,400	8,700	5,800	4,400	3,500	2,900
2500	21,300	10,700	7,100	5,300	4,300	3,600
2750	25,500	12,800	8,500	6,400	5,100	4,300
3000	30,100	15,100	10,000	7,500	6,000	5,000
3250	35,200	17,600	11,700	8,800	7,000	5,900
3500	40,600	20,300	13,500	10,200	8,100	6,800



3750	46,400	23,200	15,500	11,600	9,300	7,700
4000	52,500	26,300	17,500	13,100	10,500	8,800
4250	59,100	29,600	19,700	14,800	11,800	9,900
4500						

**TABLE 3**

HICKORY FIRE DEPARTMENT  
REQUIRED FIRE FLOW  
PER FIRE AREA OF STRUCTURE

*Fire area in square feet per story*

Type IV

*Noncombustible Construction*

GPM			Stories			
	1	2	3	4	5	6
500	1,900	1,000	600	500	400	300
750	3,700	1,900	1,200	900	700	600
1000	6,100	3,100	2,000	1,500	1,200	1,000
1250	9,100	4,600	3,000	2,300	1,800	1,500
1500	12,700	6,400	4,200	3,200	2,500	2,100
1750	17,000	8,500	5,700	4,100	3,400	2,800
2000	21,800	10,900	7,300	5,500	4,400	3,600
2250	27,200	13,600	9,100	6,800	5,400	4,500
2500	33,200	16,600	11,100	8,300	6,600	5,500
2750	39,700	19,900	13,200	9,900	7,900	6,600
3000	47,100	23,600	15,700	11,800	9,400	7,900
3250	54,900	27,500	18,300	13,700	11,000	9,200
3500	63,400	31,700	21,100	15,900	12,700	10,600
3750	72,400	36,200	24,100	18,100	14,500	12,100
4000	82,100	41,200	27,400	20,500	16,400	13,700
4250	92,400	46,200	30,800	23,100	18,500	15,400
4500	103,100	51,600	34,400	25,800	20,600	17,200
4750	114,600	57,300	38,200	28,700	22,900	19,100

5000	126,700	63,400	42,200	31,700	25,300	21,100
5250	139,400	69,700	46,500	34,900	27,900	23,200
5500	152,600	76,300	50,900	38,200	30,500	25,400
5750	166,500	83,300	55,500	41,600	33,300	27,800
6000						

**TABLE 4**

HICKORY FIRE DEPARTMENT  
REQUIRED FIRE FLOW  
PER GROUND AREA OF STRUCTURE  
*Fire area in square feet per story*  
Type I & II  
*Fire Resistive Construction*

GPM	Stories					
	1	2	3	4	5	6
500	3,300	1,700	1,100	800	700	600
750	6,600	3,300	2,200	1,700	1,300	1,100
1000	10,900	5,500	3,600	2,700	2,200	1,800
1250	16,200	8,100	5,400	4,100	3,200	2,700
1500	22,700	11,400	7,600	5,700	4,500	3,800
1750	30,200	15,100	10,100	7,600	6,000	5,000
2000	38,700	19,400	12,900	9,700	7,700	6,500
2250	48,300	24,200	16,100	12,100	9,700	8,100
2500	59,000	29,500	19,700	14,800	11,800	9,800
2750	70,900	35,500	23,600	17,700	14,200	11,800
3000	83,700	41,900	27,900	20,900	16,800	13,900
3250	97,700	48,900	32,600	24,400	19,500	16,300
3500	112,700	56,400	37,600	28,200	22,500	18,800
3750	128,700	64,400	42,900	32,200	25,700	21,500
4000	145,900	73,000	48,600	36,500	29,200	24,300
4250	164,200	82,100	54,700	41,100	32,800	27,400
4500	183,400	91,700	61,100	45,900	36,700	30,600

4750	203,700	101,900	67,900	50,900	40,700	34,000
5000	225,200	112,600	75,100	56,300	45,000	37,600
5250	247,700	123,900	82,600	61,900	49,500	41,300
5500	271,200	135,600	90,400	67,800	54,200	45,200
5750	295,900	148,000	98,600	74,000	59,200	49,300
6000						

**TABLE 5**

REQUIRED NUMBER OF HYDRANTS  
BASED ON REQUIRED FIRE FLOW

Total Number	
of Hydrants	Fire Flow Required in GPM
(see exception)	(per tables 1—4)
1	500 to 1500
2	1501 to 3000
3	3001 to 4500
4	4501 to 6000
5	6001 to 7500

Over 7501 GPM fire flow requirements will require one hydrant per 1000 GPM increase in fire flow.

Exception: When the required fire flow does not exceed the hydrant calculation by 500 GPM or more, then an additional hydrant shall not be required. (See subsection (c)(5) above.)

Example: The required fire flow for a building is 3250 GPM. According to Table 5, three hydrants are required. However, two hydrants calculated at 1500 GPM each (See subsection (c)(5) above) equal 3000 GPM. The required fire flow does not exceed the hydrant calculation by 500 GPM ( $3250 - 3000 = 250$  GPM). Therefore, only two hydrants would be required in this situation.

Sec. 11-76. - Fire hydrant installation.

The following guidelines shall apply to the installations of all new hydrants required by the fire official and replacements of existing hydrants that are already in service.

(1) *Hydrants.*

- a. Hydrants installed shall be of the dry barrel type. They shall be listed and approved by a certified testing laboratory and of one of the following brands: American-Darling Mark 73, Kennedy K-81, and Mueller Centurion. The hydrant shall include two 2½-inch discharge outlets and one 4½-inch discharge outlet. All threads of the outlets shall be NST (National Standard Thread). The hydrant shall have a uniform-sized pentagonal operating nut measuring 1½ inches from point to flat at the base with 1 7/16 inches at the top.

- b. The diameter of the bottom of the valve shall not be less than six inches to provide no more than three psi-friction loss at a flow of 250 GPM through a single 2½-inch outlet.
- c. Hydrants shall be installed at a readily accessible location. Hydrants shall be installed so that the 4½-inch discharge is at least 18 inches above finished grade. This clearance is necessary to facilitate a hydrant assist-valve when connecting to the hydrant.
- d. Upon completion of installation, each hydrant shall be flushed of all sediment or debris that may hinder its operation. The caps will then be greased and the hydrant set ready for service. The fire department will then be notified of the completion of the installation and that the hydrant is in service and ready for an inspection by the fire official.
- e. All completed hydrant installations shall be inspected by the fire official in order to be sure that the hydrant is in compliance with this policy.
- f. All new installations shall be warranted by the installer for the period of one year for material or installation defects.
- g. Once the hydrant has met approval of proper installation by the fire marshal, then it will become the responsibility of the city to maintain the hydrant if the hydrant is located on public right-of-way. The city will take care of any expense in maintaining and repairing any defects or malfunctions with the hydrant other than those that are covered under the warranty of the installer. All hydrants installed on private property shall be maintained by the owner or occupant.
- h. All new hydrants shall be painted to match the existing hydrants in the city. Unless otherwise specified, this color shall be: yellow (barrel); white reflective (caps and bonnet).
- i. Materials used and installation methods shall meet the standards of the city public utilities department in compliance with the ANSI and AWWA standards.

(2) *Hydrant spacing.*

- a. Hydrants shall be located as close as possible to street intersections or areas of direct vehicular access. Recommended hydrant spacing for developed areas will be 500 feet. At no time will hydrant spacing exceed 800 feet. Larger industrial commercial or multifamily developments may require additional hydrants to compensate for long hose lays and/or greater water demand. These determinations shall be made by the fire official at the time of the plans review or at the subdivision review board meeting.
- b. Hydrants shall be located no closer than 50 feet from a building. If a probable collapse zone exists due to the height of the building that provides a greater distance than 50 feet, then the hydrant shall be located out of this zone.
- c. Hydrants should be located close to street access as to facilitate easy hook-up.
- d. Hydrants located in areas designated for parking shall be afforded some type of protection from collision of vehicular traffic.  
  
Exception: Side street parking where a curb protects the hydrant from normal parking and is marked for no parking; no other type of protection is needed.
- e. For parking on a street beside a hydrant, at least one parking space shall be marked at the hydrant to provide for no parking. In shopping centers or other type parking areas, at least one parking space in front and/or back, for whichever provides the means of access, shall be designated as for fire department access. The area around the hydrant shall be marked with yellow markings and designate in letters "No Parking."
- f. Hydrants shall be located at least four feet from any solid object such as a power pole, tree, building, dumpster, etc., that may hinder access and use of the hydrant. Brush and/or trees shall be cleared around the hydrant to at least four feet in all directions. A clear area of access shall be maintained to the hydrant at all times.

Sec. 11-77. - Water supply lines for hydrants.

The following are the guidelines in the installation of piping for supply of water to a hydrant.

- (1) Hydrants installed on existing water lines will need to have a flow test conducted by the fire marshal's office to insure that the existing line can supply an adequate flow of water as needed per ISO fire flow requirements.
- (2) All supply line piping and fittings shall be suitable for the working pressures and conditions under which the pipe is installed. Types of piping and fittings used shall meet the standards set forth by the city public utilities department and in conjunction with ANSI and AWWA standards. The installation methods shall also meet these standards. Recommended practices of materials used and installation are covered under the Fire Protection Handbook of the National Fire Protection Association.
- (3) A new supply line installation that ties both ends of the new piping into the feeder mains so as to be fed from two directions shall be considered a "loop system." The minimum size piping installed for a loop system shall be six inches. Any supply line that supplies more than four hydrants shall be installed as a loop system, unless the piping is oversized to overcome the friction loss in order to provide the prescribed fire flow. Any supply line supplying less than four hydrants but extends more than 2,500 feet shall also be installed as a loop system, unless the piping is oversized to provide the prescribed fire flow.
- (4) A new supply line installation that only ties one end into a feeder main so that it receives a supply of water from one direction shall be considered a "dead end main."
- (5) Dead end mains shall be a minimum size of eight-inch piping. If the dead end main extends for more than 2,500 feet with a required fire flow of 750 GPM or more, then a larger size pipe shall be installed to overcome the friction loss that may reduce the available flow. It shall be the responsibility of the installer to contact the fire marshal's office to determine the minimum size necessary in this situation.
- (6) Valves for the isolation of hydrants and/or branch or feeder supply lines shall be as a good practice as per the city public utility department requires. A recommended practice of installation is in accordance with the publication NFPA #26.
- (7) It shall be the responsibility of the developer, property owner, or person in charge of the development project to submit plans of construction of the water supply lines or hydrant location and spacing to the fire marshal's office and utilities department for approval prior to installation. All new supply lines shall be inspected prior to their covering of fill material to insure compliance with the submitted plans. Once the system is completed, a final inspection will be conducted. This inspection will also include a flow test to insure proper fire flow adequacy.
- (8) All new installed supply lines shall be warranted by the installer for a period of one year for material and/or installation defects. This is commensurate with the installation of new hydrants. Once the line has met approval of proper installation by the fire marshal, then it will be the responsibility of the city to maintain those lines, which are located on the public right-of-way. Supply lines installed on private property shall be maintained at the expense of the owner. Defects covered under the installer's warranty shall be corrected by the installer.

Sec. 13-2. - Deposit of solid waste in streets, sidewalks, and other public places.

- (a) No person shall deposit in, sweep into or place upon any public street, sidewalk, gutter, park, parkway or other public place of the city any trash, garbage, refuse, rubbish or other unsightly or unsanitary substance.
- (b) This shall not be construed to prevent residents of the city from placing garbage in containers as authorized by this chapter for collection or removal by the city.

Sec. 13-3. - Rules and regulations authorized.

The city manager may make such rules and regulations not inconsistent with this chapter as he deems advisable to safeguard the health and welfare of the citizens of the city in the disposal of garbage, ashes and other refuse.

Sec. 13-4. - Ownership of materials.

Trash, garbage, rubbish, recyclable materials, yard waste, bulk trash, large appliances and any other manner of refuse which is properly placed by an owner or occupant of a property at curbside for collection, is deemed to be abandoned by such person(s) and becomes the property of the city or its authorized agent.

Sec. 13-5. - Collection routes and schedules.

- (a) The city manager or his designee shall establish collection routes and schedules and may alter these routes and schedules from time to time. The city manager may establish and revise from time to time a policy relating to the number of times per week the city will collect solid wastes from various classifications of premises and the maximum number of solid waste containers that the city will service on any one premises.
- (b) Service schedules may be adjusted or altered in the discretion of the city manager to compensate for holidays, inclement weather, natural disasters or Acts of God. As much advance notice as may reasonable be given will be provided to customers.

Sec. 13-7. - Duty to request service.

- (a) Every person occupying or having control of the occupancy of any premises located on a regularly established refuse route shall notify the city of the beginning of such occupancy and request refuse pickup service.
- (b) The failure of any owner, rental agent or occupant of such premises to make such request shall not prevent or in any way impair or impede the city from adding the address of such premises to the proper refuse collection route records providing the service, enforcing by appropriate action the regulatory measures herein prescribed, and causing the fee or charge therefore to be paid.
- (c) Any place or abode or residence, or any place of business occupied or in operation shall be prima facie evidence that garbage, refuse or trash is being produced and accumulated in such premises.
- (d) A monthly solid waste fee shall be charged to each solid waste collection customer of the city as established in the fee schedule. Said fee shall be included as a part of monthly water billing by the city.
- (e) All deposits of garbage and refuse by city residents at the landfill maintained by the county shall be made in accordance with rules and regulations established for such deposits by the county.

Sec. 13-8. - Garbage and refuse containers.

- (a) Refuse and garbage containers shall be furnished by the city as herein provided:
  - (1) Every qualifying customer owning, managing, operating, leasing, renting or otherwise occupying any premises, or any place where garbage or rubbish accumulates, shall be provided by the city one rollout container without charge.
    - a. Rollout containers shall be used by customers to store and dispose of solid waste materials in accordance with the provisions of this chapter.
    - b. It shall be the responsibility of each customer to safeguard and protect rollout containers from theft, loss or damage, and to report any damage or loss of the container to the department of public services upon discovery of theft, loss or damage. Customers shall be responsible for theft, loss or damage to the container, reasonable wear and tear excepted.
    - c. It shall be unlawful to willfully break or cause damage to any city owned rollout container. Any person or entity violating this section shall be required to purchase a replacement container from the city and may also be subject to the civil penalties as outlined in this chapter.
    - d. Rollout containers shall remain at assigned locations after a customer terminates service or a location is vacated.
  - (2) Additional rollout containers may be leased by qualifying customers at the additional cost as established by the city council in the fee schedule.
  - (3) No more than two rollout containers will be allowed per qualifying customer.

- (4) Commercial establishments located in structures which are situated on lots of not more than one-half acre in size and which were originally constructed as residential dwellings shall be qualifying customers provided that such establishments shall obtain two rollout containers, and pay the fees attendant therewith, and such containers prove to be adequate to meet the needs of the commercial establishment at that location.
- (b) Individuals or entities that are not qualifying customers shall be required to subscribe to bulk service.
  - (1) Every commercial establishment which is located in a structure constructed on or after October 1, 2001 on a lot greater than one-half acre in size, or which has a structure or structures, the combined size of which is 2,500 square feet or greater, shall be required to subscribe to bulk service, regardless of the number of tenants or separate entities located within the structure or structures.
  - (2) Any individual or entity not placing refuse at the curbside for collection on the regularly scheduled once-weekly collection days shall use the bulk container system, and pay the fees associated therewith.
  - (3) It shall be unlawful to willfully break or cause damage to any city owned rollout container. Any person or entity violating this section shall be required to purchase a replacement container from the city and may also be subject to the civil penalties as outlined in this chapter.
  - (4) A stationary bulk compactor is an acceptable alternative to a bulk container, and may be considered as an equivalent for purposes of this chapter.
  - (5) Customers utilizing bulk containers shall not possess or place for collection a rollout container.
- (c) Commercial establishments desiring to utilize stationary bulk compactors may be allowed to do so under the following criteria:
  - (1) The design of the unit shall be such that it will be compatible with equipment used by the city for servicing such devices.
  - (2) The commercial establishment shall be responsible for preparing the container for the scheduled collection service by disconnecting any power or hydraulic lines and detaching the container portion of the unit if necessary.
  - (3) Any unit to be used must be approved by the city prior to being placed in service.

Sec. 13-9. - Provision of service.

- (a) Service of rollout containers shall normally occur one time per week.
- (b) Rollout containers shall be placed for service as follows:
  - (1) For those residences serviced from the street and receiving curbside service, refuse containers are to be placed at the curb not prior to 8:00 p.m. the night prior to the day of the collection and no later than 7:00 a.m. on the day of collection.
  - (2) Rollout containers must be removed from the collection point not later than 9:00 p.m. the day of collection.
  - (3) Rollout containers and other refuse must be placed within two feet of the barrier curb or pavement of the street on which the residence fronts.
  - (4) Rollout containers must be placed on a level surface, no closer than five feet to any obstruction parallel to the barrier curb or roadway.
  - (5) Rollout containers must be placed so that the container is perpendicular to the curb so that when one stands on the curb the container lid hinges are on the opposite of the cart.
  - (6) A 15-foot overhead clearance must be maintained, and rollout carts shall not be placed under low hanging tree limbs or utility service lines.
  - (7) Refuse shall not be placed in the street or on the sidewalk, or in any manner placed where it will interfere with vehicular or pedestrian traffic.

- (c) When not awaiting servicing, rollout containers must be stored inside a structure, or in a rear or side yard, out of view from the street on which the structure faces.
  - (1) If it is not possible due to geographic restrictions to store the rollout container in the rear or side yard, such container may be stored in the front yard (front lot line to building line) but must be in a screened area, not readily visible from the street on which the structure faces.
  - (2) Notwithstanding the preceding section, no plantings or other obstructions more than 30 inches high may be made on the right-of-way between the curb and sidewalk for a distance of 50 feet from the corners of intersections.
  - (3) Nothing in this section shall be deemed to override or contradict any provision of the city land development code and planting or screening provisions contained therein, or to authorize the placement of any screening or shrubbery in such a way as to violate site triangles or otherwise constitute a hazard to the public using city streets or sidewalks.
- (d) Bulk service customers shall acquire bulk containers from the city. All such containers remain the property of the city.
  - (1) All bulk service customers shall pay the fee established in the city fee schedule based upon the volume of the bulk container and frequency of service provided.
  - (2) Bulk containers shall be of sufficient capacity or quantity to fully contain all trash accumulated between collection periods.
  - (3) All covers or doors shall be kept closed except when depositing trash or rubbish in the containers.
  - (4) Any bulk service customer requiring service more than four times per calendar month shall pay the extra trip charge as established in the city's fee schedule for each additional time the bulk container is serviced.
- (e) Any bulk compactor container which is not owned by the city shall be charged a service fee as outlined in the city fee schedule each time that service is provided.
- (f) Placement of containers. The required bulk container shall be located to permit convenient and safe access by the servicing vehicle and shall be aesthetically pleasing.
  - (1) The container location shall permit access using all-weather streets and alleys of adequate strength and to reasonably minimize excessive walking distances for tenants and occupants. Site construction shall be in conformance with the provisions of the city land development code, as amended.
  - (2) The location of the container shall be placed in a manner as to allow the service vehicle operator to service the container, backup and depart without having to exit the vehicle or make unnecessary maneuvers.
  - (3) Approval for city collection will not be made if safe and reasonable access is denied by gates, fixed objects, low hanging wires, or other obstructions.
- (g) Spilled materials or overflow not caused by city collection crews shall be cleaned up immediately after such spillage or overflow by the property owner or occupant. Spilled solid waste materials caused by city collection crews shall be cleaned up immediately after such spillage occurs by said crew.
- (h) The city shall have the authority to notify qualifying customers presently being serviced or those that might in the future be serviced of the need to relocate their containers to conform with regulations pertaining to collection when it is determined by the city that a particular location on the premises is not compatible with automated equipment in use, or for any other reason that may impact the health, safety and well-being of the public or city co-workers.

Sec. 13-10. - Multifamily residential units.

- (a) Multifamily residential units as defined herein shall be eligible for curbside collection provided the following criteria are met:
  - (1) If the units are all located on public streets or right-of-way; and



- (2) Owners of the units can provide statements or receipts from the Catawba County Tax Collector reflecting that such units are individually subject to ad valorem property taxes.
- (b) Multifamily residential units not qualifying under the preceding section may be eligible for curbside collection if the following alternate criteria are met:
- (1) Each individual living space is capable of ownership segregated from those adjacent thereto, or those located in the same complex or development; and
  - (2) If a bona fide homeowner's association representing the owners of the complex or development, with proof of proper authorization from the association (i.e. a copy of a Resolution of authority), requests such service on behalf of the owners and occupants; or
  - (3) If no homeowner's association exists, upon the written request by 100 percent of the property owners in the complex or development; and
  - (4) If the private drive or roadway upon which the complex or development is located is built or upgraded to meet the minimum standards for safe operation as outlined by the city manual of practice; and
  - (5) An agreement is executed either by the homeowner's association or the owners of the property agreeing to indemnify and hold harmless the City of Hickory, its officers, agents and employees, from any claim or cause of action for damage to the roadway caused by operation of city vehicles and equipment on the private drive or roadway.
- (c) Apartment complexes may be deemed qualifying customers section and may be eligible for curbside collection if the following alternate criteria are met:
- (1) There are six or fewer units in the building or complex, whichever is larger; and
  - (2) If the owner of the complex or development requests such service on behalf of the owners and occupants; and
  - (3) If the private drive or roadway upon which the complex or development is located is built or upgraded to meet the minimum standards for safe operation as outlined by the city manual of practice; and
  - (4) An agreement is executed either by the owners of the property agreeing to indemnify and hold harmless the City of Hickory, its officers, agents and employees, from any claim or cause of action for damage to the roadway caused by operation of city vehicles and equipment on the private drive or roadway.
- (d) Nothing in this section shall be interpreted as requiring multifamily residential units to use rollout collection services. If multifamily residential units do not opt for rollout collection service, the owner or owners of such complexes or developments shall install and maintain city approved bulk containers according requirements set forth in this chapter. Additionally, multifamily residential units shall meet the following specifications:
- (1) There shall be a minimum of one bulk container, with a minimum size of four cubic yards, for each multifamily residential unit or aggregate which contains six to eight living units.
  - (2) Additional bulk containers shall be installed and maintained as a minimum at the ratio of one-half cubic yard per living unit. In the event of a ratio calculation which results in a unit of non-standard or unavailable size, the calculation shall be rounded to the next larger sized unit.
  - (3) If the private drive or roadway upon which the complex or development is located is built or upgraded to meet the minimum standards for safe operation as outlined by the city manual of practice; and
  - (4) An agreement is executed either by the homeowner's association or the owners of the property agreeing to indemnify and hold harmless the City of Hickory, its officers, agents and employees, from any claim or cause of action for damage to the roadway caused by operation of city vehicles and equipment on the private drive or roadway.

- (5) Bulk containers shall be located so as to permit convenient safe access by city employees and equipment using all-weather streets or alleys to minimize as much as reasonably possible excessive walking distances for residents and to be as aesthetically pleasing as feasible, but with an overriding concern for the safety of both city employees and equipment.
- (e) All of the provisions of this chapter shall apply to all new construction, alterations or conversion of multifamily residential units and groups of the same for which any building permit shall be or has been issued subsequent to October 1, 2001, where the multifamily residential unit or group, complex or development will contain more than eight living units.
  - (1) No building permit shall be issued after October 1, 2001, for the construction, alteration or conversion of a building or group or complex of buildings falling within the application of this chapter unless and until a plan approved in writing by the city manager or his designee as showing adequate provision for the installation of containerization of refuse as required by this chapter shall be furnished by the owner or developer.
  - (2) No multifamily residential unit or group, complex or development to which this chapter applies shall be constructed, altered or converted after October 1, 2001, without providing for the use and maintenance of stationary bulk containers as outlined herein.

Sec. 13-11. - Additional services.

- (a) Solid waste to be picked up must be contained in the rollout container provided by the city.
- (b) All rubbish shall be placed by the occupant at the front of the premises, or immediately adjacent to that portion of the street right-of-way normally used by vehicles, but behind the curb. Such rubbish may be picked up on an unscheduled basis, following notification to the sanitation department that such items need to be picked up.
  - (1) Cardboard, corrugated board, kraftboard, wooden crates and other such items shall be broken down flat and piled neatly to facilitate in collection.
  - (2) Discarded furniture need not be broken down but shall be grouped together. Furniture shall not be stacked in such a way as cause danger to pedestrians or to city employees attempting to remove the same.
  - (3) Additional junk/rubbish may be picked up at the same time, or as soon thereafter as may be reasonably accomplished by city crews, if the additional solid waste is:
    - a. In containers or bundles not exceeding a capacity of 30 gallons; or
    - b. In bundles no larger than 30 inches by 30 inches by 36 inches; and
    - c. Said containers or bundles do not weigh more than 40 pounds.

Sec. 13-12. - Yard waste disposal.

- (a) The city will collect brushwood and yard waste under the following requirements:
  - (1) Brushwood shall be securely tied in bundles not over six feet in length;
  - (2) Bundles shall not exceed two feet in diameter;
  - (3) Bundles shall not exceed 75 pounds in weight;
  - (4) Total volume disposed of at any one time shall not exceed two cubic yards;
  - (5) All major limbs shall be cut away from the main body of any limb or trunk.
  - (6) All yard waste shall be free from contamination by material that is not included in the definition of yard waste contained in this Code.
  - (7) All material shall be neatly piled with the length of such items substantially perpendicular with butt end to the street or other established point of service.
  - (8) All small twigs, hedge clippings, lawn clippings and other such yard waste such as would be difficult to pick up by hand shall be placed in heavy, clear plastic bags or labeled containers not

to exceed 32 gallons normally to be collected on the same day as regular garbage and recyclable collection.

- a. Brushwood (tree and shrub trimmings) which has not been bundled as herein described may be removed by the city with other equipment as time and resources allow and should be stacked separate from other brushwood or yard waste for collection.
  - b. If the city is unable to remove brushwood within five business days of the date it is created, the same shall be removed by owner or person in charge of the property, at such person's expense.
- (b) Brushwood or yard waste that has been generated by a commercial contractor, on property which is not residential property, or which has been generated from a multifamily residential unit will only be collected by the city upon payment of the appropriate fee as established in the fee schedule. Property which is deposited at the curbside or in the vicinity of other established collection points will be presumed to have been set for collection by the city, and the owner or occupant of such property shall be responsible for the fee associated therewith.
- (c) It shall be lawful to:
  - (1) Deposit yard waste at any authorized city yard waste drop-off site or any authorized compost site while such authorized site is open for business in accordance with the rules and regulations established by the city.
  - (2) Deposit yard waste at curbside to be collected by the city during fall and spring collection of yard waste if such property is eligible to be served by regular city solid waste collection in accordance with the terms of this Code.
  - (3) Compost yard waste on the lot where it originated, in a manner not creating a nuisance, and under the following conditions:
    - a. Composting structures shall not exceed five feet cubed (125 cubic feet) in volume.
    - b. Composting shall occur in a container constructed of wood, wire, metal or plastic.
    - c. Composting units may be stationary or rotating.
    - d. Composting units shall be located in a backyard, and shall be screened or fenced so that it is not readily visible from the street or by adjacent property owners.
    - e. Composting units comply with all requirements of the city land development code, as now enacted or hereafter amended.
    - f. Composting units shall be maintained to minimize odors.
    - g. Composting units shall not be allowed to become a nuisance or to attract rodents, or to become a health or safety hazard.
- (d) No person shall:
  - (1) Mix or permit the mixing of yard waste with solid waste for city curbside solid waste collection, or place or permit the placing of yard waste out for city curbside solid waste collection;
  - (2) Deposit yard waste at any authorized yard waste or compost site, or any location immediately adjacent thereto, while the site is closed.
  - (3) Deposit yard waste in or upon any public street, sidewalk, drainage waterway or other public property, unless specifically designated by the city for such purpose.
- (e) Every owner or operator shall be responsible for maintaining all premises under his control in accordance with the requirements of this section.

- (a) The city solid waste division shall collect hazardous household waste at times to be announced. Persons desiring to have such hazardous household wastes collected shall bring the same to announced locations and shall place the same in containers or locations as directed by the city.
- (b) The following materials are not included in such special collections: materials arising from the operation of a business or profession, or arising from any activity except household use; radioactive material; explosives; asbestos; compressed gas cylinders.
- (c) It is not the intent of this provision to relieve any individual of responsibility for disposal of any hazardous waste, whether included in the definition of hazardous household waste in this chapter or not. It is the duty of each person residing in the city to dispose of such wastes safely and legally. The purpose of this chapter is to provide a convenience to help residents of the city. Hazardous wastes not disposed of by the collection provided under this section must be disposed of by the persons responsible therefore, at such times and places as comply with all applicable laws, ordinances and regulations.

Sec. 13-14. - Household sharp medical waste disposal.

Household sharp medical waste shall not be deposited in any other place or manner in the city than as herein provided:

- (1) Acceptable means of disposing of household sharp medical waste include:
  - a. Disposal in an approved medical waste box, such as a sharps container; or
  - b. Disposal in a heavy plastic container, such as a laundry soap bottle, providing that the lid is permanently affixed thereto using tape, glue, or some other means, and the container is prominently and permanently marked "Medical Waste: Do Not Open."
- (2) No container for household sharp medical waste or loose household sharp medical waste may be mixed with recyclables.
- (3) The city shall refuse to pick up any solid waste or recyclable containing household sharp medical waste not separately contained and prepared as provided in this Code. Additionally, in the event that a customer is determined to continually violate the terms of this section, the city may make special arrangements for the pick up and disposition of solid waste from the location, and may bill the actual costs of such special arrangements plus an additional ten percent as administrative expenses, as determined by the finance officer of the city.

Sec. 13-15. - Non-curb side collection from residential locations.

Residential customers of the city solid waste services who suffer physical conditions which would cause it to be an extreme hardship may obtain back or side-yard pickup of refuse containers. In order to receive such services, the following criteria must be met:

- (1) A written application for the service must be submitted to the city, along with a statement by the applicant's physician explaining in sufficient detail the reason or reasons that requiring causing the applicant to deposit their garbage or refuse curbside will impose an extreme hardship.
- (2) After the application has been accepted and non-curb side service approved, the applicant must verify annually, between May 31 and June 30 of each calendar year, that there has been no change of circumstances which make them ineligible to continue to participate in the program.
- (3) Additional fees for non-curb side pickup of solid waste may be imposed as established annually in the fee schedule.
- (4) The city may discontinue such service to a location upon ten days' notice to the resident for any reason. Reasons that service may be discontinued includes, but is not limited to, locked fences or gates, vicious animals, or other obstacles or barriers that make collection from a specific location inconvenient or hazardous to municipal employees.
- (5) Collectors shall not be permitted to enter houses, gated fenced portions of the premises, enclosed porches, garages or similar enclosures to make collections.

Sec. 13-16. - Unauthorized use of receptacles.

- (a) It shall be unlawful for any person to place, or permit another to place, any solid waste in any receptacle or container, at any refuse collection point unless the refuse is from the premises served by the container or from the premises at which the receptacle or collection point is located.
- (b) It shall be unlawful for any person to place or deposit, or to permit another to place or deposit, prohibited refuse in city service containers or to put anything on the ground at these locations.
- (c) Refuse from outside the city limits shall not be placed in city solid waste containers.
- (d) The owner or occupant of any building, house, structure or land shall cause to be removed all refuse items which are prohibited to the regular collection service, and which are located, owned, or deposited on the property or on the public right-of-way adjacent to the property, and the existence of refuse or any other item on the property or the adjacent public right-of-way shall be prima facie evidence that such owner or occupant failed to remove, as required by this chapter, at his own expense, the refuse or other item or items so stored or located thereon.

Sec. 13-17. - Business establishments to protect refuse from elements.

No owner, operator or person in charge of a drive-in restaurant or other business which is the source of trash, rubbish or other waste material shall permit the trash, rubbish or other waste material to be blown by the wind or otherwise to escape or be carried from the premises of the drive-in restaurant or other business to any adjoining street or property in the vicinity of such drive-in restaurant or other business. Should any trash, rubbish or waste material escape from the premises, whether through the fault of the owner, operator or person in charge or otherwise, such person shall pick up the trash, rubbish or waste material from the adjacent property to which it has blown no less often than daily.

Sec. 13-18. - Miscellaneous regulations.

- (a) The city shall not be responsible for the cleaning of trash and garbage containers where the character of the contents is such that ordinary efforts of dumping and shaking will not completely free the contents from the container.
- (b) No person, other than duly authorized employees of the city, shall open trash and garbage containers without the express permission of the owner.
- (c) Removal of garbage and trash by private haulers or contract haulers shall not relieve the owner of the responsibility for complying with all provisions of this chapter regarding containers and storage.
- (d) No person shall deposit in any solid waste container any burning materials, or materials sufficiently hot to create combustion when the same come in contact with other solid waste.
- (e) Spilled materials or overflow not caused by city collection crews shall be cleaned up immediately after such spillage or overflow by the property owner or occupant.

Sec. 13-19. - Parking interfering with containers.

It shall be unlawful for any person to park a vehicle of any nature within six feet or 1.83 meters of any bulk service container in such a manner as would interfere with the removal of refuse from such container, or block the approach to such container. Proof of ownership of any vehicle violating this section shall be prima facie proof that such owner parked the vehicle.

Sec. 13-20. - Keeping and storage of certain materials prohibited.

It shall be unlawful for any person to maintain any premises within the city upon which trash, garbage, junk or refuse is kept or stored. Except as is used in connection with the operation of licensed business establishments, the term "junk" shall include motor vehicles that have remained partially disassembled or not in operating condition for a period of more than ten days.

Sec. 13-21. - Services not provided; duty to dispose of items.

- (a) The places of excessive accumulations of garbage and rubbish, such as, but not limited to, killing and dressing plants for fowl and animals, hotels, restaurants and other establishments serving food to the public, may be excluded from the service provided by the city.
  - (1) Such accumulations shall then be removed and disposed of at the expense of the owner or person in charge of the premises.

- (2) Removal and disposal of such items must occur in accordance with applicable federal, state and local regulations, and must be done in such a way as to preclude any type of nuisance or endangerment to the health, safety or well-being of the public.
- (b) Salvaged automobiles, buses, and dead animals weighing more than 100 pounds, shall be removed and disposed of at the expense of the owner or person having same in charge in compliance with applicable federal, state and local regulations and in such a manner as to preclude any type of nuisance or endangerment to the health, safety or well-being of the public.
- (c) Manure from cow lots, horse stables, poultry yards, pigeon lofts and other animal or fowl pens, shall be removed and disposed of by the person controlling same in the manner permitted by law and in such a manner as to prevent the creation of a nuisance or endangerment to the health, safety or well-being of the public. Animal excreta from household pets will be collected provided it is wrapped and tightly sealed in moisture proof paper or other suitable container.
- (d) Waste oils from garages, filling stations or other automobile service facilities shall be removed and disposed of by the person controlling the same in the manner permitted by law and in such a manner as to prevent the creation of a nuisance or endangerment to the health, safety or well-being of the public.
- (e) Persons contracting or conducting a business which, by its nature, accumulates excessive amounts of refuse, such as but not limited to cuts, waste materials, tree trimmings or brushwood shall remove such refuse from the premises where the material accumulates at their own expense.

Sec. 13-22. - Littering.

- (a) It shall be unlawful to throw, place or deposit any refuse in any street, public place or on any private property within the city limits, except in city issued or approved containers as provided in this chapter, or as approved by the city manager or his designee.
- (b) It shall be unlawful to place stumps or any other organic materials on any property, public or private, except in those specific areas designated for such use by the city manager or his designee.
- (c) It shall be unlawful for any person to dump or deposit at any county owned or operated sanitary landfill, any hazardous refuse or liquids or any material that is banned from sanitary landfills.
- (d) No solid waste or any other waste or offensive or disease-producing material shall be dumped in any lot or space within the city limits for the purpose of filling, or for any other purpose, without the consent of the city manager or his designee and the approval of the county environmental health division.

Sec. 13-23. - Hauling refuse.

- (a) It shall be unlawful to commercially collect, handle, haul or transport on any of the city streets, public ways, alleys, or places of the city, any refuse without obtaining the necessary licenses to do such work within the corporate limits of the city.
- (b) Accumulations of construction wastes, such as but not limited to broken concrete, dirt, sand, gravel, trees, tree limbs, wooden wastes or any other heavy materials, shall be removed and disposed of by the owner or person having same in charge by a method satisfactory to the city.
  - (1) No person shall collect, haul or transport any wastepaper or other trash or garbage along, over and upon any of the streets, alleys or public places in the city in such a manner that any portion of the materials hauled fall from the vehicles and the materials are not kept secured at all times except when being loaded or unloaded.
  - (2) All containers and receptacles used therein shall be kept in a clean and sanitary condition.
  - (3) Any contractor employed by the city shall also conform to all other provisions of this chapter.
- (c) All vehicles and receptacles so used shall at all times be subject to inspection by city officials and, if in their judgment at any time any of same are defective or unfit for use, the city official is authorized to prevent the use of the same until put in proper condition to comply with the terms of this chapter.

Sec. 13-24. - Experimental methods of collection.

- (a) Nothing in this Code shall prohibit the city from testing alternate methods of providing solid waste disposal service in selected neighborhoods or to selected locations.
- (b) No such tests shall be started until a meeting has been held, after public notice, to provide an opportunity for residents and users of solid waste services in the area to appear and make suggestions or ask questions.
- (c) Any new or experimental method may, after testing on a limited basis, be implemented as appropriate throughout the service area.

Sec. 13-25. - Ownership of trash; prowling or salvaging prohibited.

- (a) Meddling with refuse containers or in any way pilfering, scavenging, scattering contents of, or junking in any alley or street within the city limits is prohibited.
- (b) The collection of refuse of any kind or junk within the city limits is prohibited except as provided herein.
- (c) This section shall in no way prohibit the implementation of any citywide recycling program, whether implemented by the city or contracted to some other entity or firm.

Sec. 13-26. - Nuisance.

- (a) The storage of garbage and trash in containers as prescribed by this chapter and the regular collection thereof by the city upon payment of fees and charges as provided in this chapter are hereby declared to be essential to the efficient operation of the city and to the prevention of disease and protection to the public health.
  - (1) Scattering of garbage or trash, storage of garbage or trash except in containers as provided by this chapter, or the accumulation of trash by reason of nonpayment of fees or charges for its removal is hereby declared to be a nuisance and a violation of this chapter.
  - (2) Under no circumstances shall trash or garbage be allowed to accumulate or be stored for a period longer than 30 days.
  - (3) Under no circumstances shall trash or garbage be dumped or stored on any street or in any alley or on any lot without being placed in proper containers as prescribed herein.
- (b) No industrial wastes, manure, debris from construction or repair work, leaves, trees or tree trimmings may be dumped or stored on any street or in any alley.
- (c) No owner or occupant of any premises shall prohibit or prevent weekly solid waste collection services at the premises.

Sec. 13-27. - Disconnection of water for failure to pay bill.

The charges established in the fee schedule for the collection, removal and disposal of all solid waste shall be entered as charges against each owner, manager, occupant, tenant or lessee, and the amount so fixed and charged shall be collected monthly in connection with and as a part of the water bill of the city. Should any owner, manager, tenant or lessee of any place of abode or of any business or commercial establishment fail or refuse to pay the charges fixed against him or her and his or her place of abode or place of business when due, the city shall have the right to disconnect water service to his or her place of abode or place of business against which such solid waste collection fees have been fixed and assessed.

Sec. 13-28. - Enforcement and civil penalties.

- (a) The provisions of this chapter are severable. If any provision of this chapter or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application.
- (b) When an official of the solid waste management division finds a violation of any provision(s) of this chapter, he shall notify the owner or occupant of the premises of the violation by posting a notice on the front door or by hand delivery to such person. Such person shall be required to remedy the violation within 14 days or else be subject to civil penalty as set out below. In addition, upon failure to remedy the violation, the official of the solid waste management division may proceed to correct the violation and impose the civil penalty against the owner or occupant as hereinafter set out.

- (c) Any person who violates any provision of this chapter shall be subject to an assessment of a civil penalty in the amount of \$75.00 for each violation.
- (d) After being notified as set forth above and upon failure to remedy the violation within the prescribed time, a civil penalty shall be invoked in the form of a citation stating the nature of the violation, the amount of the civil penalty, and directing the violator to pay the civil penalty within three days from the date of the citation. Such citation shall be served by either first class mail, personal service or posted at the front door. Any of these methods of service shall be conclusively presumed to be valid, and no owner or occupant shall refuse service of the citation.
- (e) If payment is not received within three days, in addition to other remedies for violation of this chapter, a civil action may be instituted in the nature of a debt to collect the civil penalties and court costs as may be assessed.

#### Chapter 14 - HEALTH AND SANITATION<sup>[1]</sup>

##### ARTICLE I. - IN GENERAL

###### Sec. 14-1. - Stagnant water—Allowing to remain on premises.

No person shall permit stagnant water to be and remain in any pool, pond, sink or open vessel on his lot or premises, or allow any water to remain in any cellar on his premises, so as to become stagnant. Any person owning property upon which there is such pond, pool, sink or place where water accumulates and becomes stagnant shall fill the same with earth within ten days after notice from the city to so fill such place.

###### Sec. 14-2. - Same—Removal of receptacles in which water may accumulate and stagnate.

For the purpose of preventing the breeding of mosquitoes and flies within the city, no person, being the owner of or having charge of any premises within the city, shall permit the deposit of tin cans, junk automobiles or other receptacles in which water may accumulate and stagnate. The city manager shall be charged with the enforcement of this section and shall notify the owners or agents in charge of such premises to forthwith remove from the premises any such cans, cars or other receptacles within a period of two days after such notification. Any person who shall fail to remove such cans, cars or other receptacles within the two-day period shall be guilty of a violation of this section, and each day thereafter that such premises are permitted to remain in such condition shall constitute a separate offense.

##### ARTICLE II. - RAT CONTROL<sup>[2]</sup>

###### DIVISION 1. - GENERALLY

###### Sec. 14-32. - Storage of chicken and animal feed.

No person shall keep within the city food for feeding chickens, cows, pigs, horses or other animals, unless the same is stored in ratfree and ratproof containers, compartments or rooms or unless the same is kept in a ratproof building.

###### Sec. 14-33. - Accumulations of garbage, etc., affording rat 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.

###### Sec. 14-34. - General powers of health officer in enforcing article.

The health officer shall have such powers as may be necessary or useful to carry out and effectuate the purposes and provisions of this article, including, without limiting the generality of the foregoing, the following powers in addition to others herein granted: To investigate conditions anywhere in the city in order to determine whether or not such conditions are or are not conducive to the existence or spread of endemic typhus fever or constitute a violation of this article, and for this purpose, he may enter upon and within premises, dwellings and buildings of all sorts for the purpose of making examinations and investigations; provided, that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession. In the case of vacant dwellings or buildings where, after due diligence, he is unable to get in touch with the agent, owner or occupant thereof, he is authorized, for the purpose of making such examination and investigations, to enter without permission.

###### Sec. 14-35. - Enforcement of article by officers, agents, etc., designated by health officer.



The health officer may fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this article, and he may delegate any of his functions and powers under this article to such officers and agents as he may designate.

Secs. 14-36—14-45. - Reserved.

## DIVISION 2. - BUSINESS BUILDINGS<sup>[3]</sup>

Sec. 14-46. - Ratproofing and maintenance in ratproof and rat free condition required.

- (a) All business buildings shall be ratproofed, freed of rats and maintained in a ratproof and rat-free condition by the agents, owners or occupants thereof, under the terms and conditions provided in this division.
- (b) It shall be unlawful for any person to construct, renovate or remodel, or have constructed, renovated or remodeled, any business building, in whole or in part, in the city, unless the same is equipped with ratproofing.

Sec. 14-47. - Inclusion of ratproofing in plans prerequisite to issuance of building permit.

No building permit for the construction, renovation or remodeling for any business building shall be issued, unless the plans for the same include ratproofing.

Sec. 14-48. - Inspections generally.

The health officer is authorized to make such unannounced inspections of the exteriors and interiors of business buildings as, in his opinion, may be necessary to determine full compliance with this division, and he shall make periodic inspections at intervals of not more than 60 days of all ratproofed buildings to determine evidence of breaks or leaks in the ratproofing.

Sec. 14-49. - Notice to agent, owner or occupant to ratproof, abate rat harborage, etc.—Generally.

- (a) When any evidence is found indicating the presence of rats in a business building or openings through which rats may enter, or any conditions that need remedying in order that such building may be in a ratproof condition and freed of rats, the health officer 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.
- (b) 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:
  - (1) Ratproof the building.
  - (2) Repair breaks and leaks in existing ratproofing.
  - (3) Whenever conditions inside or under a business building provide such extensive harborage for rats that the health officer finds it necessary to eliminate such harborage, he may require the owner to install suitable cement floors in basements, to replace wooden first or ground floors or to correct such other interior rat harborage as may be necessary in order to facilitate the eradication of rats in a reasonable time.

Sec. 14-50. - Same—Service.

Notices provided for in section 14-49 may be served upon agents, owners and occupants by personal delivery or by mailing to any such person's last known address. In case of a vacant business building or part thereof, when the agent or owner of the same cannot be found within the county after due diligence or his mailing address cannot be determined, a notice posted upon the premises in some conspicuous place will be deemed service upon such agent or owner.

Sec. 14-51. - Same—Failure to obey.

If any agent, owner or occupant of a business building fails, within 15 days after the receipt of a notice provided for in sections 14-49 and 14-50, to effectively commence compliance with such notice, 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 division. Each day's delay beyond such period shall constitute a separate offense. The health officer may, for cause shown, grant extensions

of such period, but no agent, owner or occupant shall fail to commence or complete the required work within the time of such extension.

Sec. 14-52. - Ratproofing and eradication by city upon failure of owner, occupant, etc., to act—Generally.

The city may do ratproofing and rat eradication on or in any business building if the owner, agent or occupant fails to comply with the notice given in accordance with the provisions of this division. The health officer is authorized, at the expense of the city, to do those things required by the notice, which expense, including the cost of all labor done and materials and equipment furnished, shall be reimbursed to the city by the agent, owner or occupant upon whom the notice was served. The city may collect such cost by suit or other legal means. If any owner or occupant fails to comply with a notice served on him, the expense incurred shall be certified by the health officer to the city clerk and shall be collected in the same manner as taxes.

Sec. 14-53. - Same—Notice of completion of work; responsibility of owner and occupant after completion.

If the city ratproofs and ratfreees a building as provided in section 14-52, the city shall, upon completion of the work, submit a written notice to the owner and occupant of such building that the premises are in a ratproof and ratfree condition. If the owner or occupant does not notify the city within five days after receipt of such notice that such is not the case, it shall become the responsibility of the owner to maintain the ratproofing and the responsibility of the occupant to maintain the premises in a ratfree condition.

Sec. 14-54. - Persons authorized to perform work required by division; performance of work by city under agreement with owner or occupant.

Any agent, owner or occupant of a business building, in complying with the provisions of this division, may do the necessary work himself, may engage a contractor to do the work or may have the work performed by the employment of such labor and the purchase of such materials as may be necessary in a manner and according to plans approved by the health officer. At the option of such agent, owner or occupant, however, he may make application to the health officer, who will have the necessary ratproofing or the work of rat elimination done at cost. The cost in each such case, whether for original ratproofing or ratfreeing a building, or renewals thereof, or for complying with the provisions of any notice, shall be agreed upon by the agent, owner or occupant, as the case may be, and the health officer prior to the doing of the work, and the amount agreed upon shall be paid in each case to the city treasurer.

Sec. 14-55. - Minimum specifications for ratproofing.

- (a) *Applicability of section.* The minimum specifications set out in this section shall be followed in ratproofing business buildings in the city and shall apply to all existing business buildings, new construction of business buildings and renovation or remodeling of business buildings.
- (b) *Footings, screening, etc., required.* All business buildings must have installed proper footings, proper screening of doors, windows, vents, fans, etc., proper closing of all holes in outside walls larger than one-half inch, proper repair of doors, doorsills, door casings, door transoms and the removal of harborages.
- (c) *Footings to comply with building code; footing flange.* Footings for all business buildings shall conform to the building code for depth and shall have a 12-inch horizontal flange at the base of the footing projecting away from the building and on the entire perimeter of the building. In lieu of this added flange, a solid concrete floor, if poured on solid ground, will be acceptable.
- (d) *General screen specifications.* All window screens, vent screens and transom screens, from which rats may gain entrance to the building, shall be made of 19 gauge one-half-inch mesh or smaller galvanized hardware cloth in a metal frame made of 24 gauge galvanized sheet metal. The metal frame shall be made of three-inch strips of metal bent to form a closed channel for each side, top and bottom of the screen. The corners shall be cut in such a manner as to give a double lock joint of each corner. The cloth shall be riveted to the frame with number two tinner rivets. Screens shall be fastened to the casings with screws to facilitate cleaning the windows or replacing of broken glass.
- (e) *Screens for food establishments.* Screens for all food establishments will include 16 mesh to the inch fly screen and one-half-inch mesh, 19 gauge galvanized hardware cloth.
- (f) *Door flashings.* Door flashings shall be made of eight-inch strips of 24 gauge sheet metal bent to form a 3¼-inch flashing on the outside of the door, a 2¼-inch flashing on the inside of the door and an eight-

inch flashing on the lower half of the door where it meets the casing. Tightfitting doors on the front of a building that will be well lighted at night do not need to be flashed.

- (g) *Rat guards.* Rat guards made of 24 gauge galvanized metal or brick mortar shall be properly placed in or around pipe and wire openings through the exterior walls of the building.
- (h) *Workmanship.* All metal work shall be bent on a metal bending brake to assure smooth, even bends. Holes in flashing metal frames shall be made with a standard metal punch to assure neat work. Sufficient braces shall be placed in screens to hold the hardware cloth in a flat plane. The flashing shall form a symmetrical pattern at the base of the door casing, both in cross section and elevation.

Sec. 14-56. - Supervision and inspection of ratproofing.

All ratproofing done under the provisions of this division shall be under the supervision of the Catawba County Health Department or any health department including Catawba County and must pass inspection by the authorized agent of such health department.

Sec. 14-57. - Removal of ratproofing; failure to close openings.

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.

## Chapter 15 - HOUSING<sup>[1]</sup>

### ARTICLE I. - IN GENERAL

Sec. 15-2. - Legislative findings; purpose of chapter.

- (a) Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in the city dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and morals and otherwise inimical to the welfare of the residents of the city. It is further found and declared that there are within the city certain abandoned buildings which are health or safety hazards as a result of the attraction of insects or rodents, dangerous conditions constituting a threat to children and frequent use by vagrants as living quarters in the absence of sanitary facilities.
- (b) In order to protect the health, safety and welfare of the residents of the city as authorized by G.S. chapter 160A, article 19, part 6 (G.S. 160A-441 et seq.), it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444; and to provide for the repair, closing or demolition of any abandoned structure as the same is authorized by the second paragraph of G.S. 160A-441.

### ARTICLE II. - MINIMUM STANDARDS

Sec. 15-31. - Compliance with article.

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 this article. No person shall occupy as owner-occupant or let to another for occupancy or use as a human habitation any dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of this article.

Sec. 15-32. - Structural condition.

The following shall be the minimum standards for structural conditions:

- (1) *Foundation.* Foundations shall conform to the following:
  - a. Beneath the building there shall be firm ground, which is reasonably dry, properly drained and no water running under the building.
  - b. There shall be sound footings, adequate bearing.
  - c. There shall be sound piers, no loose mortar or masonry.

- d. There shall be no piers in which the plumb line from the top center falls outside the middle 1/3 of the pier base.
- e. There shall be no isolated solid masonry piers exceeding in height ten times the least dimension of the pier.
- f. There shall be no wood stiff-knee piers, unless designed and installed in accordance with the applicable volume of the state building code.
- g. There shall be approved underpinning on all dwelling units with ventilation as required by the state building code.

(2) *Floors.* Floors shall conform to the following:

- a. There shall be no decayed termite-damaged, water damaged, fire-damaged, broken, overloaded or sagging sills.
- b. Sills shall be properly supported and reasonably level.
- c. Joists, shall not be overloaded, sagging or broken, and shall be structurally sound and not likely to cause structural weakness in the future.
- d. Maximum spans for floor joist and sills, providing they show signs of being weak or overloaded, shall comply with the requirements of the state building code.
- e. Flooring shall be weathertight without holes or excessive cracks which permit air to penetrate rooms.
- f. Flooring shall be reasonably smooth and not decayed, water damaged, fire damaged or worn through.
- g. There shall be no loose flooring.
- h. Floors shall be reasonably level.
- i. The flooring in each room shall consist of the same or similar material; and where covering or finish is provided, such covering or finish shall be reasonably smooth and not worn through.

(3) *Walls, exterior.* Exterior walls shall conform to the following:

- a. There shall be no wall in which the plumb line from the top center of studs falls outside the base plate at any point along the wall.
- b. Maximum spacing for studding, providing they show signs of being weak or overloaded, shall comply with the requirements of the state building code.
- c. Studs shall be structurally sound and not likely to cause weakness in the future. The maximum allowable deflection shall not exceed the values identified in the applicable volume of the state building code.
- d. There shall be no broken or cracked structural members.
- e. All siding shall be weathertight, with no holes or excessive cracks or decayed boards which permit air to penetrate rooms.
- f. There shall be no loose siding.
- g. There shall be no deterioration because of lack of preventive maintenance consisting of painting, waterproofing, and repair. Walls shall be free of chips, flaking or peeling surface materials.

(4) *Walls, interior.* Interior walls shall conform to the following:

- a. Interior finish shall be free of holes and excessive cracks which permit air to penetrate rooms, and if painted or papered, shall be free of chips or excessive peeling.

- b. There shall be no walls in which the plumb line from the top center of studs falls outside the base plate at any point along the wall.
- c. There shall be no loose plaster, loose boards, or other loose wall materials.
- d. There shall be no cardboard, newspaper or highly combustible or improper wall finish; and all wall materials shall be of the same or similar quality material.
- e. Maximum spacing for studding, providing they show signs of being weak or overloaded, shall comply with the requirements of the state building code.
- f. Studs shall be structurally sound and not likely to cause structural weakness in the future. The maximum allowable deflection shall not exceed the values identified in the applicable volume of the state building code.
- g. There shall be no broken or cracked studs or other structural members.

(5) *Ceilings.* Ceilings shall conform to the following:

- a. There shall be no joists, which are decayed, broken, sagging, or improperly supported at the ends.
- b. Maximum spans for ceiling joists, provided they show signs of sagging, and being weak, shall comply with the requirements of the state building code.
- c. There shall be no holes or excessive cracks which permit air and dust to penetrate rooms.
- d. There shall be no loose plaster, boards, gypsum wall board or other ceiling finish.
- e. There shall be no cardboard, newspaper, highly combustible or improper ceiling finish; and all ceiling materials shall be of the same or similar quality and material.
- f. Ceiling joist, shall be structurally sound and not likely to cause structural weakness in the future.

(6) *Roofs.* Roofs shall conform to the following:

- a. There shall be no rafters which are decayed, broken, or improperly supported at the ends.
- b. No rafters shall be seriously damaged by fire.
- c. Rafters shall be properly braced and tied.
- d. The attic shall be ventilated as required by the state building code.
- e. Sheathing shall not be loose and shall be structurally sound and not likely to cause structural weakness in the future.
- f. There shall be no loose roof covering, no holes, and no leaks causing damage to the structure or rooms.
- g. There shall be a minimum of class "C" roof covering.
- h. There shall be proper flashing at walls or chimneys.

(7) *Porches.* Porches shall conform to the following:

- a. The floor, ceiling, and roof shall be equal to requirements set forth-above, except sills, joists, and floors need not be level if providing drainage of floors; floors need not be weathertight; the ceiling height may be seven feet; and the attic need not be vented.
- b. Every porch, terrace or entrance platform 30 inches or more above adjacent grade shall be equipped with railings or guards not less than 30 inches high, unless other effective barriers provide adequate safety.
- c. If posts and railings are provided, they shall be structurally sound and not likely to cause structural weakness in the future.

(8) *Stairs and steps.* Stairs and steps shall conform to the following:

- a. Stairs and steps shall be free of holes, grooves, and cracks large enough to constitute trip hazards.
- b. Stairwells and flights of stairs more than four risers high shall have rails not less than two feet six inches measured vertically from the nose of the treads to the top of the rail.
- c. Every rail shall be firmly fastened and maintained in good condition.
- d. No flight of stairs shall be settled more than one inch out of its intended position or pulled away from supporting or adjacent structures.
- e. Supports shall not sag and shall be structurally sound and not likely to cause structural weakness in the future.
- f. Every stair riser shall be reasonably uniform in height.

Sec. 15-33. - Basic equipment and facilities.

The following shall be the minimum standards for basic equipment and facilities:

(1) *Plumbing facilities.*

- a. Each dwelling unit shall be connected to a potable water supply and to the public sewer where available or other approved sewage disposal system. Drain, waste, and vent piping and water piping shall be supported in an approved manner with no broken or leaking pipes. All water piping shall be protected from freezing by proper installation in a protected space. Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet. The kitchen sink shall be at least 12 inches by 16 inches by six inches deep. Required plumbing facilities shall be separate for each dwelling unit. Each dwelling unit shall have an adequate supply of both cold water and hot water.
- b. All plumbing fixtures shall meet the standards of the state plumbing code and shall be maintained in a state of good repair and in good working order.
- c. All required plumbing fixtures shall be located within the dwelling unit, protected from the weather and be accessible to the occupants of the same. The water closet and tub or shower shall be located in a room affording privacy to the user.

(2) *Heating facilities.*

- a. Every dwelling and every dwelling unit shall be weatherproof and capable of being adequately heated, and the heating equipment in every dwelling or dwelling unit shall be maintained in good order and repair. Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either subsection 1. or 2., below:
  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 to a minimum temperature of 68 degrees Fahrenheit measured at a point three feet above the floor with an outside temperature of 15 degrees Fahrenheit or a wind-chill factor equal thereto.
  2. *Other heating facilities.* Where a central or electric heating system is not provided, or is inadequate, each dwelling and dwelling unit shall be provided with sufficient chimneys, flues or gas vents, with heating appliances connected, so as to heat all habitable rooms to a minimum temperature of 68 degrees Fahrenheit measured three feet above the floor with an outside temperature of 15 degrees Fahrenheit or a wind-chill factor equal thereto.
- b. All electric, gas, coal, oil, and solar heating equipment installed on the premises shall be listed and labeled by an approved testing agency and installed in accordance with the manufactures' installation instructions and the state code.
- c. There shall be no loose bricks in chimneys.

- d. There shall be no holes in flues.
- e. There shall be no hanging masonry chimneys.
- f. Thimbles shall be grouted in tightly.
- g. Thimbles shall not be broken or cracked.
- h. Thimbles shall be high enough for stovepipes to rise ¼ inch per foot minimum.
- i. The hearth extension shall be at least 16 inches deep and eight inches beyond each side of the fireplace opening.
- j. Combustible materials shall not be placed within six inches of the edges of a fireplace opening. Combustible material above and projecting more than 1½ inches from the face of the fireplace opening shall have a minimum clearance of 12 inches above the opening.
- k. Fireplaces shall be closed with masonry when the chimney is used as a flue for a stove.
- l. A stove shall be within six feet of a thimble serving it.
- m. No combustible material shall be within 12 inches of a stovepipe.
- n. No stovepipe shall be through combustible walls.
- o. Fireplaces may be used for supplementary heating only and not used for basic heat.
- p. Every dwelling and dwelling unit including multiple dwellings, of three stories or less in height, shall have installed in the ceiling or, in the case of a dwelling of more than one story, in the ceiling of the top story, insulation to a minimum resistance value of R-19. Except as specified in this section, the insulation shall be installed in accordance with the requirements of the North Carolina Uniform Residential Building Code.

(3) *Electrical system.*

- a. 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 duplex receptacles remote from each other, connected in such manner as determined by the state electrical code. There shall be installed in every habitable room, bathroom, water closet room, laundry room, hallway, stairwell and furnace room at least one ceiling or wall type electric light fixture; provided, further, that the ceiling light fixture may be omitted in living room and bedrooms, provided three duplex receptacles are installed remote from each other, one of which is controlled from a wall switch.
- b. 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.
- c. All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe and capable of being used and installed in accordance with the state electrical code.
- d. No receptacles, ceiling fixtures or other equipment hanging loose.
- e. Extension cords shall not be used as permanent wiring.
- f. No circuit shall be overloaded.
- g. Fuses shall be sized correctly and not bridged out or tampered with.
- h. Smoke detectors shall be installed and operable where required by state law or state code.
- i. Where determination is made, upon examination of the existing electrical service supply, that it is obsolete or is a hazard to the occupants or would otherwise constitute a hazard to life and property, the following shall be used for determining the adequacy of such service and the main disconnect:

Number of outlets	Service size
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0—24	60 amp at 240 volts
25—50	100 amp at 240 volts

The minimum capacity of the electrical service and the main service disconnect shall be sufficient to adequately carry the total load required in accordance with the state electrical code.

Sec. 15-34. - Ventilation.

The following shall be the minimum standards for light and ventilation:

- (1) *Generally.* 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 eight percent of the floor area of such room. Whenever walls or other portions of structures face a window or any 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 percent of the total floor area of such room.
- (2) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size or minimum skylight type window size as required or shall have other approved, equivalent ventilation.
- (3) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall have an openable window with at least three square feet of glazed area. Where adequate windows cannot be provided, an approved ventilation system shall be provided in accordance with the state building code.

Sec. 15-35. - Space, use and location.

The following shall be the minimum standards for space, use and location:

- (1) *Room sizes.* Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the city residential building code. Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable floor area for each of the next three occupants and at least 75 square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.
- (2) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet, six inches.
- (3) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than 4½ feet shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible occupancy.
- (4) *Cellar.* No cellar shall be used for living purposes.
- (5) *Basements.* No basement shall be used for living purposes, unless:
  - a. The floor and walls are substantially watertight.



- b. The total window area, total openable window area and ceiling height are equal to those required for habitable rooms. Windows in rooms used for sleeping purposes shall comply with the state building code.
  - c. The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the windows face a stairwell, window well or accessway.
- (6) *Attics.* Attics shall not be used for living purposes, unless they meet all the provisions of this code.

Sec. 15-36. - Safe and sanitary maintenance.

The following shall be the minimum standards for safe and sanitary maintenance:

- (1) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodentproof; shall be kept in sound condition and good repair; shall be capable of affording privacy; and 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.
- (2) *Interior floor, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially rodentproof; 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.
- (3) *Windows and doors.* Every window, exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight, and rodentproof and shall be kept in sound working condition and good repair.
- (4) *Stairs, porches and appurtenances.* Every outside and inside 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.
- (5) *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.
- (6) *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.
- (7) *Drainage.* Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.
- (8) *Noxious weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growths which are noxious or detrimental to health.
- (9) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the city building code.
- (10) *Closing existing unoccupied buildings.* The following procedures shall be used for closing existing unoccupied buildings that are vacant for 12 months or buildings vacant any length of time that cause an eminent hazard:
  - a. All rubbish and debris shall be removed prior to closing.
  - b. Windows shall be closed using minimum thickness of ½-inch exterior grade plywood cut to fit the opening. Plywood shall be installed from the exterior side of the structure using a two inches by four inches nominal piece of lumber with through bolts through the two inches by four inches and also using a two inches by four inches piece of lumber on the interior of the opening. The interior two inches by four inches shall overlap the casing by four inches on each side of the window. The two inches by four inches shall be approximately six to eight inches from the top and bottom of the window. Carriage bolts not less than 3/8 inches in

diameter installed from the exterior with the threads and nuts on the inside shall be used within one inch of the casing and not more than 12 inches on centers. Washers shall be installed with nuts.

- c. Exterior doors shall be secured using ½-inch exterior grade plywood cut to fit the opening with four #8 by 2 inch wood screws on each side. The plywood shall be installed over the brick mold or casing.
- d. The plywood and all other exterior surfaces shall be protected with an approved exterior paint, a color that is compatible with the remainder of the structure.
- e. Any building closed pursuant to an order of the housing inspector shall be maintained closed and secured by the owner. If thereafter the building is unlawfully opened, the housing inspector shall serve the owner with an order to re-close and secure the building within 30 days after service of the order. A building will be posted condemned or unsafe pursuant to G.S. § 160A-426 if the owner fails to re-close and secure a building within the time required under the order. If the owner fails to re-close and secure the building within 90 days after being posted pursuant to G.S. § 160A-426 the housing inspector shall request an order by the city council to demolish the building.

Sec. 15-37. - Control of insects, rodents and infestations.

The following shall be the minimum standards for control of insects, rodents and infestations:

- (1) *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 approved screens with an approved self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed. Screens are not required if there is an approved mechanical ventilation system properly maintained for each unit.
- (2) *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.
- (3) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodentproof or reasonably insectproof 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.
- (4) *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 this Code or other city ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.
- (5) *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 in the structure for the use of the occupants of all dwelling units, or an approved outside garbage can as required by this Code or other city ordinances.

Sec. 15-38. - Applicability to roominghouses.

All of the provisions of this chapter and all of the minimum standards and requirements of this article shall be applicable to roominghouses and to every person who operates a roominghouse, or who occupies or lets to another for occupancy any rooming unit in any roominghouse, except as provided in paragraphs (1) through (4).

- (1) *Water closet, hand lavatory and bath facilities.* At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a roominghouse wherever such 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.
- (2) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.
- (3) *Sanitary conditions.* The operator of every roominghouse shall be responsible for the sanitary maintenance of all walls, floors and ceilings and for the sanitary maintenance of every other part of the roominghouse, and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the roominghouse is contained is leased by the operator.
- (4) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by subsection (1) of this section shall be located within the roominghouse and within rooms which afford privacy and are separate from the habitable rooms and which are accessible from a common hall and without going outside the roominghouse or through any other room therein.

#### ARTICLE III. - ADMINISTRATION AND ENFORCEMENT<sup>[2]</sup>

##### Sec. 15-61. - 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; 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 the 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.

##### Sec. 15-62. - Duties of housing inspector.

The housing inspector is hereby designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. It shall be the duty of the housing inspector:

- (1) To investigate the dwelling conditions and to inspect dwellings and dwelling units located in the city, in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this chapter with respect to such dwellings and dwelling units.
- (2) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated.
- (3) To keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed.
- (4) To perform such other duties as may be herein prescribed.

Sec. 15-63. - Powers of housing inspector.

The housing inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

- (1) To investigate the dwelling conditions in the city in order to determine which dwellings therein are unfit for human habitation.
- (2) To administer oaths and affirmations, examine witnesses and receive evidence.
- (3) To enter upon premises for the purpose of making examinations and inspections; provided, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.
- (4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter.
- (5) The provisions of this Code are not intended to prevent the use of any alternate material, design, or method of construction provided any such alternate has been reviewed and approved by the inspector at his sole discretion. The inspector shall approve any such alternate, provided he finds that the alternate, for the purpose intended, is at least the equivalent of that prescribed in the code in quality, strength, effectiveness, fire resistance, durability or safety. The inspector shall require that sufficient evidence or proof be submitted to substantiate any claim regarding the alternate.

Sec. 15-64. - Right of entry of inspector or owner for purposes of inspections, repairs, etc.

For the purpose of making inspections, the inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall give the inspector free access to such dwelling, dwelling unit or rooming unit and its premises at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

Sec. 15-65. - Appeals.

Unless otherwise provided by law, appeals from any order, decision, or determination by the housing inspector pertaining to the housing code shall be taken to the city council pursuant to subsection (d) of section 15-66.

Sec. 15-66. - Enforcement procedure generally.

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

- (1) *Generally.* After such notice and hearing, the inspector shall state in writing his determination whether such dwelling or dwelling unit is unfit for human habitation and, if so, whether it is deteriorated or dilapidated.
  - (2) *Deterioration.* If the inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed 90 days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations and improvements have been made.
  - (3) *Dilapidation.* If the inspector determines that the dwelling is dilapidated, 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 or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter or else vacate and remove or demolish 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 deteriorated dwelling or dwelling unit shall fail to comply with an order of the inspector to vacate and close and remove or demolish the same within the time specified therein, the inspector shall 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 inspector, as authorized by G.S. 160A-446(g).
  - (2) *In rem remedy.* After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in paragraph (1) of this subsection, the inspector shall submit to the city council a request for an ordinance ordering the inspector to cause such dwelling or dwelling unit to be repaired, altered, improved or vacated and closed and removed or demolished, as provided in the original order of the inspector, and pending such removal or demolition, to placard such dwelling "This building is unsafe for human habitation" as provided by G.S. 160A-443 and section 15-68 of this article.
- (d) *Appeals from decisions or orders of inspector.* An appeal from any decision or order of the inspector may be taken by any person aggrieved thereby or by any officer, board or commission of the city. Any appeal from the inspector shall be taken within ten days from the rendering of the decision or service of the order by filing with the inspector and with the city council a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the inspector shall forthwith transmit to the city council all papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the city council, unless the inspector certifies to the city council, after the notice of appeal is filed with him, that because of facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property. In that case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the inspector, by the city council, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and subsection (e) of this section. The city council shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties and shall render its decision within a reasonable time. Any party may appear, in person or by agent or attorney. The city council may reverse or affirm, wholly or partly, or may modify the decision or order appealed from and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the inspector, but the concurring vote of five members of the city council shall be necessary to reverse or modify any decision or order of the inspector. The city council shall have power also in passing upon appeals, in any case where there are practical difficulties or

unnecessary hardships in the way of carrying out the strict letter of this chapter, to adapt the application of this chapter to the necessities of the case, to the end that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done. Every decision of the city council shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the city council, but not otherwise.

- (e) *Petition to superior court by owner.* Any person aggrieved by an order issued by the inspector or a decision rendered by the city council shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the inspector, pending a final disposition of the cause, as provided by G.S. 160A-446(f).

Sec. 15-67. - Methods of service of complaints and orders.

Complaints or orders issued by the inspector under this chapter shall be served upon persons either personally or by registered or certified mail, but if the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the inspector in the exercise of reasonable diligence, the inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such persons may be made by publishing the same at least once in a newspaper printed and published in the city no later than the time at which personal service would be required under G.S. 160A-441—160A-450. 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.

Sec. 15-68. - In rem action by inspector; placarding.

- (a) After the failure of an owner of a dwelling or dwelling unit to comply with an order of the inspector issued pursuant to the provisions of this chapter, and upon adoption by the city council of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443(5) and section 15-66 of this article, the inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter or to be vacated and closed and removed or demolished as directed by the ordinance of the city council and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor.
- (b) Each such ordinance shall be recorded in the office of the county registrar 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).

Sec. 15-69. - Cost of repairs, demolition, etc., to constitute lien on premises.

- (a) As provided by G.S. 160A-446(6), the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the inspector pursuant to section 15-68 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. chapter 160A, article 10 (G.S. 160A-216 et seq.). If the dwelling is removed or demolished by the public officer, he shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the inspector, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.
- (b) If any occupant fails to comply with an order to vacate a dwelling, the inspector may file a civil action in the name of the city to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the inspector produces a certified copy of an ordinance adopted by the city council pursuant to section 15-68 authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that

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

Sec. 15-70. - Alternative remedies.

Neither this chapter 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 chapter by criminal process as authorized by G.S. 14-4 and section 15-72 of this article, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy provided herein or in any other ordinance or law.

Sec. 15-71. - Conflicting provisions.

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

Sec. 15-72. - Violations.

- (a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate, close and remove or demolish the same, upon order of the inspector duly made and served as provided in this chapter, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to section 15-66, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.
- (b) The violation of any provision of this chapter shall subject the offender to a civil penalty as provided by section 1-9(b).

Chapter 16 - JUNK AND SECONDHAND DEALERS<sup>[11](#)</sup>

ARTICLE I. - IN GENERAL

Sec. 16-2. - License—Required; application.

It shall be unlawful for any person to engage in the business of a junk dealer or secondhand dealer without first securing a license so to do from the city. Any person desiring to engage in the business of a junk dealer or secondhand dealer shall make application, in writing, to the city manager for such license, specifying in such application the street and building in which such applicant intends to carry on such business and, if a corporation, the name of the person who is to actively manage such business. The application shall be signed by at least five freeholders of the city certifying to the good character of the applicant or such active manager.

Sec. 16-3. - Same—Issuance; revocation.

- (a) Whenever the city manager shall have determined to grant a junk dealer's or secondhand dealer's license to any applicant, the city manager shall, upon payment of the license tax provided therefor in the annual license ordinance, issue to such applicant a license to carry on such business. Every license so issued shall be issued upon the condition, whether or not expressed in the license, that it may be revoked at any time by the city manager, upon satisfactory proof that the licensee has willfully falsified or caused or suffered to be falsified any books or records required by this chapter to be kept or that, in conducting such business, such licensee or any agent or employee of such licensee has violated or is violating any of the provisions of this chapter, or whenever, in the conduct of such business, any

such licensee or any person in charge of such business shall be convicted of larceny or of receiving stolen goods, knowing the same to have been stolen.

- (b) It shall be unlawful for any person to engage in the business of a junk dealer or secondhand dealer after his license is revoked.

Sec. 16-4. - Same—Transfer.

No license issued under section 16-3 shall be transferred, either as to parties or location, except upon application and express permission therefor given by the city manager. The city manager shall apply uniform standards in making such decision.

Sec. 16-5. - Books to be kept; books and articles open to inspection.

Each junk or secondhand dealer shall keep a book, in which he shall record all purchases and sales. The book shall contain a description of the articles that the dealer purchases, the name and address of the seller, the purchase price, the date of the transaction, and the license number, if any, of the seller's vehicle or, if none, a description of the vehicle delivering the articles. Such book, as well as any article or thing of value sold or acquired by a junk or secondhand dealer shall, at all reasonable times, be open to the inspection of the chief of police or any member of the police force.

Sec. 16-6. - Purchases from minors.

No junk or secondhand dealer, or his agent or employee, shall purchase, take or acquire, in the course of such business, any goods, article or thing of value whatsoever from any minor under the age of 18 years or any goods, article or thing of value, the ownership of which is in, or which is claimed by, any minor, unless such minor's parents or guardian, or the relation or person in whose care or employ such minor may be at the time, shall state in writing that such transaction is made with such parents', guardian's, relation's or employer's full knowledge and consent. It shall be the duty of such dealer to preserve and keep on file such written statement for the purpose of subsequent reference thereto. Such written permission shall be subject to inspection in like manner by the chief of police or any member of the police force as is provided for under section 16-5.

Sec. 16-7. - Condition of shops and premises.

All junk and secondhand shops and the premises thereof shall be so maintained as not to permit therein or thereon the accumulation of filthy rags, filthy or offensive bones or anything else, in such manner that may be a nuisance or detriment to health. Every license issued by the city manager is issued upon the condition that all junk and secondhand dealers' places of business shall be so constructed, maintained and conducted as to comply with health and sanitary regulations.

ARTICLE II. - SECONDHAND PRECIOUS METAL DEALERS<sup>[2]</sup>

Sec. 16-37. - License—Required.

- (a) No person shall operate a secondhand precious metal business unless such person shall have first applied for and received a privilege license from the city tax collector. A separate license shall be required for each location, place or premises used for the conduct of a secondhand precious metal business, and each license shall designate the location, place or premises to which it applies. In addition, such business shall not be carried on or conducted in any other place than that designated in or by such license.
- (b) Every partnership, corporation or association operating as a secondhand precious metal business shall be responsible for insuring that every employee, before being employed, is registered by name and address with the police department and that thumbprints, fingerprints and photographs are taken by the police department. Such employee shall then be issued by the police department a certificate of compliance with this section.

Sec. 16-38. - Same—Investigation of applicant.

- (a) Any person applying to the city tax collector for a license to conduct the business of a secondhand precious metal dealer shall also report to the police department and furnish his full name, address, physical description, age, North Carolina driver's license number (if applicable), and social security number to assist in an investigation of his criminal record and character. In addition, the applicant will be photographed and fingerprinted in order to facilitate the investigation.



- (b) If the applicant is a partnership or association, all persons owning or having an interest therein shall comply with the provisions of subsection (a).
- (c) In the case of a corporate applicant, each stockholder owning ten percent or more of the corporation's common stock shall comply with the provisions of subsection (a).

Sec. 16-39. - Same—Denial, revocation.

- (a) No license shall be issued to any applicant if any of the persons required to be investigated under section 16-38 have been convicted of a felony involving a crime of moral turpitude, or larceny, or receiving stolen goods or of similar charges in any federal court or a court of this or any other state, unless the applicant has had his or her rights of citizenship restored pursuant to G.S. ch. 13 for five years or longer immediately preceding the date of application.
- (b) The conviction of any person required to be investigated under section 16-38 for a felony involving a crime of moral turpitude, or larceny, or receiving stolen goods or of similar charges in any federal court or a court of this or any other state or for any violation of this article shall constitute grounds for immediate revocation by the city council of the privilege license issued to such secondhand precious metal business.

Sec. 16-40. - Records of transactions.

- (a) Every secondhand precious metal business shall keep a tightly bound book or books, not looseleaf, with pages numbered in sequence, in which there shall be legibly written at the time of any transaction with a nonlicensee involving the purchasing of, trading for or acquiring of ownership of any secondhand article made, in whole or in part, of gold or silver or platinum, the following information:
  - (1) An account and description of the items, articles, or things purchased, traded for or taken in, including, if applicable, the manufacturer's name, the model, the model number, the serial number, and any engraved numbers, initials or markings.
  - (2) The amount of money involved in the transaction or any item offered in trade; all money being paid to a seller by a secondhand precious metal business shall be paid by check.
  - (3) The date of the transaction.
  - (4) The name and residence of the person involved in the transaction with the secondhand precious metal business, along with the person's date of birth and general physical description, including hair color and approximate height and weight.
  - (5) A notation whether the items, articles, or things are stored on the licensed premises or elsewhere.
- (b) No transaction involving purchasing, trading for or taking in a secondhand article made, in whole or in part, of gold, silver, or platinum shall be completed by any secondhand precious metal business or an agent or employee thereof until the person involved in the transaction presents two forms of positive identification or one state or federal government issued identification containing a photographic representation imprinted thereon. This identification information shall be recorded next to the person's name and residence in the book required to be kept pursuant to subsection (a).
- (c) The book required by this section shall be a permanent record to be kept at all times on the premises of the secondhand precious metal business. Such book shall be made available, during regular business hours, to any law enforcement officer. The book need not be kept longer than three years by the licensee.
- (d) A full and accurate copy of the records required to be kept by this section shall be filed electronically with the police department within 48 hours of the transaction in accordance with the following requirement:
  - (1) All secondhand precious metal dealers shall utilize a reporting system that offers an electronic data transmission system that is compatible with the technology designated by the chief of police or his designee.

Sec. 16-41. - Goods to be kept for seven days.

Every secondhand precious metal business must keep all secondhand articles made, in whole or in part, of gold, silver, or platinum, open to inspection by any law enforcement officer at reasonable times for a period of seven days after the purchase or acquisition thereof in any transaction subject to the provisions of section 16-40. During this period, the appearance of such articles shall not be altered in any way. A secondhand precious metal business is not prohibited from selling or arranging to sell or trade such articles during the seven-day period, as long as such articles remain in its possession as required by this section.

Sec. 16-42. - Purchasing from juvenile.

No secondhand precious metal business or employee or agent thereof shall purchase from any juvenile under 18 years of age any secondhand article made, in whole or in part, of gold, silver, or platinum.

Sec. 16-43. - Use of unlicensed premises prohibited; exception.

No secondhand precious metal business shall make use of any property or premises not included within the premises designated in or by the license required by this article for the display of any secondhand article made, in whole or in part, of gold, silver, or platinum or for the conduct of a secondhand precious metal business. No item included in a dealer purchase shall be sold, traded or otherwise disposed of, melted, cut or otherwise changed in form nor shall any item be removed from the licensed premises, or other location specified on the application for a special occasion permit, for a period of seven days from the date the transaction was reported.

Sec. 16-44. - Penalties.

A violation of any of the provisions of this article by any person shall constitute a misdemeanor and, upon conviction, a violator shall be punished by a fine not to exceed \$50.00 or imprisonment for not more than 30 days. Each and every violation shall constitute a separate and distinct offense.

### ARTICLE III. - PAWNBROKERS

Sec. 16-46. - License—Required.

(a) No person shall operate a pawnbroker business unless such person shall have first applied for and received a privilege license from the city tax collector. A separate license shall be required for each location, place or premises used for the conduct of a pawnbroker business, and each license shall designate the location, place or premises to which it applies. In addition, such business shall not be carried on or conducted in any other place than that designated in or by such license.

Sec. 16-47. - Same—Investigation of applicant.

(a) Any person applying to the city tax collector for a license to conduct a pawnbroker business shall also report to the police department and furnish his full name, address, physical description, age, North Carolina driver's license number (if applicable), and social security number to assist in an investigation of his criminal record and character. In addition, the applicant will be photographed and fingerprinted in order to facilitate the investigation.

(b) If the applicant is a partnership or association, all persons owning or having an interest therein shall comply with the provisions of subsection (a).

(c) In the case of a corporate applicant, each stockholder owning ten percent or more of the corporation's common stock shall comply with the provisions of subsection (a).

Sec. 16-48. - Same—Denial, revocation.

No license under this article shall be issued to any applicant if any of the persons required to be investigated under section 16-47 has been convicted of any felony within the ten-year period preceding the filing of the application.

Any license granted under this article may be revoked by the city, after a hearing, for substantial abuses of this chapter by the licensee.

The conviction of any person required to be investigated under section 16-47 for any felony or for any violation of this article shall constitute grounds for immediate revocation by the city council of the privilege license issued to such secondhand precious metal business.

Sec. 16-49. - Records of transactions.

- (a) Every pawnbroker shall keep consecutively numbered records of each and every pawn transaction, which shall correspond in all essential particulars to a detachable pawn ticket or copy thereof attached to the record.
- (b) The pawnbroker shall, at the time of making the pawn or purchase transaction, enter upon the pawn ticket a record of the following information which shall be typed or written in ink and in the English language:
  - (1) A clear and accurate description of the property, including model and serial number if indicated on the property;
  - (2) The name, residence address, phone number, and date of birth of pledgor;
  - (3) Date of the pawn transaction;
  - (4) Type of identification and the identification number accepted from pledgor;
  - (5) Description of the pledgor including approximate height, weight, sex, and race;
  - (6) Amount of money advanced;
  - (7) The date due and the amount due;
  - (8) All monthly pawn charges, including interest, annual percentage rate on interest, and total recovery fee; and
  - (9) Agreed upon "stated value" between pledgor and pawnbroker in case of loss or destruction of pledged item; unless otherwise noted, "stated value" is the same as the loan value.
- (c) The following shall be printed on all pawn tickets:
  - (1) The statement that "ANY PERSONAL PROPERTY PLEDGED TO A PAWNBROKER WITHIN THIS STATE IS SUBJECT TO SALE OR DISPOSAL WHEN THERE HAS BEEN NO PAYMENT MADE ON THE ACCOUNT FOR A PERIOD OF 60 DAYS PAST MATURITY DATE OF THE ORIGINAL CONTRACT. NO FURTHER NOTICE IS NECESSARY.";
  - (2) The statement that "THE PLEDGOR OF THIS ITEM ATTESTS THAT IT IS NOT STOLEN, HAS NO LIENS OR ENCUMBRANCES, AND IS THE PLEDGOR'S TO SELL OR PAWN.";
  - (3) The statement that "THE ITEM PAWNED IS REDEEMABLE ONLY BY THE BEARER OF THIS TICKET OR BY IDENTIFICATION OF THE PERSON MAKING THE PAWN."; and
  - (4) A blank line for the pledgor's signature and the pawnbroker's signature or initials.
- (d) The pledgor shall sign the pawn ticket and shall receive an exact copy of the pawn ticket which shall be signed or initialed by the pawnbroker or any employee of the pawnbroker. These records shall be available for inspection and pickup each regular workday by the chief of police or the chiefs designee. These records shall be electronically reported to the chief of police or the chiefs designee in accordance with the following requirements:
  - (1) All pawnbrokers shall utilize a reporting system that offers an electronic data transmission system that is compatible with the technology designated by the chief of police or his designee.
  - (2) The electronic data must be provided to the police department within 24 hours after the record is created.
  - (3) These records shall be a correct copy of the entries made of the pawn or purchase transaction and shall be carefully preserved without alteration, and shall be available during regular business hours.
- (e) Except as otherwise provided in this chapter, any person presenting a pawn ticket to a pawnbroker is presumed to be entitled to redeem the pledged goods described on the ticket.

ARTICLE IV. - SECONDARY METALS RECYCLERS

Sec. 16-51. - Receipt required.

- (a) A secondary metals recycler shall issue a receipt to the person delivering the regulated metals property for all purchase transactions in which the secondary metals recycler purchases regulated metals property.
- (b) This receipt shall be signed by the person delivering the materials, and the secondary metals recycler shall be able to provide documentation regarding the employee who completed the transaction.

Sec. 16-52. - Records required.

- (a) A secondary metals recycler shall maintain a record of all purchase transactions in which the secondary metals recycler purchases regulated metals property.
- (b) The following information shall be maintained for transactions in which a secondary metals recycler purchases regulated metals property:
  - (1) The name and address of the secondary metals recycler.
  - (2) The name, initials, or other identification of the individual entering the information.
  - (3) The date of the transaction.
  - (4) The weight of the regulated metals property purchased.
  - (5) The description made in accordance with the custom of the trade of the type of regulated metals property purchased and the physical address where the regulated metals were obtained by the seller, and a statement signed by the seller or the seller's agent certifying that the seller or the seller's agent has the lawful right to sell and dispose of the property.
  - (6) The amount of payment given for the regulated metals property.
  - (7) The name and address of the vendor of the regulated metals property and the license plate number of the vehicle used to deliver the regulated metals.
  - (8) A photocopy or electronic scan of the driver's license or state or federally issued photo identification card of the person delivering the regulated metals property to the secondary metals recycler. The secondary metals recycler may keep a copy of a person's valid photo identification on file and reference it during subsequent transactions after examining the photo identification of the person delivering the regulated metals. The secondary metals recycler shall not complete a transaction if the person delivering the regulated metals property does not have a driver's license or a state or federally issued photo identification card.
  - (9) A copy of the receipt required under section 16-4 of this section when all the information required under section 16-45 is clear and legible or, in the event the copy of the receipt is not clear or not legible, the original receipt.
  - (10) The secondary metals recycler shall take the index fingerprint, either in ink, or electronically of any person delivering catalytic converters not attached to a vehicle and central air conditions evaporator coils or condensers. The fingerprint shall be placed beside the person's signature. The recycler may keep a person's fingerprint on file and reference it in subsequent transactions without taking a separate fingerprint.
- (c) A secondary metals recycler shall keep and maintain the required records for not less than two years from the date of the purchase of the regulated metals property. Records shall be kept secured and destroyed in a manner that protects the identity of the owner of the property, the seller of the property, and the purchaser of the property.

Sec. 16-53. - Inspection of regulated metals property and records.

- (a) During the usual and customary business hours of a secondary metals recycler, a law enforcement officer shall have the right to inspect all of the following:
  - (1) Any and all purchased regulated metals property in the possession of the secondary metals recycler.
  - (2) Any and all records required to be maintained under section 16-40.

- (b) A secondary metals recycler shall make receipts for the purchase of regulated metals property available for pickup each regular workday if requested by the chief of police.
- (c) The secondary metals recycler shall utilize a receipts reporting system that offers an electronic data transmission system that is compatible with the standard used by the city's police department's computer system.
- (d) The electronic data must be provided to the police department within 24 hours after the record is created.

Sec. 16-54. - Confidentiality of records.

Records submitted to the police department are records of criminal investigations or records of criminal intelligence information as defined in G.S. 132-1.4 and are not public records as defined by G.S. 132-1.

Sec. 16-55. - Purchase limitations.

No secondary metals recycler shall do any of the following:

- (a) Purchase any central air conditioner evaporator coils or condensers, or catalytic converters that are not attached to a vehicle, except that these items may be purchased from a company, contractor, or individual that is in the business of installing, replacing, maintaining, or removing these items. The payment for these metals shall be made by check or money order made out to the company, contractor, or individual. Payment for these metals may also be made using a cash card system that captures the photograph of the person selling these metals if the secondary metals recycler maintains the photograph for 90 days.
- (b) Purchase other nonferrous metal property not listed in subsection (c) for any cash greater than \$100.00 per transaction. The secondary metals recycler may purchase other nonferrous metal property for an amount in excess of \$100.00 if the payment is made by check, money order, or a cash card system that captures the photograph of the person selling the nonferrous metal if the secondary metals recycler maintains the photograph for 90 days.
- (c) Except as provided in subsection (d) of this section, purchase:
  - (1) Any regulated metal marked with the initials or other identification of a telephone, cable, electric, water, or other public utility, or any brewer.
  - (2) Any utility access cover.
  - (3) Any street light pole or fixture.
  - (4) Any road or bridge guard rail.
  - (5) Any highway or street sign.
  - (6) Any water meter cover.
  - (7) Any metal beer keg, including any made of stainless steel that is clearly marked as being the property of the beer manufacturer.
  - (8) Any traffic directional or control sign.
  - (9) Any traffic light signal.
  - (10) Any regulated metal marked with the name of a government entity.
  - (11) Any property owned by a railroad and marked and otherwise identified as such.
  - (12) Any historical marker or any grave marker or burial vase.
- (d) This section does not apply to:
  - (1) Purchases of regulated metals property from a manufacturing, industrial, government, or other commercial vendor that generates or sells regulated metals property in the ordinary course of its business.
  - (2) Purchases of regulated metals property that involve only beverage containers.

- (e) Unless the conduct is covered by some other provision of law providing greater punishment, any person knowingly and willfully violating any of the provisions of this section shall be guilty of a Class 1 misdemeanor for a first offense. A second or subsequent violation of this section is a Class I felony.

Sec. 16-56. - Retain metals for seven days before selling or altering.

Any secondary metals recycler owner convicted of a felonious violation of Chapter 66, G.S. 14-71, 14-71.1, or 14-72 shall hold and retain any regulated metals product, except for iron and steel products, for seven days from the date of purchase before selling, dismantling, defacing, or in any manner altering or disposing of the regulated metals property.

#### Chapter 17 - LICENSES

#### ARTICLE III. - SEXUALLY ORIENTED BUSINESSES

Sec. 17-73. - Classification.

Sexually oriented businesses are classified as follows:

- (1) Adult arcades.
- (2) Adult bookstores or adult video stores.
- (3) Adult cabarets.
- (4) Adult motels.
- (5) Adult motion picture theaters.
- (6) Adult theaters.
- (7) Escort agencies.
- (8) Nude model studios.
- (9) Sexual encounter centers.

Sec. 17-84. Hours of operation.

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 a.m. and 6:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 10:00 a.m. on Sundays, except to the extent allowed by state law and regulations pertaining to the sale of alcoholic beverages by the business if the sexually oriented business has a state ABC permit.

Sec. 17-85. Additional regulations—Escort agencies.

A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

Sec. 17-86. Same—adult theaters, adult cabarets, adult motion picture theaters.

(a) A person commits an offense if the person appears in a state of nudity in an adult cabaret, adult theater, or adult motion picture theater, or adult arcade.

(b) A licensee or employee commits an offense if the licensee or employee allows a person to appear in a state of nudity in an adult cabaret, adult theater, or adult motion picture theater, or adult arcade.

Sec. 17-87. Same—Adult motels.

(a) Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this section.

(b) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license, such person rents or subrents a sleeping room to another and, within ten hours from the time the room is rented, such person rents or subrents the same sleeping room again.

(c) For purposes of subsection (b), above, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

Sec. 17-88. Same—All sexually oriented businesses.

A person commits an offense if the person allows another person under the age of 18 years to enter or remain on or in the enclosed portion of a sexually oriented business; or for a person under the age of 18 years to enter or remain on or in the enclosed portion of a sexually oriented business.

Sec. 17-89. - Regulations pertaining to sexually oriented businesses with viewing or other rooms.

- (a) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which either: (i) exhibits on the premises in a viewing room of less than 150 square feet of floor spaces, a film, videocassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, or (ii) has a room or booth (excluding restrooms) of less than 150 square feet to which patrons are admitted for any reason, shall comply with the following requirements:
- (1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises. The chief of police may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
  - (2) The application shall be sworn to be true and correct by the applicant(s).
  - (3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the city clerk or his designee.
  - (4) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises. It is the duty of the owners and operator of the premises and the employees who are present to ensure that no more than one person occupies a room or booth at any time, and that all other entrances to rooms, booths or viewing areas (and to the aisles, walkways and hallways leading to rooms, booths or viewing areas) are maintained free of any obstruction such as a door, curtain, panel, board, slat, ribbon, cord, rope, chain or other device.
  - (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
  - (6) It shall be the duty of the owners and operator, and it shall also be the duty of all employees present in the premises to ensure that the line of sight and view area specified in subsection (5), above, remains unobstructed by any doors, walls, merchandise, display racks or other materials

at all times that any patron is present in the premises and to ensure that no patron is permitted in the application filed pursuant to subsection (1), above.

- (7) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot candle as measured at the floor level.
  - (8) It shall be the duty of the owners and operator and it shall also be the duty of all employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
  - (9) No operator, owner or employee shall allow openings of any kind to exist between rooms or booths.
  - (10) No person shall make or attempt to make an opening of any kind between rooms or booths.
  - (11) The operator or owner shall, during each business day, regularly inspect the walls between the rooms or booths to determine if any openings or holes exist.
  - (12) The owner or operator shall cause all floor coverings in rooms, booths and viewing areas to be non-porous, easily cleanable surfaces, with no rugs or carpeting.
  - (13) The owner or operator shall cause all wall surfaces and seating surfaces in rooms, booths and viewing areas to be constructed of, or permanently covered by, non-porous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.
- (b) A person having a duty under subsections (a)(1) through (a)(13), above, commits an offense if the person fails to fulfill that duty.

Sec. 17-90. - Criminal penalty.

Any person who violates any provision of this article shall be guilty of a misdemeanor, and, upon conviction, shall be subject to a fine of \$500.00, or imprisonment, or both.

Sec. 17-91. - Civil injunction.

Any person who violates this article is subject to a civil suit for injunction as well as prosecution for criminal violations and liability for licensing sanctions such as suspension or revocation.

Sec. 17-92. - Liability for the conduct of others.

A licensee of a sexually oriented business is jointly and individually liable for violations of and offenses under this article by the employees of the sexually oriented business, and for all civil and criminal sanctions or remedies for such violations and offenses, including but not limited to license suspension or revocation, prescribed in this article.

Secs. 17-93—17-119. - Reserved.

#### ARTICLE IV. - TAX ON GROSS RECEIPTS DERIVED FROM SHORT-TERM LEASE OR RENTAL OF VEHICLES

Sec. 17-121. - Levy.

A tax is hereby imposed and levied in an amount equal to 1½ percent of the gross receipts derived from the short-term lease or rental of vehicles at retail to the general public. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. § 160A-211.

Sec. 17-122. - Collection.

Every person engaged in the business of the short-term lease or rental of vehicles at retail to the general public shall collect at the time of the lease or rental the tax herein levied, place the tax so collected in a segregated account, and thereafter remit such tax to the tax collector in accordance with the provisions of this article. The taxpayer shall include a provision in each retail short-term lease or rental agreement stating that the percentage amount enacted by this article of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. The amount of the tax shall be stated separately from the lease or rental and shown separately on the taxpayer's records. The tax shall be paid by the customer to the taxpayer as trustee for and on account of the city. The taxpayer shall be liable for the collection thereof and for its payment to the tax collector and the taxpayer's failure to charge or to collect the tax from the customer shall not affect such liability.



Sec. 17-123. - Report and payment.

Taxes levied under this article are due and payable when a return is required to be filed. Every taxpayer shall, within the time specified, submit a return to the tax collector on the form prescribed by the tax collector. A return must be signed by the taxpayer or the taxpayer's agent. Returns of taxpayers are due to the tax collector each month on or before the 15th day of the month following the month in which the tax accrues. As provided in G.S. § 160A-208.1, a return shall not be considered a public record and information contained in a return may be disclosed only in accordance therewith.

Sec. 17-124. - Taxpayer to keep records.

The taxpayer shall keep and preserve suitable records of the gross receipts received by such taxpayer in the conduct of business and such other books or accounts as may be necessary to determine the amount of the tax for which such taxpayer is liable under the provisions of this article. It shall be the duty of the taxpayer to keep and preserve for a period of three years all such records of gross receipts and other books and accounts described. All records, books and accounts herein described shall be open for examination at all reasonable hours during the day by the tax collector or his duly authorized agent.

Sec. 17-125. - Tax collector to provide forms.

The tax collector shall design, prepare, print and make available to all taxpayers operating within the municipal boundaries of the city forms and instructions for filing returns to insure a full collection of and an accounting for taxes due. The failure of any taxpayer to obtain or receive forms shall not relieve such taxpayer from the payment of the tax at the time and in the manner provided.

Sec. 17-126. - Situs.

The transaction giving rise to the tax herein levied shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle (G.S. § 160A-215.1(b)).

Sec. 17-127. - Penalties and remedies.

The provisions with respect to remedies and penalties applicable to G.S. ch. 105, subch. VIII (Local Government Sales and Use Tax), as contained in G.S. ch. 105, subch. I, arts. 5 and 9, shall be applicable in like manner to the tax authorized to be levied and collected under this article, to the extent that the same are not inconsistent with the provisions hereof. The governing body of the city may exercise any power the secretary of revenue may exercise in collecting sales and use taxes (G.S. § 160A-215.1(f)).

Sec. 17-128. - Administration.

In addition to the provisions herein, the levy and collection of the taxes herein imposed shall be otherwise administered in the same manner as the sales and use tax as provided in G.S. ch. 105, subch. 1, art. 5. (G.S. § 160A-215.1(d)).

Chapter 18 - MOTOR VEHICLES AND TRAFFIC<sup>[11](#)</sup>

Sec. 18-2. - Obedience to police.

No person shall wilfully fail or refuse to comply with any lawful order or direction of a police officer made pursuant to this chapter or other ordinance relative to motor vehicles and traffic.

Sec. 18-3. - Authority of police in emergencies.

In the event of a fire or other emergency, or when necessary to expedite traffic or safeguard pedestrians, police officers may direct traffic as conditions may require, notwithstanding the provisions of this chapter.

Sec. 18-4. - Number of persons in front seat of vehicle.

It shall be unlawful for the driver or the person in charge of any motor vehicle to permit more than three persons, including the driver, to ride in the front seat of such vehicle.

Sec. 18-5. - Riding on part of vehicle not intended for passengers.

No person shall ride on any public conveyance or vehicle or any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in spaces intended for merchandise, nor shall this section be construed to prohibit people from standing in the aisle of a public conveyance in accordance with state law.

Sec. 18-6. - Boarding or alighting from moving vehicles.

No person shall board or alight from any public conveyance or other vehicle while such conveyance or vehicle is in motion.

Sec. 18-7. - Clinging to moving vehicles.

No person riding upon any bicycle, motorcycle, coaster, sled, roller skates or any toy vehicle shall attach the same or himself to any public conveyance or moving vehicle upon any roadway.

Sec. 18-8. - Body not to protrude beyond limits of vehicle.

No person shall allow any part of his body to protrude beyond the limits of the vehicle in which he is riding, except to give such signals as by law required, and no person shall hang onto any vehicle whatsoever.

Sec. 18-9. - Riding motorcycle without hands on handlebars.

No person shall ride a motorcycle on any street without having his hands upon the handlebars.

Sec. 18-10. - Use of roller skates, skateboards, etc., on roadway.

No person upon roller skates, skateboards, scooters or riding in or by means of any coaster, wagon, toy vehicle or similar device being propelled solely by momentum or by thrusting of the rider's foot against the ground or pavement shall go upon any roadway, street or alley, except while crossing a street at a crosswalk or intersection.

Sec. 18-11. - Closed vehicles required for hauling loose dirt, etc.; improperly loaded vehicles.

(a) No person shall haul or carry loose dirt, gravel, shavings, sawdust or any other substance or material likely to render the streets unclean or unsightly, except in vehicles so closed as to prevent the leakage or dropping of such substance or materials upon the streets or sidewalks.

(b) No person shall operate upon the city streets a motor vehicle carrying dirt, stone, wood, sand or paper which is loaded in such a manner that its contents are likely to be spilled upon the streets.

Sec. 18-12. - Driving vehicles or animals over streets or sidewalks being improved or paved.

It shall be unlawful for any person to drive any vehicle or animal of any kind over any of the streets or sidewalks of the city while such streets or sidewalks are being improved or paved and before the same shall have been opened for travel.

Sec. 18-13. - Operation of vehicles or machinery which may damage street surface.

Except as provided in G.S. 20-122, it shall be unlawful for any person to operate on the streets of the city a tractor or any other vehicle with cleats or lugs, or any vehicle or machinery of any kind which may damage the surface of the streets.

Sec. 18-14. - Entering or riding on vehicles without permission.

No person shall enter, jump on or ride in any automobile or other vehicle without the consent of the owner or driver.

Sec. 18-15. - Applicability of chapter to drivers of government vehicles.

(a) Subject to subsection (b), the provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States government or the state, county or city, and it shall be unlawful for any such driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter or by state statute.

(b) Drivers of vehicles owned or operated by the state or any political subdivision thereof shall be exempt from this chapter to the extent that they are exempted from state law by G.S. 20-168.

Sec. 18-16. - Applicability of chapter to authorized emergency vehicles.

(a) The provisions of this chapter regulating the operation, parking and standing of vehicles shall apply to authorized emergency vehicles; except, that a driver, when operating such vehicle in an emergency, except when otherwise directed by a police officer, may:

(1) Park or stand, notwithstanding the provisions of this chapter.

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.

- (3) Exceed the prima facie speed limits, so long as he does not endanger life or property.
- (4) Disregard regulations governing direction of movement or turning in specified directions, so long as he does not endanger life or property.
- (b) The foregoing exemptions shall not protect the driver of any such vehicle from the consequences of his reckless disregard of the safety of others.

Sec. 18-17. - Applicability of chapter to persons propelling pushcarts, riding animals, etc.

Every person propelling any pushcart, riding any animal or driving any animal-drawn vehicle shall be subject to the provisions of this chapter applicable to the driver of a vehicle, except those provisions of this chapter which, by their very nature, can have no applicability.

Sec. 18-18. - Motorcycle, moped; safety helmets; overloading.

- (a) No motorcycle or moped shall be operated on the streets and highways of the city, unless the operator and all passengers thereon wear safety helmets, of a type approved by the commissioner of motor vehicles, on their heads.
- (b) The operator of a motorcycle or moped, when upon a street, shall not carry any person upon the handlebars, frame, tank or any other portion of such vehicle not designed for carriage of passengers, nor shall any person so ride as a passenger upon any such vehicle.
- (c) No person shall operate a motorcycle or moped upon the streets and highways of the city when the number of persons upon such motorcycle or moped, including the operator, shall exceed the number of persons it was designed to carry.
- (d) A violation of any provision of this section shall not be considered negligence per se or contributory negligence per se in any civil action.

## ARTICLE II. - OPERATION OF VEHICLES GENERALLY<sup>[2]</sup>

Sec. 18-46. - Driving on one-way streets.

Vehicular traffic shall move only in the indicated direction on one-way streets designated as provided in section 18-81, when authorized signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

Sec. 18-47. - Driving on roadways laned for traffic.

All vehicles operated on any roadway which has been clearly marked with lanes for traffic shall be driven as nearly as practical entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

Sec. 18-48. - U-turns.

No driver shall make a U-turn in the city.

Sec. 18-49. - Use of horn in quiet zones.

Whenever authorized signs are placed, erected or installed indicating a quiet zone, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of such vehicle, except in an emergency.

Sec. 18-50. - Obstructing intersections or crosswalks.

No driver shall enter an intersection or a marked crosswalk, unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

Sec. 18-51. - Driving through funeral processions.

No vehicle shall be driven through a funeral procession, except fire department vehicles, police patrols and ambulances, when the same are responding to calls.

Sec. 18-52. - Limitations on backing.

The driver of a vehicle shall not back the same into any intersection or over a crosswalk and shall not in any event or at any place back a vehicle, unless such movement can be made in safety and unless he shall have given ample warning to those who may be behind, by hand and horn or other signal.

Sec. 18-53. - Driving in front of or behind vehicle of fire department.

No person shall drive any vehicle in front of or nearer than 400 feet in the rear of any fire truck or other vehicle of the fire department when such vehicle is traveling in response to a fire alarm or other emergency.

Sec. 18-54. - Driving over fire hose.

No vehicle shall be driven over any hose of the fire department when laid down on any street or driveway to be used at any fire.

Sec. 18-55. - Procedure upon approach of authorized emergency vehicle.

Upon the approach of an authorized emergency vehicle giving warning signal by appropriate light and audible signal by bell, siren or exhaust whistle, the driver of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the righthand edge or curb of the street, clear of any intersection, and shall stop and remain in such position, unless otherwise directed by a police or traffic officer, until the emergency vehicle has passed. Provided, however, this section shall not apply to vehicles traveling in the opposite direction of the vehicles herein enumerated when traveling on a four-lane limited access highway with a median divider dividing the highway for vehicles traveling in opposite directions.

Sec. 18-56. - Truck routes.

The following routes are established as truck routes in and for the city:

- (1) U.S. 321 from the southern to the northern corporate limits.
- (2) U.S. 70 from the western corporate limits east to the eastern corporate limits.
- (3) N.C. 127 from the northern corporate limits south to the southern corporate limits.

Sec. 18-57. - Speed limits—State maintained highways.

The maximum speed limit for motor vehicles upon those streets located within the city limits maintained by the state board of transportation shall be as shown upon a plat furnished and approved by the board of transportation, which plat, together with a listing of the specific speed limits and street locations, is on file with the city clerk.

Sec. 18-58. - Same—School zones.

When authorized signs are placed, erected or installed indicating any street or part thereof as a school zone, no driver of a vehicle shall exceed the speed of 15 miles per hour therein between 8:00 a.m. and 4:00 p.m. on any day when school is in session.

#### ARTICLE III. - TRAFFIC CONTROL DEVICES<sup>[3]</sup>

Sec. 18-81. - Official traffic maps; erection and installation.

- (a) The city council, by ordinance, from time to time shall designate, lay off and indicate upon maps to be appropriately marked and maintained in the office of the superintendent of the traffic department the following: parking spaces and zones, no parking zones, limited parking zones, loading zones, safety zones, school zones, hospital zones, quiet zones, traffic zones other than the above, through streets, stop streets, yield right-of-way streets, one-way streets, three-and four-lane streets, bus stops, parallel parking, angle parking and parking under any other restrictions, and officially designated bicycle lanes, together with indications of intersections at which traffic shall be controlled by official traffic signals, intersections at which left turns or right turns shall be prohibited or at which left turns or right turns shall be allowed under certain conditions and intersections at which markers, buttons, painted marks, signs or other indications shall be placed to indicate the course to be traveled by vehicles traversing or turning at such intersections.
- (b) Whenever any designation is made in accordance with this section, the superintendent of the traffic department shall erect and install such signs, markings, lines, signals and other traffic control devices as may be necessary to clearly indicate such designation and to put drivers of vehicles on notice of the restriction, limitation or prohibition resulting from such designation.

Sec. 18-82. - Obedience to traffic control devices.

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of section 18-81 or other ordinances of the city, unless

otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle by section 18-16.

Sec. 18-83. - When signs required for enforcement.

No provision of this chapter for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective without signs being placed to give notice thereof.

ARTICLE IV. - STOPPING, STANDING AND PARKING<sup>[4]</sup>

DIVISION 1. - GENERALLY

Sec. 18-106. - Prohibited in specified places.

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk.
- (2) Within an intersection.
- (3) On a crosswalk.
- (4) Within 30 feet of any flashing beacon, stop sign or traffic control signal located at the side of a street or roadway.
- (5) On either side of any street approaching a railroad underpass or overhead bridge, within 50 feet in any direction of the outer edge of such underpass or overhead bridge.
- (6) On either side of any street approaching a grade crossing, within 50 feet of the closest rail; provided, that where permanent structures are located along the street and closer than 50 feet, parking may be permitted in front of such structures, unless otherwise prohibited, if the parking does not interfere with the view in either direction of an approaching locomotive or train.
- (7) Alongside or opposite any street excavation or obstruction, when such stopping, standing or parking would obstruct traffic.
- (8) Upon any bridge or other elevated structure or within any underpass structure.
- (9) On the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street.
- (10) Within 15 feet in either direction of a fire hydrant.
- (11) Officially designated bicycle lanes.

Sec. 18-107. - Prohibited for certain purposes.

No person shall stand or park a vehicle upon any street for the principal purpose of:

- (1) Displaying it for sale.
- (2) Washing, greasing or repairing such vehicle, except repairs necessitated by an emergency.
- (3) Storage thereof by garages, dealers or other persons, when such storage is not incident to the bona fide use and operation of such automobiles or other vehicles.
- (4) Storage of any detached trailer or van, when the towing unit has been disconnected or for the purpose of transferring merchandise or freight from one vehicle to another.
- (5) Advertising.

Sec. 18-108. - Stopping in streets generally.

No person shall stop any vehicle in any street so as to obstruct any footway, pedestrian aisle, safety zone, crossing or street intersection, if the same can be avoided.

Sec. 18-109. - Stop and yield intersections.

- (a) When authorized stop signs are placed, erected or installed upon streets or highways intersecting a through street at the entrances thereto or at the entrance to any intersection designated as provided

in section 18-81, every driver of a vehicle shall stop in obedience to such signs before entering the intersection and shall not proceed into or across the through street until he has first determined that no conflict with traffic will be involved.

- (b) Whenever a yield right-of-way sign is erected at an intersection designated as provided in section 18-81, the driver of a vehicle approaching such sign shall yield the right-of-way to all other traffic approaching the intersection and shall stop, if necessary to avoid conflict with such traffic.

Sec. 18-110. - Stop required when emerging from alley, driveway or building.

The driver of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or into the sidewalk areas extending across any alleyway and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on such roadway.

Sec. 18-111. - Standing not to interfere with other vehicles.

No vehicle shall so stand on any street or alley as to interrupt or interfere with the passage of public conveyances or other vehicles.

Sec. 18-112. - Method of parking—Generally.

- (a) Where not otherwise indicated by this chapter and where the street is not marked to show how vehicles shall park, all vehicles shall park parallel to the curb and not more than 12 inches therefrom.
- (b) On any street which is marked off with lines indicating parking spaces for vehicles, such vehicles shall be parked between such lines.

Sec. 18-113. - Same—Vehicles backed up to curb.

In no case shall a vehicle remain backed up to the curb, except when actually loading or unloading.

Sec. 18-114. - Same—Left side to curb.

No vehicle shall stop with its left side to the curb in the business district; except, that on one-way streets vehicles shall stop headed in the direction of traffic.

Sec. 18-115. - Lights on parked vehicles.

The displaying of lights upon a vehicle when lawfully parked at night upon a street of the city in accordance with this chapter shall not be required when there is sufficient light to reveal any person within a distance of 200 feet upon such street.

Sec. 18-116. - Parking prohibited during snow removal operations on certain streets.

When authorized signs or markings are placed, erected or installed temporarily during snow removal operations of the city on streets designated as provided in section 18-81, no person shall park or permit to be parked any vehicle upon either side of such streets during such period.

Sec. 18-117. - Parking in no parking zone or safety zone.

No person shall park or permit to be parked any vehicle in any area at which authorized signs or markings are placed, erected or installed indicating that such area is a no parking zone or safety zone.

Sec. 18-118. - Limited parking zones—Generally.

No person shall park or permit to be parked any vehicle in any area at which authorized signs or markings are placed, erected or installed indicating a zone of limited parking, except in accordance with such signs or markings.

Sec. 18-119. - Same—Hourly parking zones.

- (a) No person shall park or permit to be parked any vehicle in excess of designated hours as denoted by signage in any area designated as provided in section 18-81, in which area authorized signs or markings are placed, erected or installed indicating such hourly parking. Removing such vehicle only partially from such parking space, whether such vehicle is replaced entirely within such space or not, shall not have the effect of unparking of such vehicle; it shall be a violation of this section for any portion of such vehicle to remain within such parking space for more than the limited parking time; changing of position of a vehicle from one point and parking space to another point and parking space within the same block shall be deemed one continuous period and shall not have the effect of unparking of such vehicle.

- (b) The hourly parking limit shall apply only between the hours of 9:00 a.m. and 5:30 p.m. and shall not apply on Sundays and holidays. Within the meaning of this section, the term "holiday" shall include the following days only: New Year's Day, Good Friday, the Fourth of July, Labor Day, Thanksgiving Day, Christmas Day, the day following Christmas Day and any other legal holiday declared by the city council.
- (c) It is hereby declared to be unlawful and a separate violation of this section for any person to in any manner alter, disguise, obliterate or to move from its original location any mark or signal of any type placed upon the tire or other portion of any vehicle by any law enforcement officer who is or was attempting to enforce the provisions of this section.
- (d) After any law enforcement officer has affixed any mark or signal to the tire or other portion of any vehicle, it shall be unlawful for any person to move or alter the position of such vehicle within any parking space in an attempt to remove or conceal such mark or signal or to evade the orderly enforcement of this section.

Sec. 18-120. - Parking of certain vans, trucks, etc.

It shall be unlawful for any person to park any van, trailer, tractor, truck or other motor vehicle, or portion thereof, having an overall width in excess of 90 inches or an overall length in excess of 20 feet, or a total weight, with or without cargo, in excess of 6,000 pounds, on any street or portion of a street in the city, except for periods during which a cargo from any such vehicle, or portion thereof, is in the process of being loaded or unloaded, which single loading or unloading period shall not exceed one hour.

Sec. 18-121. - Violations of division.

Any person violating any provision of this division shall be deemed guilty of a misdemeanor and shall be subject to the civil penalty as set forth in section 1-9; provided, however, that the penalty for parking a vehicle in violation of this division or any portion thereof shall be \$5.00 if the same is paid within 48 hours after the receipt of a ticket or notice of such violation. It shall be an additional violation of this section for each successive legal parking period or fraction thereof by which the vehicle exceeds the original parking limit.

Sec. 18-122. - Enforcement generally; payment to satisfy violation.

Each police employee charged with the duty of enforcing this article shall note any vehicle which is overparked, the vehicle tag number, the specific violations charged and the time during which such vehicle is parking in violation of this article. He shall attach to the vehicle a notice to the owner thereof that such vehicle has been parked in violation of a provision of this article and instructions to such owner when and where to report with reference to such violation. Each owner or operator may, within 48 hours of the time when such notice was attached to such vehicle, pay to the properly designated official as a penalty for and in full satisfaction of such violation, the sum of \$5.00 for each violation of article IV. If the same is not paid within 48 hours after the time such notice was attached to such vehicle, the penalty for the violation shall be a misdemeanor as by law provided, and each violation shall require the payment of a penalty plus court costs as applicable and as prescribed by the General Statutes. Nothing in this section shall apply to provisions of article VII, Parking for handicapped persons. Each owner or operator who is found to be in violation of subsection 18-136(1) for parking in a privately leased parking space or lot in any city parking lot without a lease shall within 48 hours of the time when such notice is attached to the vehicle pay to the properly designated official as a penalty for and in full satisfaction of such violation the sum of \$20.00.

DIVISION 2. - OFFSTREET PARKING LOTS

Sec. 18-136. - Parking in leased spaces; parking beyond time allowed.

Where the city has purchased, acquired, established or otherwise secured for the purpose of operating and controlling any offstreet parking lots, parking garages or other facilities for parking motor vehicles, it shall be unlawful:

- (1) For any person other than the lessee of a privately leased parking space in any city parking lot, where space is leased to individuals for a term of days, weeks, months or other stated periods of time, to park a motor vehicle or other vehicle in such leased parking space without the express permission of the lessee of such space; provided, that such parking lot containing such leased spaces is clearly designated as such by a sign having an area of at least three square feet



prominently displayed at each entrance thereto, calling attention to the fact that such spaces are leased.

- (2) For any person within a parking lot where no charge is made for parking and where spaces are not leased to individual lessees, but where the parking of motor vehicles beyond a specified length of time is prohibited or where parking at certain hours is prohibited, to leave parked any motor vehicle beyond the maximum allowable length of time or at a time during which parking is prohibited in such lot, as the case may be; provided, that such parking lot is clearly designated as such by a sign not smaller than three square feet in area prominently displayed at each entrance thereto, setting forth such regulations.
- (3) For any person within such a city-controlled offstreet parking lot, parking garage or other facility for parking motor vehicles, where such parking is regulated by the use of parking meters, to cause, allow, permit or suffer any vehicle registered in his name or operated by him to be parked overtime or beyond the period of legal parking time established for any such parking meter area, or to deposit in any parking meter any coin for the purpose of parking beyond the maximum legal parking time for the particular parking meter area. It shall likewise be unlawful for any person to permit any vehicle to remain in any parking space adjacent to any parking meter while the meter is displaying a signal indicating that the vehicle occupying such parking space has already been parked beyond the period prescribed for such parking space. Nothing herein contained shall restrict the use of funds collected from the use of parking meters in such offstreet parking lots for any legal purpose.

#### ARTICLE V. - TAX ON MOTOR VEHICLES<sup>[5]</sup>

##### Sec. 18-156. - Privilege tax.

- (a) *Imposed; scope.* Each self propelled motor vehicle licensed by the state which is resident within the city on January first of each year shall be subject to an annual privilege tax of \$5.00. The tax shall be imposed for the fiscal year beginning on July first following the January first date on which the motor vehicle becomes resident in the city. For purposes of determining whether the vehicle is "resident" within the city, the provisions of the Machinery Act (G.S. § 105-304 and ch. 105, art. 22A) shall be applicable, and any such motor vehicle which, under the Machinery Act, would be taxable for ad valorem property taxes shall be subject to the tax imposed in this section.
- (b) *Administration; enforcement.* The county tax collector is authorized to issue the tax bills for the tax imposed herein and shall collect the tax imposed herein. The county tax collector shall have the powers of listing, assessing, discovery, collection, levy, attachment, garnishment, release and rebate authorized under the Machinery Act, to the same extent as such powers and authorities are available for the listing, assessing and collection of ad valorem taxes under the Machinery Act.
- (c) *Effective date.* The privilege tax imposed by this section shall be effective for the ensuing 1998-1999 fiscal year and for all fiscal years thereafter.
- (d) *Allocation of revenue.* All revenues derived from the automobile fee shall be allocated for sidewalk improvements for the ensuing fiscal year and that future allocations shall be reviewed annually in connection with the adoption of each subsequent fiscal year's budget.

##### Sec. 18-182. - Abandoned, junked or nuisance vehicles unlawful; removal authorized.

- (a) It shall be unlawful for the owner of a motor vehicle or for the owner, lessee or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared an abandoned, junked or nuisance vehicle.
- (b) Upon investigation, the city building inspector (or other municipal official) may determine and declare that the vehicle is a health or safety hazard or a public nuisance as defined above and order the vehicle removed.

##### Sec. 18-183. - Pre-towing notice; appeal; removal without notice.

- (a) A vehicle to be towed or otherwise removed because it has been declared to be abandoned, junked or a nuisance vehicle shall be towed only after notice to the owner or person entitled to possession of the vehicle. If the names and mailing addresses of the owners of the vehicle or the real property upon



which it is located can be ascertained in the exercise of reasonable diligence, the notice shall be given to both by first class mail. The person who mails the notices shall retain a written record to show the names and addresses to which mailed and the date mailed. If such names and addresses cannot be ascertained, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle. The notice shall state that the vehicle will be removed by the city on a specified date, no sooner than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

- (b) If the owner or person entitled to possession of the vehicle does not remove the vehicle, but chooses to appeal the determination that the vehicle is an abandoned or nuisance vehicle, such appeal shall be made to the chief of police in writing. Such an appeal must be made within ten days following receipt of notice of such action and shall be filed with the police department. During the appeal, further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.
- (c) Upon failure of the vehicle owner or person entitled to possession to appeal within the prescribed time, the determination that the vehicle is an abandoned or nuisance vehicle shall be considered final.
- (d) An abandoned, junked or nuisance vehicle may be removed without giving the minimum seven days' prior notice only in those circumstances where the authorizing official finds, and enters such findings in appropriate records, a special need for prompt action to maintain the public health, safety and welfare.

Sec. 18-184. - Post-towing notice.

- (a) Any vehicle which has been determined to be an abandoned, junked or nuisance vehicle may be removed to a storage garage or area by a towing business contracting to perform such services for the city.
- (b) Whenever a vehicle with a valid registration plate or registration is towed as provided in this article, the enforcement officer/building inspector shall immediately notify the last known registered owner of the vehicle of the following:
  - (1) A description of the vehicle;
  - (2) The place where the vehicle is stored;
  - (3) The violation with which the owner is charged, if any;
  - (4) The procedure the owner must follow to have the vehicle returned to him; and
  - (5) The procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours; if the vehicle is not registered in this state, notice shall be given to the owner within 72 hours. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by telephone, notice shall be mailed to his last known address unless he or his agent waives this notice in writing.

- (c) Whenever a vehicle with neither a valid registration plate nor registration is towed as provided in this article, the enforcement officer/building inspector shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information listed in subsection (b). Unless the owner has otherwise been given notice, it is presumed that the enforcement officer/building inspector has not made reasonable efforts, as required under this subsection, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least seven days before the towing actually occurred; except, no pretowing notice need be given if the vehicle impeded the flow of traffic or otherwise jeopardized the public welfare so that immediate towing was necessary.

Sec. 18-185. - Right to probable cause hearing before sale or final disposition of vehicle.

After removal of a vehicle declared to be an abandoned, junked or nuisance vehicle, the owner or other person entitled to possession may request in writing a hearing to determine if probable cause existed for removing the vehicle. The requests must be filed with the magistrate in the county where the vehicle is towed. The magistrate will set the hearing within 72 hours of receipt of the request and a hearing will be conducted in accordance with the provisions of G.S. 20-219.11.

Sec. 18-186. - Redemption of motor vehicle during proceedings.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not engage in further violations of this chapter.

Sec. 18-187. - Sale and disposition of unclaimed vehicle.

- (a) With the consent of the owner, the designated city official may dispose of any vehicle as a junked motor vehicle without holding it for any period of time.
- (b) Any abandoned, hazardous or junked motor vehicle which is not claimed by the owner or other party entitled by possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such vehicles shall be carried out in coordination with the city and in accordance with G.S. 44A-1 through 44A-6.

Sec. 18-188. - Immunity.

Neither the city or 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 junked, lost, abandoned or stolen vehicle for disposing of such vehicle as contemplated by this article.

Sec. 18-189. - Exceptions to provisions.

Nothing in this chapter shall apply to any vehicle, which meets the following conditions:

- (1) The vehicle is located in a bona fide automobile graveyard or junkyard as defined in G.S. 136-143, in accordance with the Junkyard Control Act.
- (2) The vehicle is in an approved enclosed building for purposes of housing motor vehicles.
- (3) A maximum of one junked motor vehicle of a singular model and year maybe located in the rear yard as defined by the city's zoning ordinance if the junked motor vehicle is entirely concealed from public view by an approved motor vehicle cover. The approved motor vehicle cover must remain in good repair and must not be allowed to deteriorate.
- (4) The vehicle is in an appropriate storage place or depository maintained in a lawful place and manner by the city.

#### ARTICLE VII. - PARKING FOR HANDICAPPED PERSONS<sup>[7]</sup>

Sec. 18-212. - Handicapped parking privileges.

- (a) Any person who falls within the definition of handicapped as defined in section 18-211 shall be allowed to park for unlimited periods in parking zones restricted as to length of time parking is permitted. This section shall have no application to those zones or during times in which the stopping, parking or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege, the vehicle shall display a distinguishing license plate, a removable windshield placard, or a temporary removable windshield placard.
- (b) The distinguishing license plate or placard referred to above shall be such plate or placard as designed by the state division of motor vehicles and issued to the handicapped person, as provided by G.S. 20-37.5, or an out-of state evidence of handicap or visual impairment, as described in G.S. 20-37.6A.
- (c) The display of a placard shall be done by placing the same on the driver's side dashboard of a vehicle in such position that it can readily be seen and identified from the outside, and when such display is made, the privileges set forth in this article shall be applicable to such vehicle.

Sec. 18-213. - Special parking places restricted to handicapped.

Whenever on any street or in any public parking lot within the city the area has been set aside and marked by appropriate signs and markings that it is restricted for the use of handicapped, such space shall be occupied only by a vehicle displaying the distinguishing license plate, placard, or other evidence of handicap or visual impairment, as referred to in this article.

Sec. 18-214. - Privileges extended to nonhandicapped operator.

The privileges of parking beyond restricted periods of time and of parking in a handicapped person's space shall be extended to a nonhandicapped person who is operating a vehicle for the purpose of providing transportation for a handicapped person, as well as handicapped persons operating such motor vehicle.

Sec. 18-215. - Penalty for violation.

A violation of Article VII is hereby declared to be a misdemeanor which carries a penalty of at least \$50.00, but not more than \$100.00 in accordance with state law. In addition, Article VII, Parking for Handicapped Persons, is enforceable in all public vehicular areas as provided for in "Penalties for violation," in G.S. 20-37.6 (1, 2, 3, and 4).

Chapter 19 - NOISE[19](#)

Sec. 19-1. - Loud, disturbing noises generally.

Subject to the provisions of this chapter, the creation and continuation of any unreasonably loud and disturbing noise in the city is prohibited. It shall be unlawful for any person to cause, make or contribute to creating any unreasonably loud or disturbing noise of such character, intensity or duration as to be detrimental to the life or health of any individual or such noises as disturb the quiet and peace of any citizen of the city.

Sec. 19-2. - Noises expressly prohibited.

The following acts, among others, are declared to be loud, disturbing, and annoying noises in violation of this chapter, but such enumeration shall not be deemed to be exclusive:

- (1) *Vehicle horns and signaling devices.* The sounding or blowing of any horn or signal device on any automobile, motorcycle, bus or other vehicle, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal; the creation by means of any signal device of any loud or harsh noise and the sounding of such device for any unreasonable period of time.
- (2) *Radios, phonographs, etc.* The playing of any television, radio, phonograph or other musical instrument in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of any person in any dwelling, hotel or other type of residence.
- (3) *Animals and birds.* The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any persons in the vicinity.
- (4) *Noisy vehicles.* The use of any automobile, motorcycle or vehicle so out of repair or so loaded or used or repaired in such manner as to create loud noises, particularly grating, grinding, rattling, riveting, or other disturbing noises.
- (5) *Steam whistles.* The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.
- (6) *Exhaust discharge.* The discharge into the open air of the exhaust from any steam engine, stationary internal combustion engine, motorboat engine or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (7) *Devices using compressed air.* The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced.
- (8) *Building operations.* The erection, including excavation, demolition, alteration or repair, of any building in a residential or business district, other than between the hours of 7:00 a.m. and 6:00 p.m., on weekdays, except in cases of urgent necessity in the interest of public safety, and then only with a permit from the proper city officials.
- (9) *Noises near schools, hospitals, churches, etc.* The creation of any excessive noise on any street adjacent to any school, institution of learning, library, sanitorium, hospital or court, while the same is in session, or adjacent to any church during church service, which interferes with the work or worship in any such place or institution; provided, that signs must be displayed in any such street indicating that the same is a school, hospital, church, library, sanitorium or court street.

- (10) *Loading and unloading operations; repairing vehicles; etc.* The creation of loud and excessive noises in connection with loading or unloading any vehicle, repairing any vehicle or opening and destroying bales, boxes, crates and containers.
- (11) *Bells or gongs.* The sounding of any bell or gong attached to any building or premises, which disturbs the quiet or repose of any person in the vicinity thereof, except as an alarm of danger.
- (12) *Hawking, peddling or soliciting.* Shouting, loud talking, crying or soliciting by peddlers, hawkers, taxicab drivers, solicitors and vendors, which disturbs the quiet and peace of the neighborhood or any person therein.
- (13) *Noises to attract attention.* The use of any drum, stationary loudspeaker or other like device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise; provided, that this subsection shall not be construed to apply to the use of loudspeakers by merchants during the Christmas season for the purpose of providing music and music only, in connection with window displays; provided, further, that in the use of loudspeakers for such purposes, they shall be toned down so that the music will be of moderate and unobjectionable volume.
- (14) *Loudspeakers or amplifiers on vehicles.* The use of any mechanical loudspeakers or amplifiers on trucks, airplanes or other vehicles for advertising or other purposes, except by special permission of the city council.
- (15) *Business noises at night near residences.* The operation of any garage, filling station, auto repair business, taxicab business, plant, store, factory or other place of business, between the hours of 8:00 p.m. and 7:00 a.m., in such manner as to create loud and disturbing noises of such frequency or such volume as to annoy or disturb the quiet and comfort of any citizen, and particularly the creating of disturbing noises of such frequency and volume as to annoy or disturb the quiet, comfort, peace or repose of any person in any dwelling, hotel, boardinghouse or other type of residence.

Chapter 20 - NUISANCES [\[1\]](#)

ARTICLE I. - IN GENERAL

Sec. 20-2. - Conditions constituting nuisance.

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits of the city is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

- (1) Whatever is dangerous to human life or health or is in violation of any city, county, or state health regulation.
- (2) Whatever renders the air, food or water unwholesome.
- (3) Whatever building, erection, structure or part of cellar thereof is overcrowded or not provided with adequate means of ingress and egress or is not sufficiently supported, ventilated, drained, cleaned or lighted.
- (4) All pools of stagnant water, all cellars and foundations of houses whose bottoms contain stagnant or putrid water.
- (5) All business organizations, such as public motor vehicle garages, service stations, dry cleaning establishments, and any other businesses or industrial organizations which shall discharge any petroleum products, chemicals or other such substances which would or could pollute any creek or stream within the zoning jurisdiction of the city.
- (6) Any building or premises which is constructed or maintained in such a manner so as to provide food, shelter or protection for rats.
- (7) It shall be unlawful for any person to obstruct the flow of water in any stream or drainage way within the city by throwing or placing stumps, brush, rubbish, litter or other material within or along the banks of any such stream or natural drainage way.

- (8) The growth of weeds and other rank vegetation on one's business or residential lot or vacant lot to a height greater than one foot on the average or to permit such lot to serve as a breeding place for mosquitoes, as a refuge for rats and snakes, as a collecting place for trash and litter or as a fire hazard. It shall be the duty of the owner to cut and remove all weeds and other rank vegetation as often as necessary so as to comply with this provision of the Code. This provision does not apply to lots exceeding one acre in size nor to lots which are covered with trees. Further, however, lots exceeding one acre or lots covered with trees shall be maintained in accordance with this provision to a depth of 20 feet from its property lines if and only if the adjacent property is occupied by a dwelling or other structure located within 50 feet of such property. Further, this provision shall not apply to property which consists of a ravine or creek bank or other severe slope so as to make such maintenance unsafe.
- (9) Any accumulation of rubbish, trash or junk causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind.
- (10) The abandonment of junked motor vehicles on public grounds and private property.
- (11) An occupied or used improvement thereon without utility services resulting in conditions which are detrimental to the health, safety or welfare of citizens and the peace and dignity of the city.
- (12) Any violation of Chapter 4, Animals and Fowl, of this Code, and including but not limited to the following:
- a. The keeping of any animal which by frequent or habitual howling, yelping, barking or otherwise causes loud noises which disturbs the quiet comfort or repose of a reasonably prudent person in the vicinity.
  - b. Unsightly litter, foul or offensive odors which remain upon or emanate from the property of the owner.
  - c. The keeping of any animal which frequently:
    1. Barks;
    2. Is at large;
    3. Chases, snaps at or attacks pedestrians, bicyclists, vehicles or other animals;
    4. Causes damages to yards, gardens, flowers or personal property; or
    5. Scavenges garbage.
  - d. The keeping, possession or harboring of any animal which is dangerous to persons or property.
- (13) The frequenting or congregating thereon by persons in a manner and under circumstances manifesting the purpose to engage in a violation of any subdivision of the North Carolina Controlled Substances Act, currently G.S. ch. 90, art. 5, and the keeping or maintaining thereon of drug paraphernalia as defined by the General Statutes.
- (14) The maintaining of any condition on the premises that is detrimental to the property of others, including, but not limited to, keeping or deposition on the premises or scattering over the premises any of the following:
- a. Waste, lumber, junk, trash, debris; or abandoned, discarded, unused, or deteriorating materials, objects or equipment, such as furniture, bedding, machinery, packing boxes, cans, or containers; or an accumulation of substantial quantities of loose earth, rocks, pieces of concrete or cement or pieces of metal;
  - b. Construction materials, earth, sand or gravel on construction sites where the work is discontinued for a period of 60 days;

- c. Any earth or sand that has eroded and sloughs onto an adjoining sidewalk, street, or property. This provision does not preempt any applicable federal, state, or county regulations applicable to said events.
- (15) Exceptions. The provisions contained in subsection 20-2(14)a. and b. shall not apply to commercial property owners, including, but not limited to, junk yard dealers, salvage companies, yard waste recycling operations, cement, quarry or other mining type businesses, whose operations include the accumulation, storage, sale, repair, or maintenance of such materials or objects and who have obtained all applicable zoning and operating permits and privilege licenses permits and are following all applicable ordinances contained within the Hickory City Code of Ordinances and the Land Development Code. In addition, the provision contained in subsection 20-2(14)b. shall not apply to stockpiled rock, stone, gravel, sand, earth, or other similar materials on sites utilized and maintained by the North Carolina Department of Transportation or the City of Hickory.
- (16) It shall be unlawful for any person owning property, acting as manager or agent for the owner of property, or in possession or control of property to fail to remove or effectively obscure any graffiti.

Sec. 20-3. - Investigation; notice of abatement.

- (a) The chief of police, or his or her designee, upon notice from any person of the existence of any of the conditions described in section 20-2, shall cause to be made, by the appropriate county health department or city official, such investigation as may be necessary to determine whether, in fact, such conditions exist as to constitute a public nuisance as declared in such section. If such investigating officer or official shall be of the opinion that such a nuisance does exist, he shall set out in writing a report of the conditions which he believes constitute a nuisance and shall notify the chief of police or his or her designee and shall further notify the owner, occupant or person in possession of the premises, or each of them to the extent the same can reasonably be done, of the date, time and place of a hearing to be held before the chief of police or their designee for the purpose of determining whether or not such a nuisance shall be declared to exist, such notice to be given at least ten days prior to the time of such hearing. At such hearing, the investigating official shall present his evidence of the facts and situation concerning such property and the owner, occupant or person in possession of the premises shall have the right to cross examine such official or other witnesses, as may be offered to testify; all testimony shall be under oath; the owner, occupant, or person in possession of the premises shall have the right to have an attorney present and a right to present evidence, and the chief of police or his or her designee shall determine that a condition exists constituting a public nuisance only upon such fact being determined by the greater weight of the evidence. However, such hearing shall not be required to be held in accordance with the rules of evidence as required for judicial hearings.
- (b) Upon a determination that such conditions constituting a public nuisance exist, the chief of police or his or her designee shall notify, in writing, the owner, occupant or person in possession of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof within ten days from the receipt of such written notice.
- (c) The city may notify a chronic violator of the city's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the city shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the city gave notice of violation at least three times under any provision of the public nuisance ordinance.

Sec. 20-4. - Removal by city.

If any person, having been ordered to abate a public nuisance pursuant to this chapter, fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of such order, the chief of police or his or her designee may cause such condition to be removed or otherwise remedied by having employees of the city go upon such premises and remove or otherwise abate such

nuisance under the supervision of an officer or employee designated by the chief of police or their designee. 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. The city may require such requestor to deposit some or all of the estimated cost of such removal prior to doing the work or may require the requestor to execute an agreement giving security for the payment of such costs.

Sec. 20-5. - Cost of removal to be charged to owner; charges to be lien.

- (a) 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 or public services 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.
- (b) If charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes.

Sec. 20-6. - Provisions of chapter cumulative.

The procedure set forth in this chapter shall be in addition to any other remedies that may exist under law for the abatement of public nuisances, and this chapter shall not prevent the city from proceeding in a criminal action against any person violating the provisions of this chapter, as provided in section 1-9.

Sec. 20-7. - Vehicles stored at approved junkyards to be excepted.

Nothing in this chapter shall be construed to require the removal or disposal of a motor vehicle kept or stored at an approved and proper "automobile graveyard" or "junkyard" as defined in the zoning ordinance.

## ARTICLE II. - FALSE ALARMS

Sec. 20-26. - Purpose and scope.

The purpose of this article is to encourage alarm users to assume increased responsibility for maintaining the mechanical reliability and the proper use of alarm systems, to prevent unnecessary police emergency response to false alarms, and thereby to protect the emergency response capability of the city from misuse.

Sec. 20-28. - Response to alarm; determination of validity.

- (a) *Police response.* Whenever an alarm is activated in the city and the police department responds, a police officer on the scene of the activated alarm system will inspect the area and will determine whether the police response was in fact necessary as indicated by the alarm system or whether the alarm was a false alarm.
- (b) *Notification.* If the police officer at the scene of the activated alarm system determines the alarm to be false, the officer will notify police communications to make the appropriate computer entry. An alarm user shall be notified of each false alarm determination by registered mail or other method to reduce public notification.

Sec. 20-29. - Review of false alarm determinations.

The alarm systems coordinator will, when requested by an alarm user, review the determination that an alarm was false. Such review shall be conducted by the alarm systems coordinator only if the alarm user requests in writing such a review within ten days of the date that the false alarm occurred. The written request for review of a false alarm determination by the alarm systems coordinator shall include the following information:

- (1) Alarm user name.
- (2) Address at which alarm is installed.
- (3) Date of false alarm that is being contested.
- (4) Facts upon which the request for review of the false alarm determination is made.

Sec. 20-30. - Service charge assessment for false alarms and reinstatement of alarm user permission.

- (a) *Excessive false alarms.* It is hereby found and determined that three or more false alarms within any calendar year is excessive and constitutes a public nuisance.
- (b) *Civil penalties.*
  - (1) False alarm violators will be assessed service charges as outlined in the annual fee schedule adopted by the city council.
  - (2) The service charge shall be due 30 days from the issuance date of the invoice.
- (c) *Calendar year.* For the purposes of this section, a calendar year is a 12-month period beginning on January 1st of the year in question.

Sec. 20-31. - Automatic dial protection devices prohibited.

No automatic dial protection device shall be used to report, or cause to be reported, any recorded message to the city police department.

Sec. 20-32. - Prohibited acts.

- (a) It shall be a violation for any person to violate any provisions of this article.
- (b) It shall be a violation for any person to intentionally activate a burglar or robbery alarm for the purpose of summoning police when no burglary or robbery, or other crime dangerous to life or property, is being committed or attempted on the premises, or otherwise to cause a false alarm.
- (c) It shall be a violation for an alarm user to fail to reimburse the city, in accordance with the provisions of this article, for response(s) by the city police department to any false alarm(s).

Sec. 20-33. - Enforcement of provisions.

The city may enforce the provisions of this article by one or a combination of the following methods:

- (1) Service charges may be collected as civil penalties in a civil action.
- (2) Equitable remedies including injunctions and/or abatement.
- (3) Discontinuing police response to the alarm.

## Chapter 21 - OFFENSES—MISCELLANEOUS<sup>11</sup>

Sec. 21-1. - Advertisements, circulars, etc.—Placing in automobiles.

No person shall place or permit to be placed any circulars or other advertising matter in or upon any automobile parked upon the public streets of the city.

Sec. 21-2. - Same—Distribution within fire limits.

No person shall distribute any circulars or other advertising matter within the fire limits of the city; provided, that this section shall not apply to religious literature circulated from person to person.

Sec. 21-3. - Same—Affixing to poles, fences, buildings, etc.

It shall be unlawful for any person to affix advertisements, bills or notices to any telephone pole, telegraph pole or electric light or power pole, fence, wall or post, tree or underpass or building or structure, upon any city street or right-of-way, or upon private property, without the consent of the owner.

Sec. 21-4. - Automatic calling devices; connecting with, using to actuate, etc., police or fire department telephone lines or radio circuits.

- (a) It shall be unlawful for any person to install, sell, lease, operate or use, or allow to be used, installed or operated, any device or combination of devices so made or designed as to mechanically or electronically or by other automatic means actuate or call the city fire or police department's telephone or radio circuit, or to otherwise install or use a pretaped or prerecorded or programmed message or signal to directly dial, actuate, call or in any other manner make direct contact with any telephone line or radio circuit of the fire department or police department.
- (b) The phrases "telephone or radio circuit" and "telephone line or radio circuit" as used in this section shall include any cable, wire, line or circuit within either the police department or fire department where a signal can be given, whether by oral signal or by actuation of any system containing blinkers, lights



or other signaling devices, and whether such signal shall be given over a regular telephone line or wire or shall be given over a privately installed cable designed for that purpose.

(c) This section shall not apply to the following:

- (1) The nontelephonic burglar alarm systems installed for the benefit of the following institutions: banks, savings and loan associations and armories maintained by the Defense Department of the United States and its national guard and reserve units and the Federal Bureau of Investigation; provided, that the installation and connection of any such devices by such institutions or agencies shall be approved by the city police department.
- (2) The nontelephonic fire alarm systems connected to the fire department through the "A.D.T. type" lines; provided, that the installation, connection, use and maintenance of such fire alarm systems shall be approved by the city fire department.

Sec. 21-5. - Barricades—Driving past, around or over.

No person shall drive any vehicle or animal past, around or over any barricade lawfully placed upon any street by city officials or employees, which street has been closed by such barricades, except by consent of persons authorized to give such consent.

Sec. 21-6. - Same—Removing, destroying, etc.

No person, other than an employee of the city, shall remove, tear down or destroy any barricade which has been erected by the city.

Sec. 21-7. - Begging.

It shall be unlawful for any person to engage in systematic begging upon the streets, public places or public buildings of the city.

Sec. 21-8. - Carnivals and carnival games, shows, etc.

No person shall hold, conduct or operate, nor shall any person participate in the conduct or operation of, any carnival, carnival show or exhibition or carnival game or device within the city. Riding devices shall not be construed to be within the provisions of this section.

Sec. 21-9. - Imitating police whistle, fire siren, etc.

No person, other than firefighters and police officers on duty, shall sound a bell, horn, whistle or anything else which makes a noise or sound similar to the sound or noise made by the bells, horns, gongs, signals or whistles used by the police force and fire department.

Sec. 21-10. - Malt beverages, wine—Consumption on city property.

- (a) No person shall consume malt beverages or unfortified wine on property owned or occupied by the city, unless a location is licensed under state law for the consumption on the premises of such beverages. Such exception shall apply only within the hours of legal consumption and under the conditions allowed by law and pursuant to lawfully issued permits for consumption of the particular beverage being consumed at the particular place and time, and not otherwise.
- (b) Any person violating this section, and any person who aids, abets, encourages, assists or contributes to such consumption, and any person who, having control of the premises where such consumption occurs in violation of this section, willfully permits or allows such consumption to occur shall be guilty of a misdemeanor.

Sec. 21-11. - Same—Hours of sale of beer or wine.

Pursuant to the authority granted by S.L. 2017-87, any establishment located in the corporate limits of the city and holding an ABC permit issued pursuant to G.S. 18B-1001 is permitted to sell beverages allowed by its permit beginning at 10:00 a.m. on Sundays.

Sec. 21-12. - Revocation of pawnbroker's license.

A failure to comply with the provisions of G.S. 91A-1—91A-14 shall be deemed and held to be a violation of the terms and conditions upon which a license to conduct a pawnbroking business was granted. The city council, after giving six days' notice to the licensee and after a hearing thereon, may revoke the license, and no part of the fee or tax paid therefor shall be refunded.

Sec. 21-13. - Use of weapons.

- (a) No person shall shoot any firearm within the city or shoot with a bow and arrow or shoot missiles of any description from slings, spring guns, airguns, BB guns, air pistols or instruments of any kind.
- (b) Subsection (a) shall not apply when a weapon is used in a lawful manner:
  - (1) In defense of person or property;
  - (2) Pursuant to lawful directions of law enforcement officers;
  - (3) By a law enforcement officer in the discharge of his duties; or
  - (4) In a licensed shooting gallery.
- (c) It is unlawful for any person with or without a permit to carry a handgun or other weapon concealed or otherwise into municipal buildings, including libraries, city hall, public services facility, city garage, fire stations, city police facilities, or other municipally owned buildings and their respective parking lots; provided, however, that this section shall not apply to federal, state, county or city law enforcement officers when acting in the discharge of their official duties. Any person convicted of violating this provision of this section shall be guilty of a misdemeanor and shall be punished by fine, imprisonment or both in the discretion of the court.
- (d) Subsection (c) above shall not apply to the premises of municipal parks or other recreational facilities and their adjacent parking lots with regard to the carrying of handguns by persons with lawful conceal carry permits. Persons with concealed carry permits may carry concealed handguns onto the premises of municipal parks and other recreational facilities and their adjacent parking lots. This subsection (d) shall solely apply to the carrying of handguns. It is unlawful for any person with or without a permit to carry other types of firearms or other weapons into municipal parks and other recreational facilities and their respective parking lots.

Sec. 21-14. - Retention, removal or destruction of library materials.

- (a) Whoever:
  - (1) Receives or becomes responsible for any library materials belonging to any public library in the city or any library or branch thereof supported wholly or in part by the public funds of the city, and who willfully fails to return any such library materials to the library or branch thereof from which it was received, for a period of 15 days after mailing or delivering in person a notice in writing from the librarian or assistant librarian of such library or branch thereof that the time for which such library materials may be kept under library regulations has expired; or
  - (2) Willfully or intentionally removes from the premises of such library or branch thereof any library materials without charging them out in accordance with the regulations of such library or branch thereof; or
  - (3) Willfully or wantonly damages, defaces, mutilates or otherwise destroys any library materials, whether on the library premises or on loan;

shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$50.00 or imprisonment for not more than 30 days; provided, that the notice required by this section shall bear upon its face a copy of the ordinance from which this section derives.

- (b) For the purpose of this section, the term "library materials" shall be defined to include, without limitation, any book, plate, picture, engraving, map, magazine, pamphlet, newspaper, manuscript, film, recording, specimen, work of literature, object d'art, item of historical significance, item of curiosity, slide, projector, opaque projector, overhead projector, movie projector, filmstrips, slides, recorders, sound equipment, transparencies, microforms, audiovisual equipment, art materials, supplies, equipment of any sort, or any other item owned by or loaned to such library or branch thereof.
- (c) In all indictments for violations of the provisions of this section, it shall not be necessary to allege or prove that the item not returned was lawfully received by such person from any such public library, but only that the person came into possession of the same, knowing that the same belonged to such public library, and the failure of any person to return any such item after written demand as set forth above

shall be prima facie proof that the person possessing such item acted willfully in failing to return such item within such 15-day period.

Sec. 21-15. - Paraphernalia intended for illegal drug use.

- (a) *Definition.* As used in this section, "drug paraphernalia" means all equipment, products and materials
- (c) *Possession of drug paraphernalia.* It is unlawful for any person to knowingly use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance, the possession of which would be a violation of the laws of the state. Each separate and distinct item of drug paraphernalia unlawfully possessed shall constitute a separate violation.
- (d) *Manufacture or delivery of drug paraphernalia.* It is unlawful for any person to knowingly deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance, the possession of which would be a violation of the laws of the state. Each separate and distinct item of drug paraphernalia unlawfully delivered or possessed with intent to deliver shall constitute a separate violation.
- (e) *Delivery of drug paraphernalia to a minor.* It shall be unlawful and constitute an additional violation for any person 18 years of age or over who violates subsection (d) above to knowingly deliver drug paraphernalia to a person under 18 years of age who is at least three years his junior.

Sec. 21-16. - Display of sexually-oriented devices.

- (a) *Purpose.* The purpose of this chapter is to promote, protect, and preserve the health, safety and general welfare of the people of the City of Hickory and to help prevent the display of sexually oriented devices that are harmful to minors at commercial establishments.
- (b) *A commercial establishment in the city shall not display sexually oriented devices to minors.* No person having custody, control or supervision of a commercial establishment, shall allow the display of sexually oriented devices within the commercial establishment so that they are open to view by minors. The commercial establishment shall clearly display a sign prohibiting minors from entering the commercial establishment or any area within the commercial establishment which displays sexually oriented devices.
- (c) *Definitions.*

*Sexually oriented devices:* As used in this section, "sexually oriented devices" means without limitation, any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

*Specified anatomical areas:* As defined in G.S. 14-202.10(10).

*Specified sexual activities:* As defined in G.S. 14-202.10(11).

- (d) *Punishment.* Violation of this section is a Class 3 misdemeanor. Each day's violation of this section is a separate offense.

Sec. 21-17. - Ban on registered sex offenders from city parks and recreation facilities.

- (a) *Prohibition.* No person registered with the State of North Carolina and/or any other state or federal agency as a registered sex offender, including, but not limited to, the sex offender registry established pursuant to G.S. ch. 14, art. 27A, shall enter into or upon any public park or recreation facility owned, operated or maintained by the city.
- (b) *Penalties.* Violation of this section shall be punishable by a fine of \$500.00 and/or incarceration for up to 30 days. Each entry into a public park, regardless of the time period between such entries, shall constitute a separate offense under this section.
- (c) *Definitions.* For purposes of this section, the following definitions shall apply:

*Official meeting.* A meeting that is required to be open to the public by the Open Meetings Law, G.S. ch. 143, art. 33C.

*Public park.* Any publicly owned, leased, operated or maintained property that is designated as a park by the city including any adjacent public parking area as well as the driveway, entrance way or pedestrian walkway used by the public to access the public park or recreation facility.

*Recreation facility.* Any publicly owned, leased, operated or maintained property that is designated as a recreation facility by the city including any adjacent public parking area as well as the driveway, entrance way or pedestrian walkway used by the public to access the recreation facility.

*Registered sex offender.* An individual who is registered by any state or federal agency as a sex offender and/or whose name is published or required to be published on any state or federal sex offender registry, including, but not limited to, the North Carolina Sex Offender and Public Protection Registry established pursuant to G.S. ch. 14, art. 27A.

(d) *Signage required.* The city manager or his/her designee shall be charged with posting this regulation at the entrances to each public park and recreation facility within 30 days of the passage of this section.

(e) *Limited exceptions.*

(1) *Official meetings.* A registered sex offender who has the right to be present at an official meeting shall have the limited privilege of entering on and into a park or recreation facility for such time as is necessary to attend said meeting or function, but any form of loitering or lingering shall be a violation of this section. The privilege shall only extend to those parts of the park and/or recreation facility that are commonplace for meetings of that kind and any registered sex offender found outside of those parts shall be punished as outlined in subsection 21-17(b).

(2) *Polling place.* When such recreation facility is used as a polling place for an election, the registered sex offender may enter for the facility for the limited purpose of voting if he/she qualifies to do so at that polling place.

(f) *Severability.* If any section, subsection, paragraph, sentence, clause, phrase or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

Chapter 22 - PARADES, PICKETING, DEMONSTRATIONS, ETC.<sup>[1]</sup>

ARTICLE I. - IN GENERAL

ARTICLE II. - PARADES; PROCESSIONS; MEETINGS

Sec. 22-27. - Permit—Required.

No procession or parade shall occupy, march or proceed along any street, sidewalk or any other public place, nor shall any person conduct any public or private meeting on any street, sidewalk or other public place in the city except in accordance with a permit issued by the chief of police and such other regulations as are set forth in this article which may apply.

(Code 1981, § 22-12)

Sec. 22-28. - Application; designation of route, etc.

(a) A person seeking issuance of a parade permit shall file a completed application with the chief of police on a form provided by the chief of police.

(b) An application for a parade permit shall be filed with the chief of police not less than 30 calendar days before the time when it is proposed to conduct the parade. A permit may be issued if filed less than 30 calendar days before the time for commencement of the parade when the chief of police finds that:

(1) There is no conflict in schedule with some other previously scheduled event; and

(2) That the time for filing is sufficient to prepare for the parade pursuant to the standards set forth in this section.

- (c) The applicant for a parade permit shall set forth the following information:
- (1) The name, address and telephone number of the person seeking to conduct such parade.
  - (2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the person who will be responsible for the conduct of the parade.
  - (3) The date when the parade is to be conducted and the hours when such parade will start and terminate.
  - (4) The proposed route to be traveled, the starting point, and the termination point.
  - (5) The approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals and description of the vehicles.
  - (6) The location by streets and designation by time of an assembly area of such parade.
  - (7) If the parade is designed to be held by, and on behalf of, or for any person other than the applicant, the applicant for such permit shall file with the chief of police a communication in writing from the person proposing to hold the parade, authorizing the individual to act in this capacity.
  - (8) The person or persons to be in charge of the parade for all purposes and who will accompany it and carry the permit at all times
  - (9) Any additional information which the chief of police may need to clarify any of the specific information set forth above.
- (d) *Issuance standards.* The chief of police shall issue a parade permit when, upon submission of the completed application, he finds that:
- (1) Adequate provision can be made for the safe and orderly movement of the parade and of other traffic, pedestrian and vehicular, contiguous to its route.
  - (2) Adequate provisions can be made for police protection which will not require diversion of so great a number of police officers of the city to police properly the lines of movement and the areas contiguous thereto so as to prevent normal police protection to the city.
  - (3) The applicant for the parade permit has agreed to abide by the standards set forth in this division which are necessary measures to promote the safety and welfare of the community.
- (e) *Notice of rejection.* The chief of police shall act upon the application for a parade permit within a reasonable period of time after the filing thereof. If the chief of police disapproves the application he shall notify the applicant, stating the reason for his denial of the permit.
- (f) *Alternative permit.* The chief of police, in denying an application for a parade permit shall be empowered to authorize the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternative permit shall, within one day after notice of the action of the chief of police, file a written notice of acceptance with the chief of police. An alternate parade permit shall conform to the requirements of, and shall have the effect of a parade permit under this division.

Sec. 22-30. - Interfering with, addressing abusive language to participants, etc.

It shall be unlawful for any person to physically interfere with processions, marches or meetings, or with the persons lawfully engaged therein in the use of any street, sidewalk or other public place, or to address profane, indecent, abusive or threatening language or other fighting words to or at such participants which would tend to provoke such participants or others to a breach of the peace.

Sec. 22-31. - Conducting or participating in so as to create public disturbance, nuisance, etc.

It shall be unlawful for any person to conduct or participate in any parade, procession or meeting of such character, extent and duration or of such nature as to create a public disturbance, or to operate as a nuisance, or to tend to create or threaten rioting, disorderly conduct or public or private mischief.

Sec. 22-32. - Use of abusive, etc., language by participants.

It shall be unlawful for any person conducting or participating in any parade, procession or meeting to address profane, indecent, abusive or threatening language or other fighting words to or at any person, which would tend to provoke such person or others to a breach of the peace.

#### ARTICLE III. - PICKETING

Sec. 22-56. - Permitted; conditions.

Peaceful picketing, including demonstrating, in the furtherance of a lawful purpose shall be permitted in the city, provided that the same is done under the following conditions:

- (1) Picketing shall be conducted only on the sidewalks or other city-owned area normally used or reserved for pedestrian movement, including easements and rights-of-way, and shall not be conducted on the portion of a street used primarily for vehicular traffic.
- (2) Pickets promoting the same objective shall not congregate in such numbers or in such groups as would disrupt, block or impede the flow of any vehicular traffic into any driveway or disrupt, block or impede normal pedestrian traffic along any sidewalk, or ingress to or egress from any building.
- (3) Such pickets may carry written or printed placards or signs not exceeding two feet in width and two feet in height promoting the objective for which the picketing is done; provided, that the words used are not defamatory in nature nor would tend to produce violence. The staff on which such placard is carried shall not exceed 40 inches in length, must be made of wood, shall not exceed three-fourths of an inch in diameter at any point and must be blunt at each end.
- (4) Pickets must march in single file and not abreast.
- (5) If pickets promoting different objectives desire to use the same sidewalk for picketing and such use would result in the presence of more than ten pickets thereon, the chief of police shall allot time to each group of pickets for the use of such sidewalk on an equitable basis, but each group shall be permitted to picket subject to the provisions of this section at least once every two hours.
- (6) It shall be unlawful for any picket to address profane, indecent, abusive or threatening language to or at any person, which would tend to provoke such person or others to a breach of the peace.

Sec. 22-57. - Interfering with or addressing abusive, etc., language toward pickets.

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

Sec. 22-58. - Authority of police to disperse assemblies.

The police officers of the city may, in the event of the assemblage of persons in such numbers as to tend to intimidate pickets pursuing their lawful objective, through numbers along or through use of inflammatory words, direct the dispersal of persons so assembled and may arrest any person who fails to absent himself from the place of such assemblage when so directed by the police.

Sec. 22-59. - Duty to disperse upon police orders.

Whenever the free passage of any street or sidewalk in the city shall be obstructed by a crowd, the persons composing such crowd shall disperse or move on when so directed by a police officer as provided in this article.

#### Chapter 23 - PARKS, RECREATION AND PUBLIC PROPERTY GENERALLY<sup>(1)</sup>

##### ARTICLE I. - IN GENERAL

Sec. 23-1. - Acceptance of grants, gifts, etc., for recreational purposes.

The city may accept any grant, gift, bequest or donation of any real or personal property offered or made for recreational purposes. Any gift or bequest of money or other personal property or grant or devise of real estate shall be held, used and finally disposed of in accordance with the terms or conditions under which such grant, gift or devise is made and accepted.

Sec. 23-2. - Removal of gravel, dirt, etc., from city property.

No person shall dig, scrape up or carry away gravel, dirt, rocks, sand or other material from any street, alley or grounds belonging to the city, without permission from the city manager.

Sec. 23-3. - Signs, billboards, etc., on public property.

No person shall, without a written permit from the community appearance commission, construct or place upon any public street, park, parkway or public place in the city any sign, billboard or other structure. The community appearance commission shall have power to prevent the construction, placing or continuance of any sign, billboard or other unsightly structure upon city property.

Sec. 23-4. - Defacing, removing, etc., public property.

No person shall willfully mark, deface, disfigure, injure, tamper with, displace or remove any building, bridge, table, bench, fireplace, railing, paving, paving material, water line, plumbing fixtures, light fixtures or other public utilities or fixtures or parts or appurtenances thereof in any public street, park, parkway or public place in the city.

Sec. 23-5. - Maintenance of public facilities; littering.

No person shall fail to cooperate in maintaining restrooms, washrooms, picnic grounds or other public facilities located in any park or public place within the city; nor shall any person deposit litter on the grounds or paving or leave litter, trash or refuse of any kind in any public place, except in litter containers provided for that purpose.

Sec. 23-6. - Polluting waters.

No person shall throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in or adjacent to any park or public place, or any tributary stream, storm sewer or drain flowing into such waters, any substance, liquid or solid, which will or may result in the pollution of such waters.

Sec. 23-7. - Obeying signs or oral instructions; boating in parks.

No person in a public park or on public property shall fail to comply with all traffic signs, no-parking signs and signs restricting roads, trails or paths to pedestrian, bicycle or horse traffic or otherwise fail to comply with all signs posted in public places by the commission in charge thereof. No person on public property shall fail to comply with the oral instructions of employees of the commission in charge of such property, whether the recreation commission or the community appearance commission, concerning preservation and proper use of such property. No person shall bring into or operate any boat, raft or other watercraft, whether motor-powered or not, upon any waters in any park, except at places designated for boating by the commission.

Sec. 23-8. - Possession or use in public places of certain beverages or illegal drugs.

No person shall bring into any park or other similar public place any malt beverages, unfortified wine, or illegal drugs whatsoever or be present in any such place while under the influence of any drugs.

Sec. 23-9. - Regulatory authority generally of community appearance commission and recreation commission.

The community appearance commission, in parks, and the recreation commission, in areas supervised by it, shall adopt regulations concerning the use of such areas, including, but not limited to, the following: opening and closing hours for each individual area; uses to be allowed in any area; areas to be closed to the public at all times; areas to be closed to the public during certain hours or to be restricted to certain uses, either at certain times or at all times; restriction of certain areas to pedestrian traffic only, bicycle traffic only, horse traffic only or motor vehicle traffic only, or prohibiting or permitting certain types of motor vehicles, or any combination of the above. No person shall violate any of such regulations, by engaging in a prohibited use or entering an area closed to the public or entering an area during the time that it is closed, either regularly or as a result of temporary circumstances. Each commission, as to areas within its designated jurisdiction, shall designate areas in which each activity, such as building of fires, picnicking, swimming, athletic events or other such uses, may be made, and it shall be unlawful for any person to violate such regulations.

Sec. 23-10. - Enforcement of chapter.

The members of the community appearance commission and the recreation commission, as to areas within the jurisdiction of each commission, shall designate the director of the commission or any other employee or attendant to exercise the duty to enforce the provisions of this chapter. Such director and any attendant or employee shall have the authority to eject from any public area any person acting in violation of this chapter and to seize and confiscate any property, thing or device in the park or public area used in

violation of this chapter, and the police department shall have the duty of arresting persons violating any of the terms hereof.

Sec. 23-11. - Conflicts between ordinances and regulations of commissions.

- (a) The city council may adopt any supplemental ordinance from time to time to ordain specific closing and opening hours or specific uses, or other such regulatory ordinances.
- (b) The recreation commission and the community appearance commission may adopt bylaws, rules and regulations covering their procedure, not inconsistent with the provisions of state law and the charter, this Code and other ordinances of the city.

Sec. 23-12. - Regulating smoking in municipal buildings and vehicles.

- (b) Smoking regulated in municipal buildings. It shall be unlawful for any person to smoke in any building or facility or portion of a building or facility now or hereafter owned, operated or controlled by the city except in specially designated smoking areas. The city manager shall have the authority to designate smoking areas within each city building or facility. An area within any building or facility may be designated as a smoking area only if the ventilation in such area is sufficient, any adverse impact on municipal employees and members of the public is minimal, and no fire or other safety hazard will be created by smoking in such area.
- (c) *Smoking regulated in municipal vehicles.* Smoking is permitted in city vehicles provided there is only one occupant. If two or more persons occupy a vehicle, smoking is allowed only if all are smokers or if the smokers request and receive permission from the nonsmoking occupants.
- (d) *Exemptions.* This section shall not apply to the following: individual dwelling units and/or leased office space, outdoor work sites except where restricted by safety considerations, departmental or facility policies approved by the city manager's office.
- (e) *Penalties.* Violation of this section shall constitute a misdemeanor, punishable in accordance with G.S. 14-4 and shall also subject the person in violation to a payment of a civil penalty in the amount of \$50.00, which penalty to be paid to the city finance department.

Sec. 23-13. - Appropriate protective gear required for patrons of all city skateparks.

- (a) No patron in any city hazardous recreational activity area shall be permitted to use the facilities for hazardous recreational activities unless said patron is wearing appropriate protective gear, including a helmet, elbow pads on each elbow, and kneepads on both knees.
- (b) A "city skatepark" is defined as any facility, setting, or place the city sets aside to be used for skateboarders, inline skaters, and freestyle bicyclists.

## ARTICLE II. - RECREATION COMMISSION<sup>[2]</sup>

Sec. 23-36. - Created.

There is hereby created a recreation commission for the city.

Sec. 23-37. - Composition; appointment of members.

The recreation commission shall be composed of 12 members, appointed by the city council as follows:

- (1) One member appointed from each of six wards of the city.
- (2) Six members appointed from the city at large, one of which shall be a minority member, and one of which shall be a member of the city youth council.

Sec. 23-38. - Terms of members.

Each member of the recreation commission, except for the youth council representative, shall serve for a term of three years or until his successor is qualified for office; provided, that the term of any member appointed from the several wards of the city shall expire upon such member moving his residence from the ward from which he is appointed; provided, further, that the term of any member appointed from the city at large shall expire upon such member moving his residence from the city. The youth council representative shall serve for a term of one year or until that member is no longer a member of the youth council.

Sec. 23-39. - Filling of vacancies.



To aid the city council in selecting members for appointment, it shall be the duty of the recreation commission to suggest qualified and interested persons eligible for appointment for each vacancy to be filled.

Sec. 23-40. - Compensation.

The members of the recreation commission shall serve without compensation.

Sec. 23-41. - Organization.

The recreation commission shall elect a chairperson, a vice-chairperson and a secretary, each of whom shall serve for a one-year period. Upon appointment of the recreation director, the director may be appointed secretary to the recreation commission.

Sec. 23-42. - Meetings; quorum; minutes.

Regular meetings of the recreation commission shall be held at least once a month at a regular date and time to be fixed by the members. A majority of regular members shall constitute a quorum. Absence from three consecutive regular meetings without formal consent of the commission shall be deemed to constitute the retirement of such member, and the position shall be declared vacant. Minutes of the commission shall be filed with the city manager and city council.

Sec. 23-43. - Powers and duties generally.

The recreation commission shall serve as an advisory board to the city in advising the proper means of maintaining, operating and supervising public playgrounds, athletic fields, recreational centers and other recreational facilities owned or controlled by the city. As requested by the recreation director, the recreation commission shall further assist him in advising and assisting in the carrying out of his duties and in securing public participation in recreational matters in the city. The recreation commission shall not have the duty or power to enter into contracts or obligations or to disburse funds, except as provided and authorized by the city council.

Sec. 23-44. - Commission to advise recreation director in promulgation of rules and regulations.

The recreation commission shall advise the recreation director, and he, under the supervision of the city manager, shall make and promulgate rules and regulations governing the operation and conduct of the recreational facilities owned or operated by the city.

Sec. 23-45. - Recreation director generally.

The recreational activities of the city shall be managed by a recreation director, who shall be appointed by the city manager. The recreation director may employ such additional personnel as may be necessary in the maintenance and operation of the recreational facilities and system.

Secs. 23-46—23-65. - Reserved.

ARTICLE III. - TREES AND SHRUBS ON PUBLIC PROPERTY<sup>[3]</sup>

Sec. 23-66. - Injuring, removal, etc., generally.

No person shall, without a written permit from the community appearance commission, willfully mutilate, injure or remove any tree or shrub upon a public street, park, parkway or public place within the city, or injure or misuse any structure or device placed to protect any such tree or shrub.

Sec. 23-67. - Planting.

No person shall, without a written permit from the community appearance commission, plant any tree or shrub upon a public street, park, parkway or public place within the city.

Sec. 23-68. - Whitewashing, painting, etc.

No person shall, without a written permit from the community appearance commission, whitewash, paint or in any way discolor the stem, base, bole or root of any tree or shrub upon any public street, park, parkway or other public place in the city.

Sec. 23-69. - Attaching ropes, signs, etc.; obstructing roots.

No person shall, without a written permit from the community appearance commission, fasten any rope, wire or electrical attachment or attach any sign or device in any manner to the trees or shrubs upon a public street, park, parkway or public place within the city or to any guard about such tree or shrub; close

or obstruct any open space provided about the base or root of such tree or shrub within three feet in any direction; or in any way prevent the access of air, water or fertilizer to roots of such tree or shrub.

Sec. 23-70. - Piling building material or making mortar cement within six feet.

No person shall, without a written permit from the community appearance commission, pile any building material or make any mortar cement within six feet of any tree or shrub upon a public street, park, parkway or public place within the city.

Sec. 23-71. - Issuance or refusal of permits required by article; appeals.

In the performance of its duties and for the cultivation, beautification, cleanliness and sanitation of the land owned by the city, the community appearance commission shall have authority to permit or to refuse to permit persons to remove, cut, trim or otherwise alter trees or shrubs situated on city property and to issue or refuse any written permit required by this article. Any person who is dissatisfied with the ruling of the commission in issuing or refusing any such permit may appeal from such ruling to the city council, which shall make the ultimate decision in regard thereto, and with which decision the commission shall comply.

#### ARTICLE IV. - LOITERING ON PREMISES OF SCHOOLS AND OTHER PUBLIC BUILDINGS

Sec. 23-91. - Prohibited.

- (a) No person shall loiter in or upon the school grounds or public buildings belonging to the board of education of the Hickory Administrative School Unit, or upon the grounds or public buildings belonging to the city, between the hours of 6:00 p.m. and 7:00 a.m., and except for authorized use of city property under the jurisdiction and control of the recreation department of the city, where the permissible hours of use are from 8:00 a.m. until 11:00 p.m.; no person shall be upon any city recreational premises between the hours of 11:00 p.m. and 8:00 a.m.; the violation of any portion of any section of this article shall be a misdemeanor, and violators shall be arrested and charged by the police department.
- (b) No person shall enter upon the property of any city park before or after opening and closing time posted at the city park. Such closing or curfew times shall be established by the city council and may be amended by the city council upon receiving recommendations from the police department or recreation commission; the violation of the park's curfew closing time shall be a misdemeanor and violators shall be arrested and charged by the police department.

Sec. 23-92. - Presence permissible at schools for certain purposes.

The following are exceptions to section 23-91, insofar as the school grounds or public buildings belonging to the board of education of the Hickory Administrative School Unit are concerned:

- (1) It shall not be unlawful for any person to be on such grounds during the hours set out in section 23-91 while attending any school function, including athletic events, parent-teacher meetings, club meetings or any other event authorized by the Hickory Administrative School Unit or by a principal employed by the Hickory Administrative School Unit.
- (2) It shall not be unlawful for individuals having business with the Hickory Administrative School Unit to be on such grounds during the hours set out in section 23-91 when upon such grounds for specific business or school purposes.
- (3) It shall be permissible for individuals to be on or about the premises as hereinabove specified between the hours set forth in section 23-91 when specific permission is given by the superintendent of schools for the Hickory Administrative School Unit or by a principal employed by the Hickory Administrative School Unit.
- (4) It shall be permissible for any person to be on or about the premises during such hours for the use of playgrounds, athletic fields and tennis courts, provided that they do not loiter in or around the school buildings.

Sec. 23-93. - Presence permissible on city grounds or buildings.

The following are exceptions to section 23-91, insofar as the grounds or public buildings belonging to the city are concerned:

- (1) It shall not be unlawful for any person to be on such grounds or in such buildings during the above hours while attending any public function, including meetings of the city council or of any

of the city boards or commissions or any other public function authorized to be held on city grounds or buildings, which the public has the right to attend.

- (2) It shall not be unlawful to be on such grounds or in such buildings during the hours set out in section 23-91 while attending any athletic event, meeting, outing or other such event authorized by the city council, the recreation commission or any other board, commission or department of the city.
- (3) It shall not be unlawful for any person to be on such grounds or in such buildings at a time when their use is authorized for members of the general public to attend, specifically including use of park and other facilities for playing of games, attending instructional meetings, social gatherings, or engaging in some recreational or social activity and including attendance at authorized functions at the Hickory City Auditorium.
- (4) It shall not be unlawful for individuals having business with any official of the city, or with any officer of a tenant of city property, to be on the grounds or in the building during the above hours when upon such grounds or in such building for specific business purposes.

Sec. 23-94. - Limitation of permission as to area and time.

Persons being upon any of the public grounds or in the public buildings referred to in section 23-91 for any of the permissible purposes set forth in sections 23-91 and 23-93 are not given permission to be in areas not designated for use for such purpose, nor are they given permission to remain on such premises beyond the expiration of the time reasonably needed to carry out the purpose for being present there.

Chapter 24 - PEDDLERS, SOLICITORS, PANHANDLERS, AND STREET PERFORMERS<sup>[1](#)</sup>

ARTICLE I. - IN GENERAL

Sec. 24-2. - Scope.

All peddlers and solicitors must submit an application to the police department pursuant to this article. All panhandlers must follow the rules and guidelines of section 24-14.

Sec. 24-3. - Required.

It shall be unlawful for any solicitor and/or peddler to engage in such business within the corporate limits of the city without first obtaining a permit pursuant to this article.

Sec. 24-4. - Display of permit or badge.

It shall be unlawful for a solicitor and/or peddler to fail to display the permit or badge issued under the provisions of this article while soliciting or peddling.

Sec. 24-5. - Application for solicitors and peddlers.

- (a) Fifteen days prior to the desired start date, every peddler and solicitor under this article must file a sworn application for a permit, with the chief of police, in writing, on a form to be furnished by the chief of police or his designee, which shall give the following information:

- (1) The full name, date of birth, permanent address and job title of the applicant.
- (2) A physical description of the applicant including height, weight, and eye and hair color.
- (3) A brief description of the nature of the business and the goods or services to be sold.
- (4) If employed or acting as an agent, the name, telephone number and address of the employer or principal, together with credentials establishing the exact relationship.
- (5) The place where the goods or services are proposed to be sold or orders taken for the sale thereof, where such articles are manufactured or produced, where such goods or products are located at the time such application is filed and the proposed method of delivery.
- (6) A list of all misdemeanor and felony charges and arrests including the approximate dates of the charges and arrest(s) and city/state of such charges and arrest(s).
- (7) A copy of a valid state driver's license, state identification card, passport or military identification.
- (8) If the applicant is an employer or principal, a separate application shall be submitted for each person who will be peddling and/or soliciting. A separate permit will be processed for each.

- (9) Descriptions of any vehicles being used and registration plates of said vehicles.
- (b) At the time of filing the application, a fee, as according to the approved fee schedule by city council, shall be paid to the city police department to cover the cost of issuing the permit.

Sec. 24-6. - Decision.

The chief of police or his/her designee within 15 days of the application and fee, will either approve or reject the application.

Sec. 24-7. - Issuance and contents; badge.

Upon approval of the application and payment of the prescribed fee, the chief of police or his/her designee shall deliver to the applicant the following:

- (1) A permit or ID badge containing the signature of the chief of police or his/her designee, the name, address and photograph of the licensee, the class of license issued ("licensed solicitor" or "licensed peddler") and the kind of goods to be sold, the date of issuance of the permit, the length of time the permit shall be in effect and the license number and other identifying description of any vehicles used in such soliciting.
- (2) The permit or ID badge must be displayed in accordance with section 24-4.

Sec. 24-8. - Rejection; revocation; appeal.

- (a) Rejection. In the event the chief of police or his/her designee rejects the application, the applicant shall be notified in writing as to the reason of rejection.
- (b) Revocation. The chief of police or his/her designee shall have the authority to revoke any previously issued solicitors and/or peddlers permit.
  - (1) The permittee shall be notified in writing as to the reason of the revocation.
  - (2) The revocation shall become effective immediately upon receipt of the notification.
  - (3) The permittee shall not conduct solicitation/peddling pending determination or appeal.
- (c) The chief of police or his/her designee may reject an application or revoke any previously issued permit for the following:
  - (1) The application is incomplete;
  - (2) The application fee has not been paid;
  - (3) The application contains false or misleading statements;
  - (4) The applicant has committed prior ordinance violations pertaining to solicitors and peddlers;
  - (5) The applicant has been convicted of a misdemeanor involving larceny, fraud, forgery, sale of counterfeit goods and/or breaking and entering;
  - (6) The applicant has been convicted of felony; and
  - (7) Any other reasonable evidence that the applicant would pose a substantial threat to the public health, safety, morals or general welfare.

Sec. 24-9. - Appeals.

- (a) Appeals by applicants and/or permittees must be filed in writing within ten days from receipt of notice by the chief of police or his/her designee of rejection of an application and/or revocation of a permit. The chief of police or his/her designee shall:
  - (1) Within ten days of an appeal hold at least one hearing;
  - (2) Make a determination as to reject, revoke or reinstate a permit;
  - (3) Notify applicant and/or permittee in writing of such determination.
- (b) Applicant and/or permittee may file an appeal of the chief's or his/her designee's appeal determination to the city manager. The appeal must be within ten days of receipt of notification of the chief's final

decision and in writing. The city manager shall review the rejection and/or the revocation and the appeal determinations. The city manager will:

- (1) Reinstate the permit; or
- (2) Uphold the denial or revocation.

The city manager will notify the applicant/permittee of his decision in writing. The city manager's decision shall be final.

Sec. 24-10. - Duration.

All permits issued under the provisions of this division shall be effective during the fiscal year beginning July 1 and ending on the succeeding June 30, unless the applicant requests permission to do business for a lesser period, in which case the permit shall be valid for such period.

Sec. 24-11. - Renewal.

- (a) Any permit issued under the provisions of this division may be renewed by the holder of the permit, upon application in writing to the chief of police, upon a form to be furnished by the chief of police, which shall give any changes in the information required by section 24-5.
- (b) At the time of filing the application under this section, the applicant shall pay a fee according to the city council approved fee schedule.
- (c) All applications for renewal permits must be filed no later than ten days before the expiration date of the permit to be renewed; otherwise, section 24-5 must be completed in its entirety.

Sec. 24-12. - Prohibited conduct while peddling or soliciting.

It shall be unlawful for any solicitor or peddler, or any person in his and/or her behalf to engage in any conduct prohibited by subsection 24-14(b) of this chapter with the exception of 24-14(b)(6).

Sec. 24-13. - Not an endorsement to city.

It shall be unlawful for any permittee, or for any agent, employee or representative thereof, to advertise, represent or hold out in any manner the permit required by this article is an endorsement of the holder thereof by the governing body of the city, or any employee thereof, or by the city.

Sec. 24-14. - Panhandlers.

Sec. 24-15. - Street performers and street entertainers.

(a) *Definitions.*

*City walk* means the defined pedestrian walkway running along Main Avenue from Lenoir-Rhyne University through Downtown Hickory to 9th Street NW.

*Performance* means, but is not limited to, acrobatics, animal tricks, balloon twisting, card tricks, caricatures, clowning, comedy, contortions, escapology, dance, singing, fire skills, flea circus, fortune-telling, juggling, magic, mime, living statutes, musical performances, puppeteering, snake charming, storytelling or reciting poetry or prose, street art such as sketching and painting, street theatre, sword swallowing, and ventriloquism.

*Riverwalk* means the defined pedestrian walkway along the Catawba River.

*Sidewalk* means all that area legally open to public use as a pedestrian public way between the curb line and the public right-of-way boundary along the abutting property.

*Street performer or street entertainer* means a person who performs in a public area, including, but not limited to sidewalks, Union Square, the Riverwalk, and the City Walk and hopes to earn tips for such performances.

- (b) *Prohibited conduct while performing or entertaining.* Street performers and street entertainers shall meet the following requirements:
  - (1) Not violate the prohibitions on disturbing, annoying and unnecessary noise as set forth in sections 19-1 and 19-2.

- (2) Not violate the prohibitions on panhandling as set forth in section 24-14(b).
- (3) Not obstruct or cause to be obstructed pedestrian or vehicular traffic, including but not limited to not obstructing or causing to be obstructed sidewalks, doorways or other access areas, the City Walk, and the Riverwalk. The street performer must provide a minimum of 6 feet of pedestrian passageway on sidewalks, the City Walk, and the Riverwalk.
- (4) The sale of records, tapes or other products shall not be permitted.
- (5) Not perform before 9:00 a.m. or after 10:00 p.m.
- (6) Not perform any closer than 40 feet from another performer.
- (7) Not perform at locations designated for an approved community event festival, or other event unless permitted to play at the community event, festival or other event by the event or festival coordinator.

Sec. 24-16. - Violations.

Any violation of this article shall be a misdemeanor.

ARTICLE II. - SOLICITORS

DIVISION 1. - GENERALLY

Sec. 24-26. - "Solicitor" defined.

A "solicitor" is defined, for the purposes of this article, as any individual traveling by foot, wagon, automobile, motor truck or any other type of conveyance from place to place, from house to house or from street to street, taking or attempting to take orders for the sale of goods, wares, merchandise or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not; provided, that such definition shall include any person, who, for himself or for another person, hires, leases, uses or occupies any building, structure, tent, hotel room, lodginghouse, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery. This definition shall not apply to, and this article shall not apply to, the following persons:

- (1) Those who solicit orders solely to industrial, commercial or professional establishments within the city.
- (2) Those who solicit orders solely for agricultural or forest products.
- (3) Those who solicit orders solely for any kind of insurance.
- (4) Those soliciting for schools or approved educational, religious or charitable organizations, when the entire proceeds from any such solicitation goes to the fund of some approved educational or charitable organization.

Sec. 24-27. - Display of badge.

It shall be unlawful for a solicitor to fail to wear the badge issued under the provisions of this article during the time he is engaged in soliciting.

DIVISION 2. - PERMITS<sup>[2]</sup>

Sec. 24-41. - Required.

It shall be unlawful for any solicitor to engage in such business within the corporate limits of the city without first obtaining a permit therefor in compliance with the provisions of this division.

Sec. 24-42. - Application.

- (a) Every applicant for a permit under this division must file with the chief of police evidence of the requirements hereinafter set forth and a sworn application, in writing, on a form to be furnished by the chief of police, which shall give the following information:
  - (1) The name and description of the applicant.
  - (2) A brief description of the nature of the business and the goods or services to be sold.

- (3) If employed or acting as agent, the name and address of the employer or principal, together with credentials establishing the exact relationship.
  - (4) The length of time for which the permit is desired.
  - (5) The place where the goods or property is proposed to be sold or orders taken for the sale thereof, where such articles are manufactured or produced, where such goods or products are located at the time such application is filed and the proposed method of delivery.
  - (6) 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.
- (b) The application shall be accompanied by the following:
- (1) Two photographs of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which pictures shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.
  - (2) The fingerprints of the applicant.
  - (3) A statement by a reputable physician of the county, dated not more than ten days prior to submission of the application, certifying the applicant to be free of contagious, infectious or communicable disease.
  - (4) If the applicant or the company which he represents is unknown to be financially responsible by the chief of police, he may require a surety bond running to the city in the amount of \$1,000.00, issued by a surety company licensed to do business in the state or approved by the clerk of superior court of the county, conditioned that the applicant shall comply fully with all laws and ordinances regulating the business of soliciting and guaranteeing to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representation of the solicitor and further guaranteeing that the property purchases will be delivered according to the representations of such solicitor. Action on the bond may be brought in the name of the city to the use and benefit of the aggrieved person.
- (c) At the time of filing the application, a fee of \$2.00 shall be paid to the chief of police to cover the cost of issuing the permit.

Sec. 24-43. - Issuance and contents; badge.

Upon receipt of the application and payment of the prescribed fee, the chief of police shall deliver to the applicant the following:

- (1) A permit containing the signature of the issuing office, the name, address and photograph of the licensee, the class of license issued and the kind of goods to be sold thereunder, the date of issuance of the permit, the length of time the permit shall be in effect and the license number and other identifying description of any vehicles used in such soliciting.
- (2) A badge which shall contain the words "licensed solicitor" and shall show the number of the permit and the period for which it is issued.

Sec. 24-44. - Refusal; revocation; appeal.

It shall be the duty of the chief of police to refuse to issue or to revoke the issuance of a permit, upon proof that the applicant or the holder of a permit has committed an offense involving moral turpitude or a breach of the peace. Such applicant or holder shall have the right to appeal to the city council within a period of 14 days from the date of such refusal or revocation.

Sec. 24-45. - Duration.

All permits issued under the provisions of this division shall be effective during the fiscal year beginning July 1 and ending on the succeeding June 30, unless the applicant requests permission to do business for a lesser period, in which case the permit shall be valid for such period.

Sec. 24-46. - Renewal.

- (a) Any permit issued under the provisions of this division may be renewed by the holder of the permit, upon application in writing to the chief of police, upon a form to be furnished by the chief of police, which shall give any changes in the information required under subsection (a) of section 24-42. The application for renewal shall be accompanied by the documents required under paragraphs (2), (3) and (4) of subsection (b) of section 24-42.
- (b) At the time of filing the application under this section, the applicant shall pay a fee of \$2.00 to cover the cost of issuing the renewal permit.
- (c) All applications for renewal permits must be filed not later than ten days after the expiration date of the permit to be renewed; otherwise, section 24-42 must be complied with in its entirety.

#### Chapter 25 - POLICE<sup>[1]</sup>

##### ARTICLE I. - IN GENERAL

Sec. 25-1. - Maintenance of department and duties of police officers generally.

There shall be a city police department, which shall be maintained in accordance with the relative provisions of the charter of the city. The duties of the police officers shall be prescribed by and their conduct regulated by such rules and regulations as may be established by the chief of police, with the approval of the city manager.

Sec. 25-2. - Duties of chief generally.

The chief of police shall supervise and direct the work of the police department, under the supervision of and in cooperation with the city manager. It shall be his duty at all times to preserve the public peace, prevent the commission of crimes, enforce the criminal laws of the state and this Code and other ordinances of the city and perform such other duties as may be assigned to him by the city manager.

##### ARTICLE II. - POLICE AUXILIARY UNIT<sup>[2]</sup>

Sec. 25-31. - Created; appointment and term of members; duty to assist and aid regular police force.

There is hereby created within the police department a police auxiliary unit, each member of which shall be appointed by the chief of police and shall serve so long as he shall direct or until such member submits his resignation. Members of such unit shall assist and aid the regular police force of the city.

Sec. 25-32. - Composition; qualifications of members.

The police auxiliary unit shall be composed of deputy police auxiliary in a number not to exceed 20 qualified volunteers. Such volunteers shall be not less than 20 years of age at the time of their appointment and shall have such other qualifications as the chief of police may determine. At the discretion of the chief, a screening board may be created to determine such qualifications.

Sec. 25-33. - Powers and duties generally.

The police auxiliary unit shall have full police powers while on duty or while under the control and direction of the chief of police or his designated agent. Its members shall perform only such police duties as may be assigned by the chief of police, and then only when dressed or uniformed as prescribed by the chief or his agent, and shall be available for any departmental emergencies as the chief of police may determine. Such duties shall be performed only within the corporate limits or on property outside the city limits which is owned by the city.

Sec. 25-34. - Chief of police to prescribe rules and regulations; inspection of members' records; obedience to members of police department; team leader; disciplinary action.

The chief of police shall prescribe rules and regulations for the conduct, control and administration of the auxiliary police unit. Each auxiliary member's record shall be subject to inspection and review for approval at six-month intervals by the chief of police. Members of the auxiliary police unit shall obey all lawful orders of any members of the police department. Within the police auxiliary unit there shall be a team leader of such unit who, subject to the orders and control of the chief, shall exercise supervision of the auxiliary. Such team leader shall be appointed by the chief of police. All disciplinary action shall be for cause, require notice and hearing and be administered by the chief of police.

Sec. 25-36. - Oath; bond; privileges; immunities and benefits; workers' compensation.

Each member of the police auxiliary unit shall take the same oath as other police officers and shall be covered by the same bond as, shall have the same privileges and immunities of and shall be entitled to the



same benefits as regularly employed police officers including, but not limited to, benefits under The North Carolina Workers' Compensation Act (G.S. 97-1 et seq.).

#### Chapter 26 - POOLROOMS AND BOWLING ALLEYS<sup>[1]</sup>

##### Sec. 26-1. - License—Required.

It shall be unlawful for any person to operate for profit in the city any pocket billiard room or bowling alley, without first obtaining a license from the city manager as provided in the annual license ordinance.

#### Chapter 27 - RAILROADS<sup>[1]</sup>

##### Sec. 27-1. - Maintenance of crossings.

Every railroad company whose tracks cross any street in the city shall fix and keep in good repair and condition such crossings in the space covered by its right-of-way, in accordance with the directions of the city manager.

##### Sec. 27-2. - Rights-of-way to be kept free of weeds, trash, stagnant water, etc.

Every railroad whose tracks extend within the limits of the city shall keep the ditches or gutters on both sides of and between the tracks on its right-of-way clear of grass, weeds, trash, garbage and filth of every kind and so graded that water will not stand or become stagnant in the ditches or along the tracks.

##### Sec. 27-3. - Blocking streets.

Any railroad company, or any agent or employee thereof, that stops or permits any train, car or locomotive to be stopped or shifted across any of the streets of the city so as to hinder or delay the free passage of vehicles or persons for a longer time than five minutes; or any railroad company, or any agent or employee thereof, that fails or refuses, after clearing a street, to give vehicles and persons ample time to cross before again blocking the street, shall be deemed guilty of a misdemeanor.

##### Sec. 27-4. - Use of crossing by more than one train.

No railroad company or agent or employee thereof shall permit any two trains or engines to cross any street crossing at the same time, nor shall any railroad company or agent or employee thereof permit any train or engine to cross any street crossing within one minute after another train has crossed from the opposite direction.

##### Sec. 27-5. - Duty to clear crossings for firefighters and fire vehicles.

It shall be the duty of all railroad companies and the engineers and employees thereof, when any engine, car or train of cars is across or on any street, upon the approach of the firefighters or any fire vehicle, to disconnect or move such cars or train and clear the street crossing immediately and allow the firefighters and the vehicles to pass without delay.

#### ARTICLE II. - AUCTIONS AND AUCTIONEERS<sup>[2]</sup>

##### Sec. 28-27. - Compliance with article.

It shall be unlawful for any person, whether owner, principal or agent, to sell, dispose of or offer for sale, or to cause or permit to be sold, disposed of or offered for sale, at public auction within the city any merchandise, without first complying with the regulations and conditions prescribed by this article.

##### Sec. 28-28. - Inventory to be filed with city manager.

Prior to any auction sale, the owner of the merchandise shall file with the city manager an itemized, verified inventory of merchandise to be sold at such auction.

##### Sec. 28-29. - Sales to be on successive days; maximum number of days for sale.

Sales of merchandise at public auction shall not be held on other than successive days, Sundays and legal holidays excepted, and shall continue not more than 30 days within the period of any municipal fiscal year.

##### Sec. 28-30. - Hours of sale.

Sales of merchandise at public auction shall be conducted only between the hours of 9:00 a.m. and 6:00 p.m.

##### Sec. 28-31. - By-bidding, chilling, etc.

No person shall act as a by-bidder, capper, booster or chiller, or make any false bid, or falsely pretend to buy any article offered at an auction sale. No auctioneer or owner shall knowingly permit any person to act as aforesaid or to make any false or boosting bids.

Sec. 28-32. - Sale of jewelry.

On the sale of diamonds, precious stones, watches or other jewelry at public auction, the auctioneer shall cause to be delivered to the purchaser a signed document containing a description of the article sold and the representations made in regard thereto at the time of sale. There shall also be attached to each article of jewelry sold at public auction a tag, on which shall be printed or written a correct description of such article, including a statement as to whether the article is new or used.

Sec. 28-33. - Exemptions from article.

The provisions of this article shall not be construed as including sales conducted by sheriffs, receivers or trustees; sales made by virtue of powers of sale contained in mortgages, deeds of trust or pledges; sales conducted by virtue of judicial order or by a duly licensed pawnbroker of goods pledged or pawned in good faith; sales disposing of unclaimed freight or express; or sales by executors or administrators.

Chapter 29 - STREETS AND SIDEWALKS<sup>[1]</sup>

ARTICLE I. - IN GENERAL

Sec. 29-1. - Duties of city manager relative to work on streets and sidewalks.

It shall be the duty of the city manager to superintend all work done upon the streets, to submit detailed estimates of all proposed street and sidewalk work, and to examine and approve all work done by contract upon the streets and sidewalks of the city.

Sec. 29-2. - Form for statutory paving petitions.

Standard statutory paving petitions shall be as determined by the city manager and as on file in the office of the city clerk.

Sec. 29-3. - Specifications for improvements under statutory paving petitions.

The specifications to be followed in making improvements to streets petitioned for under statutory paving petitions shall be as determined from time to time by the city council and filed in the office of the city engineer.

Sec. 29-4. - Maximum period for carrying paving assessments; priority for paving petitions.

(a) The owners of assessed property shall have the option, within 30 days after the publication of the notice that the assessment roll has been confirmed, of paying the assessment either in cash or in not more than five annual installments, in which case all unpaid installments shall bear interest at the rate of eight percent per annum, with the first installment, together with interest to become due and payable 60 days after the date that the assessment roll is confirmed, and one subsequent installment and interest shall be due and payable on the same day of the month in each successive year until the assessment is paid in full, but, in any case, not beyond the date of the fifth annual installment. If any owner does not pay the assessment in full in cash within 30 days after the publication of the notice that the assessment roll has been confirmed, it shall be conclusively presumed that such owner has elected to make payment by installments. Any owner, however, may pay any installment in advance at any time. Improvement projects shall be given priority as follows:

- (1) A paving priority list shall be established and upon it shall be placed any project when the persons owning the majority of the lots in the project have filed a petition in the office of city engineer.
- (2) On the priority list, the various projects shall be ranked according to the order the qualifying petitions are received in the engineering department of the city. Projects will be completed in ranking order unless a failure to secure a right-of-way occurs or other problems arise of a similar nature or the cost and length of the project necessitates changing the ranking order.
- (3) Rates are assigned at the time the petition qualifies. Any property owner/owners adding on the petition after the petition has been accepted shall be assessed according to the rate in place at the time the property owner/owners sign onto the petition.

- (b) The city collector of revenue shall prepare a new priority list based upon the provisions set forth above, but not until he has sent a letter to the owners of all lots in projects where less than a majority of the owners have paid at least ten percent of their share of the project costs, and has given them 45 days from the date of mailing of the letter to make payments to qualify for the priority list.

Sec. 29-5. - Streets not to be closed without permission.

No street shall be closed, even temporarily, without permission of the city manager.

Sec. 29-6. - Notice to fire chief of obstruction or closing of street or alley.

No person shall place any obstruction in or across or close temporarily any public street or alley in the city, until he has notified the chief of the fire department of his intention to do so. Likewise, any person making any excavation or placing any obstruction in or across or closing temporarily any street or alley shall notify the chief of the fire department when such street or alley has been placed in a safe and passable condition.

Sec. 29-7. - Obstruction with goods, wares or merchandise.

- (a) It shall be unlawful for any person to obstruct any street or sidewalk for the purpose of selling, vending, showing or disposing of his goods, wares or merchandise.
- (b) No person shall place in or upon any street or sidewalk within the city any goods, wares or merchandise which shall tend to obstruct the use of any street or sidewalk; provided, that any occupant of any building abutting upon any sidewalk shall have the right to use the sidewalk temporarily for such time only as may be necessary in depositing goods, wares and merchandise while engaged in loading or unloading.
- (c) It shall be unlawful for any person, corporation, business entity or otherwise to obstruct any street right-of-way or easement that is within the corporate limits of the city by placing in the street right-of-way or easement any good, including but not limited to, vehicles, moveable buildings, etc., wares or merchandise or any kind. A violation of this subsection may subject the offender to a civil citation. After ten days, the obstruction may be removed by the city at the expense of the violator. If ownership or responsible custodian cannot be located after reasonable attempts, the city may remove item(s) sooner.

Sec. 29-8. - Obstruction of gutters or drains.

No person shall obstruct or in any way interfere with any gutters or natural water drains in the city. All persons placing or using any bridge or passageway over any gutter or drain on any street shall keep such bridge or passageway from obstructing the gutter or drain.

Sec. 29-9. - Storage of building materials on streets or sidewalks.

- (a) When granting a permit to any person for the erection or repair of a building along or adjacent to any street or sidewalk, it shall be the duty of the building inspector to mark off and designate the portion of the street or sidewalk that may be used for storing materials for the erection or repair of such building. Any person using more of the street for storing materials than that designated by the building inspector shall be considered as obstructing the street or sidewalk and shall be guilty of a misdemeanor.
- (b) It shall be unlawful to place any brick, lumber, sand or other building material on any street or sidewalk, whether within or without an area designated by the building inspector under this section, without placing the same so as to allow water to run, without stoppage, through the drain, ditch or gutter.

Sec. 29-10. - Mixing mortar, cement, etc., on streets or sidewalks.

It shall be unlawful for any person to mix, or cause to be mixed, any mortar, cement or other like preparation upon any of the permanent sidewalks or any of the permanent streets of the city, except in a mortar box made so as to prevent any leakage on such sidewalk or street.

Sec. 29-11. - Cleaning paint brushes by rubbing on streets, curbs, etc.

It shall be unlawful for any person to clean paint brushes by rubbing the same on the streets, curbs, gutters or sidewalks of the city.

Sec. 29-12. - Signs over sidewalks.

No sign shall be erected, remodeled or repaired that extends over any sidewalk for a distance of more than 15 inches from the building or structure to which it is attached; provided, that this section shall not

apply to signs extending less than 15 inches from a properly constructed marquee. Any existing sign that does not conform to the provisions of this section must be removed when, in the opinion of the building inspector, such sign becomes unsafe.

Sec. 29-13. - Height of awnings above sidewalks.

All awnings or supports for awnings shall be suspended from buildings at a height of not less than seven feet from the sidewalk.

Sec. 29-14. - Removal of snow from sidewalks.

After any fall of snow, the tenant or occupant or, if there is no tenant, the owner, agent or custodian of any building or lot of land bordering on any street in the city where there is a sidewalk abutting shall, within 24 hours after the snow has ceased to fall, remove or cause such snow to be removed from the sidewalks of his premises.

Sec. 29-15. - Slops, etc., not to be discharged on streets or sidewalks.

It shall be unlawful for any person to discharge any slops or other offensive liquid upon any street or sidewalk of the city.

Sec. 29-16. - Discharge into streets, gutters, etc., of water used for washing vehicles.

No person shall empty or discharge, or cause or permit to be emptied or discharged, into or upon any sidewalk or street or into any gutters or side ditches of any streets of the city any water which has been used to wash any automobile, truck, bus or other motor vehicle.

Sec. 29-17. - Deposit in street of substances injurious to pavement or vehicle tires.

No person shall throw or scatter upon any street any stones, tacks, glass or other hard substances which may damage the tires of any vehicle or the pavement of such street.

Sec. 29-18. - Burning leaves, etc., on paved street.

No person shall burn, or cause to be burned, any leaves, trash or rubbish on any paved street.

Sec. 29-19. - Playing games in streets; skateboarding on sidewalks.

No person shall play baseball, football, soccer or any other games in any roadway, street or alley. No person shall roller skate or ride any skateboard, bicycle or scooter on any city sidewalk.

Sec. 29-20. - Grates opening on sidewalks.

The owner of any building with a grate opening on a sidewalk shall provide the same with a cover approved by the building inspector, and no open grates shall be permitted. All such grate openings shall be on a level with the sidewalk.

Sec. 29-21. - Fence or railing required for excavations adjacent to streets and sidewalks.

Any person excavating any lot adjacent to any street or sidewalk shall, at the time of such excavating, erect a substantial fence or railing on the side adjoining the street or sidewalk, so as to protect the public from the danger of falling or driving into such excavation.

Sec. 29-22. - Loitering and disorderly conduct on public property.

(a) *Purpose and intent*. Generally, public property has a specific or primary purpose. Public streets are intended to be used for vehicular and some pedestrian travel. Public sidewalks are intended for pedestrian travel. Public parks normally carry a recreational use and each public building or other public parcel of land will have its own specific purpose. For some public area, use as a public assembly or public forum is an incidental use. Public places are not intended as a "place of business" for crime nor does any particular group of citizens have the right to appropriate public areas for their specific purpose and use without necessary permission. Public streets and sidewalks must remain open for public travel and law-abiding citizens must not be discouraged or intimidated from using such streets and sidewalks. There are two identifiable conditions which discourage legitimate public use of public property. Firstly, under some circumstances, unruly groups simply impede the flow of vehicular and pedestrian traffic. Secondly, soliciting for drug related activities will create public areas controlled by the criminal element of the community if allowed to go unchecked. This chapter is intended to restore the use of the streets, sidewalks and other public parks and public areas within the city to lawful use by law-abiding citizens.

- (b) *Definition* . For purposes of this section, public place means any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot, transportation facility, public vehicular area as defined in G.S. § 20-4-.01, as amended from time to time, other publicly owned or leased property, school and school grounds or property, common areas of apartments or condominium communities, common areas of public housing projects, any place of business or amusement which is open to the public, or the doorways and entrances to any buildings which front on any of these places or a motor vehicle in or on any of these places, or any other place to which the public has ready access.
- (c) *Impeding traffic* .
  - (1) It shall be unlawful for any person or persons to congregate with others, loiter, stand around, lounge, sit upon parked vehicles, stop or leave cars or vehicles parked or standing with the intent or under circumstances evidencing the purpose to interfere with or impeded the flow of vehicular or pedestrian traffic, to litter, to consume or use alcoholic beverages, or to otherwise disturb the public peace.
- (d) *Loitering for purposes of engaging in illegal drug activity* .
  - (1) It shall be unlawful for any person or persons to loiter, remain or wander about in a public place with the intent to or in a manner and under circumstances indicating the purpose to violate any provision of the North Carolina Controlled Substances Act (G.S. ch. 90, art. 5) or any other law defining or prohibiting illegal drug activity.
  - (2) No arrest or charge is permitted under this subsection unless the circumstances establish probable cause to believe that the person intended to violate one or more of the provisions of the North Carolina Controlled Substances Act.
- (e) A violation of this section is a misdemeanor as set forth in North Carolina General Statute Section 14-4.

Sec. 29-24. - Urban camping and improper use of public places.

(a) *Definitions* . For purposes of this section,

*Camp* shall mean residing in or using a public street, sidewalk or park for private living accommodations, such as erecting tents or other temporary structures or objects providing shelter; sleeping in a single place for any substantial prolonged period of time; regularly cooking or preparing meals; or other similar activities.

*Other public property* includes all public or municipal buildings, facilities, structures, properties upon which the buildings, facilities or structures are located, lots, parcels, and any other public properties.

*Public park* includes all municipal parks, public playgrounds, public plazas, attractions and monuments.

*Public street* includes all public streets, highways, rights of way, public sidewalks, public benches, public parking lots and medians.

*Storing personal property* shall mean leaving one's personal effects, such as, but not limited to, clothing, bedrolls, cookware, sleeping bags, luggage, knapsacks, or backpacks, unattended for any substantial prolonged length of time. This term shall not include parking a bicycle or other mode of transportation.

(b) *Public parks* . It shall be unlawful to camp or to store personal property in any park, as defined above, owned by the city.

(c) *Public streets* . It shall be unlawful to camp, to sleep, to store personal property, to sit or to lie down on any public street as defined above.

(d) Other public property—Blocking ingress and egress; interfering with the normal course of business associated with the designated public property. It shall be unlawful to camp, to sleep, to store personal property, to sit or to lie down on any public property so as to interfere with ingress or egress from buildings or to interfere with the normal course of business or operations for which the buildings or properties are designated.

(e) *Warning* . No person may be arrested for violating this code section until he or she has received an oral or written warning to cease the unlawful conduct. If the violator fails to comply with the warning issued, he or she is subject to arrest for urban camping.

(f) *Exceptions* . This code section shall not be construed to prohibit the following behavior:

(1) Persons sitting or lying down as a result of a medical emergency;

(2) Persons in wheelchairs sitting on sidewalks;

(3) Persons sitting down while attending parades;

(4) Persons sitting down while patronizing sidewalk cafes;

(5) Persons lying down or napping while attending performances, festivals, concerts, fireworks or other special events;

(6) Persons sitting on chairs or benches supplied by a public agency or abutting private property owner;

(7) Persons sitting on seats in bus shelters occupied by people waiting for the bus;

(8) Persons sitting or lying down while waiting in an orderly line awaiting entry to any building, including shelters or awaiting social services, such as provision of meals; or

(9) Children sleeping while being carried by an accompanying person or while sitting or lying in a stroller or baby carriage.

(10) Camping by groups or persons with prior approval of the Hickory City Council.

(g) *Penalty*. A violation of this section is a misdemeanor as set forth in North Carolina General Statute Section 14-4.

## DIVISION 1. - GENERALLY AND STREET NAMES

### Sec. 29-42. - Assignment of street names.

Street names shall be assigned within the following parameters unless an exception is granted pursuant to the terms of this article.

- (1) The street running north and south immediately to the west of the Julian C. Whitener Municipal Building shall be designated "Center Street". The intersection of Center Street and the main track of the Norfolk Southern Railway which traverses the city east and west shall be known as the "primary intersection" and shall constitute the dividing line of the four quadrants of the city, to be styled "northwest," "northeast," "southwest," and "southeast" accordingly.
- (2) All thoroughfares longer than 1,000 feet running generally east and west shall be designated as "avenues" and shall be titled by numbers, progressing from parallel base lines beginning at the primary intersection, except avenues in the northern portion of the southeast quadrant, between the Southern Railway tracks and First Avenue SE shall be titled by letters of the alphabet beginning with the letter "A" at the railroad tracks and progressing alphabetically south toward First Avenue SE.
- (3) All streets longer than 1,000 feet running generally north and south shall be designated as "street" and titled by numbers, progressing from parallel base lines beginning at the primary intersection.
- (4) Roadways originating at an angle from major "avenues" or "streets" shall derive their name from the street or avenue which most closely parallels the direction in which they travel, with the following identifiers attached as necessary:
  - a. Major thoroughfares which run diagonally to the points of the compass, connect at least two quadrants of the city and act as traffic collectors shall be designated as "boulevard". Such designation shall be in place of "avenue" or "street", rather than in addition thereto.
  - b. Dead end roadways under 1,000 feet in length which run east and west, minor streets less than 500 feet in length which end in a turnaround, horseshoe shaped streets generally designated by one name throughout their entire length, and other dead end streets shall be designated as "courts".
  - c. Winding thoroughfares, curving roads longer than 1,000 feet, or roads that meander about and continue through to other roadways or rights-of-way for vehicular passage shall be designated "drives".
  - d. Secondary roads connecting with each other, curving roads of less than 1,000 feet, uninterrupted roads ending in a cul-de-sac or minor dead-end roads lying between numbered thoroughfares shall be designated as "lanes".
  - e. Short roads that return to themselves shall be designated as "circles".
  - f. Short drives that begin and end on the same thoroughfare shall be designated as "loops".
  - g. Cul-de-sacs or permanent dead-end roads, north-south streets under 1,000 feet, short roads parallel to the grid pattern or in between regular grid streets, or minor or dead-end roads lying between numbered thoroughfares shall be designated as "places".
  - h. Dead-end roadways under 1,000 feet running at oblique angles to the four points of the compass, minor roads that change direction or begin and end on the same thoroughfare, or diagonal streets less than 1,000 feet in length shall be designated as "ways".
- (5) In the event that a roadway could be determined to fall in more than one category of the preceding section, the city manager shall have the authority to determine which shall be the most appropriate designation, taking into consideration confusion with similar sounding names, the wishes of any developer or property owner on the roadway, and the needs of public safety and emergency response systems.

- (6) Nothing in this section shall be construed to require that any roadway, street or avenue existing at the time of adoption of this article shall be permitted or required to be renamed other than as allowed pursuant to this article.

Sec. 29-43. - Exceptions to uniform naming system.

Exceptions to this uniform street naming system may be authorized by the city council if the following conditions are met:

- (1) The requested street name appeared on a plat or official map approved the city or the county prior to its designation as a numbered street; or
- (2) The requested street name has been in common usage as evidenced by mailing addresses, printed stationary, personalized checks or similar documentation prior to its designation as a numbered street under the uniform system; or
- (3) The street for which the name variance is sought is contained solely within a corporate, industrial or commercial park; as used in this chapter, "corporate, industrial or commercial park" shall be defined as a contiguous geographic area in the zoning areas listed below, which has five or fewer entrances and exits, and which is identified as a corporate, industrial or commercial park by common signage at such entrances or exits"; and
- (4) The street for which the name variance is sought is complete, and is not subject to further extension in subsequent phases of development or through connection to adjacent property which may be developed in the future; and
- (5) The property at all points adjacent to the street for which the name variance is sought is zoned C-4, OI-2, I-1, I-2 or "planned development" in any one of the aforementioned zoning districts; and
- (6) The petition process described below is completed; and
- (7) All fees as established in the fee schedule are submitted with the request.

Sec. 29-44. - Petition process to request street name variance.

A petition, signed by at least 80 percent of the property owners of the length of the street and 80 percent of the total number of property owners reflecting the following information must be filed with the city clerk:

- (1) That they have reached agreement as to the proposed name to be requested;
- (2) The name being requested by the parties;
- (3) That they will bear the cost of all street or directional signs that must be altered or changed as a result of the name change; and
- (4) That the parties making the request acknowledge that the city council may, at any time, with or without cause, determine that it is in the best interest of the city to rename the street to its former designation, to the designation it would have had under the system developed pursuant to this article.

Sec. 29-45. - Public hearing and notice.

Prior to granting any variance from the uniform street naming system, a public hearing shall be held after notice is given in the same manner as requests for zoning changes as established under the city land development code.

Sec. 29-46. - Conditions not subject to variance.

At the public hearing on the request, the city council shall review and determine that the following requirements are met:

- (1) The street suffixes such as avenue, street, drive and court, and the quadrant location of N.E., S.E., N.W. and S.W. shall be assigned by the city manager in accordance with the provisions of this article and shall be preserved in the name of the street.



- (2) The suggested name may not be one which is easily confused with the name of another street in the county in which it is located or any adjacent county, and must fit within the parameters of GIS mapping and E911 system requirements. In considering a request for a name variance, the city council shall consider recommendations from applicable public safety, planning, engineering, public works, and postal agencies concerning potential problems associated with granting a variance.
- (3) Exceptions shall apply to entire streets and not just to sections of streets. The term "entire street" shall mean beginning at a dead end or "T" intersection and continuing thereon without interruption until reaching a similar dead end, "T" intersection or cul-de-sac.
- (4) Streets which are classified as collector streets, minor thoroughfares, major thoroughfares, arterial streets, expressways, freeways, or other substantial streets serving other than local neighborhoods shall not be eligible for variance under this article.

Sec. 29-47. - Submission of plats.

The parties petitioning the name change must, upon approval of the request, provide two mylar copies of a plat reflecting the street for which the name variance is sought, suitable for filing with the registrar of deeds and clearly reflecting the roadway and all adjacent property owners, including parcel identification numbers and deed reference information, along with fees adequate to record the same according to the current fee schedule of the registrar of deeds of the county or counties in which the street is located.

Sec. 29-48. - Council authority not impaired.

Nothing in this article shall be interpreted to limit the authority of the city council to name or rename collector streets, minor thoroughfares, major thoroughfares, arterial streets, expressways, freeways, or other substantial streets serving other than local neighborhoods which do not readily fit into the street naming system.

Sec. 29-49. - Street name signs.

At all suitable corners of all avenues, streets, drives, ways, courts or places there shall be placed standard street signs, as approved by the city manager, designating the names and numbers of such avenues, streets, drives, ways, courts or places.

Sec. 29-50. - Maintenance of street naming system by city manager; record to be kept.

- (a) The city manager shall be responsible for maintaining the street naming system. In performance of this responsibility, the city manager shall be guided by the provisions of this article.
- (b) The city clerk shall keep a record of all street names assigned under this article. Such records may be kept in any form or in multiple forms, including electronic media, and are hereby adopted and made part of this article.

DIVISION 2. - PROPERTY NUMBERS

Sec. 29-60. - Number required.

A uniform system of numbering property is hereby adopted for use in the city. All properties or parcels of land within the corporate limits of the city shall be identified by reference to the uniform numbering system unless granted a variance pursuant to the provisions of this article.

Sec. 29-61. - Number assignment.

Each city block shall be assigned a number based upon its distance from the primary intersection, and shall be related to the numerical value of the street or avenue crossing the roadway upon which the property faces. When moving away from the primary intersection, even numbers shall be assigned to property on the right side of the roadway and odd numbers shall be assigned to property on the left.

Sec. 29-62. - Separate number for each 20 feet of frontage.

A separate property number shall be assigned for each 20 feet of frontage.

Sec. 29-63. - Principal buildings; multiple entrances.

- (a) Each principal building on a tract shall bear the number assigned to the frontage on the street on which the primary entrance is located.

- (b) If a principal building is occupied by more than one business or family dwelling unit, each primary entrance to the unit shall bear a separate number.
- (c) If more than one primary entrance is located within the frontage assigned to one property number, the first entrance shall be designated by the assigned property number, the second by the assigned property number followed by the letter "A," the third by the assigned property number followed by the letter "B" and succeeding entrances by the proper letter of the alphabet.

Sec. 28-64. - Numerals.

Numerals indicating the official number for each principal building or each primary entrance to such building shall be posted in clearly visible numerals not less than three inches in height and in a manner as to be visible from the street on which the property is located.

Sec. 29-65. - Council authority not impaired.

Nothing in this article shall be interpreted to limit the authority of the city council to number or renumber any property which does not readily fit into the property numbering system.

Sec. 29-66. - Maintenance of property numbering system by city manager.

- (a) The city manager shall be responsible for maintaining the property numbering system. In performance of this responsibility, the city manager shall be guided by the provisions of this article.
- (b) The city clerk shall keep a record of all property numbers assigned under this article. Such records may be kept in any form or in multiple forms, including electronic media, and are hereby adopted and made part of this article.

ARTICLE III. - EXCAVATIONS<sup>[3]</sup>

Sec. 29-81. - Permit.

No person shall open or excavate any street or sidewalk of the city until a written permit has been granted and ordered to be issued by the city manager.

Sec. 29-82. - Bond.

No permit required by section 29-81 shall be issued to any person until he has filed with the city manager a bond in the sum of \$1,000.00, payable to the city. The bond shall indemnify the city against all claims, suits, actions and proceedings of every character which may be brought against it for any injuries or damages to persons or property directly or indirectly received or sustained by reason of such excavation or work and shall be conditioned upon the proper restoration of the street or sidewalk surface.

Sec. 29-83. - Notices to fire chief.

No person shall make any excavation in any street or alley in the city until he has notified the chief of the fire department of his intention so to do. Any person making such an excavation shall likewise notify the chief of the fire department when such street or alley has been placed in a safe and passable condition.

Sec. 29-84. - Railings and lights.

Any person opening or excavating any street or sidewalk shall cause any such opening or excavation to be properly guarded by a railing during the existence of such opening or excavation and shall cause proper lights to be placed thereon and kept burning from twilight to sunrise.

Sec. 29-85. - Restoration of street or sidewalk to previous condition.

The street or sidewalk opened or excavated under a permit issued under this article shall be restored to its condition prior to commencement of such work or excavation, at the expense of the person to whom such permit was issued.

Sec. 29-86. - Inspection of and specifications for work.

All work done and performed in opening or excavating and refilling and repairing any street or sidewalk opened or excavated under the provisions of this article shall be subject to the inspection of the city manager or his assistants. Such work shall be done in accordance with the specifications to be furnished by the city manager.

ARTICLE IV. - DRIVEWAYS

Sec. 29-106. - Adoption of standard plans.

For the purpose of regulating the construction of driveways within the city and prescribing the specifications therefor, those certain plans known as the City of Hickory's Standard Plans for Driveways, on file in the office of the director of public works, are hereby adopted and made a part of this article.

Sec. 29-107. - Construction permit—Required.

It shall be unlawful for any person to construct a driveway across any public sidewalk, walkway or parkway or into any street, or cut any curb for such purpose, without first having obtained a permit therefor from the city.

Sec. 29-108. - Same—Application; issuance.

Application for a permit required by section 29-107 shall be made to the director of public works and shall state, among other things, the location, grade and dimensions of the proposed driveway and the purpose for which it is desired. If the proposed driveway complies with the provisions of this article, the director of public works shall issue a permit therefor.

Sec. 29-109. - Number permitted; width.

The number and widths of driveways permitted for each residence and for each business or commercial installation shall be in accordance with the standard plans adopted and filed pursuant to section 29-106.

Sec. 29-110. - Radii of curves.

- (a) All radii of curves of commercial or business driveways, at the point where such driveways meet the curb, shall be as specified for business and commercial buildings in the plans adopted by section 29-106, according to the illustration which is most similar to the proposed construction.
- (b) All radii of curves of residential driveways, where the same meet the curb, shall comply with the minimum requirements as shown in such plans.

Sec. 29-111. - Extension of apron into street.

No driveway apron shall extend out into the street further than the face of the curb, and under no circumstances shall such apron extend into the gutter area. This section shall apply to all driveways, whether serving residential, commercial or business property.

Sec. 29-112. - Construction of business or commercial driveways into intersecting streets.

Any business or commercial establishment located at the intersection of two or more streets and which desires a driveway into two intersecting streets shall construct such driveways so as to comply with the minimum requirements as shown in the plans adopted by section 29-106, according to the illustration which is most similar to the proposed construction.

Sec. 29-113. - Marking of entrances to business or commercial driveways.

At all business or commercial driveway entrances, a white line, not less than 2½ inches in width, shall be maintained along the entire width of the driveway or ramp to clearly define the sidewalk area on the property side of the sidewalk.

Sec. 29-114. - Reconstruction of sidewalk used as private driveway.

Every person who intends or plans to use any portion of a sidewalk as a private driveway shall, if the director of public works certifies that the sidewalk is inadequate for vehicular traffic, reconstruct the sidewalk in such a manner that the sidewalk is capable of carrying vehicular traffic without creating pedestrian hazards and in accordance with the specifications of the director of public works with respect to slope, drainage, reinforcement, finish and other construction features.

Sec. 29-115. - Applicability of article to existing driveways.

Driveways in existence on August 15, 1950, shall be exempt from the provisions of this article; provided, that if any such driveway is altered after such date, it shall be reconstructed to conform to this article.

Secs. 29-116—29-135. - Reserved.

ARTICLE V. - USE OF UNION SQUARE COMMON AND ADJOINING STREETS

Sec. 29-136. - Applicability of other Code sections.

Certain provisions of this article are in conflict with other sections of this Code; to the extent that there is a conflict between the provisions of this article and other such sections, as enumerated hereinafter, the provisions of this article shall apply to Union Square Common and, to some extent, to adjoining streets as hereinafter defined, but only to the extent of such conflict; where no conflict between the provisions of this article and such other sections is clearly evident, such other sections shall remain in full force and effect. The conflict in sections are section 21-3, prohibiting the affixing of advertising within any city street or right-of-way; section 21-4, prohibiting the consumption or serving of certain alcoholic beverages in certain specified places; section 23-8, prohibiting the bringing of certain alcoholic beverages into any park or similar public place; sections 29-5, 29-6 and 29-7, regarding obstructions or closing of streets or alleys; section 29-12, regarding signs over sidewalks; and section 29-19, prohibiting games on streets or sidewalks.

Sec. 29-137. - Use by the general public.

The following provisions shall apply to the use of Union Square Common on all occasions other than special events as set forth in this article:

- (1) No motor vehicles, bicycles, skateboards or other vehicles or wheeled contrivances or equipment shall be permitted on Union Square Common, except for equipment used by handicapped persons and except for vehicles necessarily using such area for construction or repair purposes, and except for special events as set forth hereinafter.
- (2) Sale of, or the offering to sell of, any product or item or any other commercial or business activity is prohibited, except for special events or for lessees as hereinafter set forth.

Sec. 29-138. - Use for special events.

The city council, upon proper application, may, but is not required to, allow the use of the common for special events which reasonably have the effect of increasing the proper use of the Hickory downtown area, providing that the applicant for such special event shall be a nonprofit organization, organized and existing for the purpose of either some charitable or public benefit or else for the promotion of business in the downtown area of Hickory. The application shall clearly state the name and nonprofit status of the applicant, together with the applicant's responsible officers and persons to be in charge of the event and shall contain information to indicate that the applicant is aware of the provisions of this article and will abide with the same and shall further give information sufficient to show that it will act in compliance with the provisions hereinafter set forth, as follows:

- (1) No motor vehicles or other large equipment or manufactured items or livestock will be permitted within the area unless same are clearly identified and described and the proposed location in the application, and specific approval is given.
- (2) The applicant shall assume full liability for all accidents or claims of accidents as a result of the activities taking place at such special event and during the time the area is being readied for the event and during the time the area is being cleaned up following the event; the applicant shall provide proof of an insurance policy issued by an insurance company licensed to do business in the state, such policy to be one of comprehensive general liability in the amount of not less than \$300,000.00 for bodily injury per person and \$1,000,000.00 per occurrence and not less than \$100,000.00 for property damage per occurrence.
- (3) Proof shall be required of all proper business licenses for all vendors selling items in conjunction with the special event.
- (4) The size, type of construction and location of display tables and booths must be described generally in the application; all construction shall be safe and self-sustaining; no spikes or other holding devices may be driven into the ground or any street or sidewalk, or tied to any tree.
- (5) When painting and/or pottery-making activities or similar activities are held, appropriate protective materials must be placed over any brick areas for protection.
- (6) No tents may be placed in the area without the same being described and exhibited to the fire prevention inspectors of the fire department and special approval by the city council.
- (7) The use of any public address system can be done only if specifically requested in the application and special permission given, including limitations as to use.

- (8) The application shall contain the specific dates and times during which such special event shall be taking place.
- (9) The applicant must confirm that it understands that the city will not be responsible for the security or protection of any articles, items, merchandise, display tables, booths or other property owned by the applicant or others participating in the special event. The applicant shall be responsible for providing trash receptacles of the number and size as the city shall require in order to eliminate litter.
- (10) Sufficient portable toilets shall be provided to provide for the expected numbers of participants.
- (11) A first aid station shall be provided, staffed by competent emergency medical technicians, unless a waiver is requested and granted by the city.
- (12) The applicant shall provide to the city manager, not later than 24 hours prior to the beginning of the public participation in the special event, a list of all of the vendors or others having booths or display tables during the special event and, thereafter, no other additional persons may be entitled to sell merchandise or operate any booth or display table during the special event, unless the applicant, in writing, requests the city manager to amend such list accordingly and such permission is granted.
- (13) The application must be filed in the city manager's office not later than 90 days prior to the time that the applicant desires to first take possession of the area to make preparations for the special event; the city manager shall review the application and any supporting documents, along with his appropriate department heads, and shall, within a reasonable time, notify the applicant of any matters not meeting his approval or other information required; at such time as the city manager is of the opinion that all needed information has been provided, he shall present the same to the city council, along with his recommendation as to approval or rejection; the city council reserves the right to reject any and all applicants and, in the alternative, reserves the right to grant approval of any special event with such limitations as it deems proper. Matters to be considered shall include the public health, welfare and safety of all of the residents of the city, the inconvenience to the traveling public and to residents and businesses in the city, the benefits to be gained by the holding of the special event, including the social and moral benefits as well as those of business and financial gain and any other applicable advantages and disadvantages; each proposed special event shall be considered on its own merits, and action taken regarding one shall not constitute a precedent as to another.
- (14) In the event the applicant shall desire to sell any alcoholic beverages, it shall specifically so state in its application and shall provide a sketch of the area where the same will be sold and consumed, which area shall be delineated by barricades, with an entrance into such barricaded area clearly marked. The entrance shall be so constructed as to allow ready control of patrons, including viewing of identification to avoid underage persons being within the barricaded area; no malt beverages or unfortified wine shall be consumed outside of such barricaded area; proper application for special permit to the proper state authorities shall be made so that a permit may be received prior to the opening of the special event, such permit to be available for inspection by the city and its officers at any time.

Sec. 29-139. - Area for holding special events.

Special events as set forth in this article may be held in one or more of the following areas, which area shall be specifically stated in the application:

- (1) Union Square Common, north of the Southern Railway tracks, east of Third Street, N.W., and west of Second Street, N.W.; and/or
- (2) Streets adjoining Union Square, including Third Street, N.W., between the Southern Railway tracks and the northern margin of First Avenue, N.W.; First Avenue, N.W., between Third Street, N.W., and Second Street, N.W.; Second Street, N.W., from the Southern Railway tracks to the northern margin of First Avenue, N.W.; and Trade Alley; and/or
- (3) Any other public building, park or property owned or possessed by the city which, by its nature, is suitable for any certain special event that may be applied for.

The city council reserves the right to reject any application as to the use of any area described above for any special event, keeping in mind the particular event being applied for and the extent and suitability of the particular facilities; in the case of a special event being held at a city-owned facility for which a rental fee is usually charged, the normal rental fee shall be charged to the applicant unless, for reasons deemed sufficient, the city council shall waive such rental.

Sec. 29-140. - Special events on private property.

Whenever a nonprofit organization desires to hold a special event on private property and the place of the proposed event is in a parking lot or other area open to public use and the applicant desires to serve malt beverages and nonfortified wine on a parking lot or other area of such private property where the public is not prohibited from going, with the result that such action would be a violation of section 21-10, the applicant may file an application with the city manager clearly setting forth the status, name and responsible officers of such applicant and the location, date, time and plans for the use of such public area of such private property and further containing information sufficient to show that such use would be a permissive exception to the provisions of section 21-10, as allowed by this article and, upon such being shown, the city council may grant a permit for such special event to be held and malt beverages and nonfortified wine to be served without being in violation of section 21-10; provided, however, the granting of such permit by the city council shall not be construed to be an approval of, nor a license to, sell, serve or consume malt beverages and nonfortified wine on such private property, but such permit shall be only indicative of the fact that such special event does not violate such section 21-10.

ARTICLE VI. - BANNER SIGN PROGRAM

DIVISION 1. - GENERALLY

Sec. 29-156. - Purpose.

- (a) The intent of this section is to promote the installation of vertical banners attached to designated poles located on public property or in the public right-of-way, which are:
  - (1) Compatible with surroundings;
  - (2) An enhancement to the city's visual environment;
  - (3) Orderly, readable, and safe;
  - (4) Harmonious in color, material and lighting with the building to which it relates; and
  - (5) Non-distracting to motorists.
- (b) Administration of this chapter shall be by the city manager, or his designee, unless otherwise set forth herein.

Sec. 29-157. - Eligibility.

- (a) Only recognized neighborhood associations ("neighborhoods"), as defined herein may request permission to place banners on public property for the purpose of promoting the neighborhood or a special event and/or exhibit held by the neighborhood. If promoting an event/exhibit, the event must be held in the Hickory Metro Area and be open to the public, or of common interest to the general community, or recognize and contribute to the cultural fabric of the city. Such events/exhibits may include, but are not limited to, an arts, entertainment or education related activity; a public social occasion; a sports contest; or a public concert.
- (b) For purposes of this article, any public or higher educational facility with a campus or campuses located within the jurisdictional limits of the city shall be eligible to participate as if such educational facility were a neighborhood.

DIVISION 2. - GUIDELINES FOR BANNERS AND PLACEMENT

Sec. 29-166. - General requirements.

Vertical banners must:

- (1) Measure no more than 30 inches (wide) by 96 inches (long).
- (2) Be installed using approved rods placed in metal brackets.

- (3) Be displayed so that no portion of the banner is within less than 12 feet of the surface directly below the banner.
- (4) Not extend more than 42 inches from the nearest edge of the pole.
- (5) Not be displayed on poles contiguous with or within 50 feet of property currently zoned residential, whether single- or multi-family, but not including mixed-use developments.
- (6) Be decorative or seasonal in nature and must not display any corporate or organizational logo except, in cases where a logo is created for a festival or event to be held in the Hickory Metro Area, in which case such logo may be displayed as long as the same is secular in nature and does not promote or affirm any particular belief system, political position, or religious affiliation, and further except, display of the city logo or the Hickory Metro Logo may be allowed when permission is granted by the entity having control of said logo.

Sec. 29-167. - Prohibited items.

No sign or other advertising device with visible moving or movable parts or with flashing animated or intermittent illumination shall be allowed as a part of any vertical banner, and no banner shall contain any fluorescent paint or device, including mirrors, which has the effect of intensifying reflected light.

Sec. 29-168. - Banner placement.

- (a) No banner shall be placed so that it prevents clear and unobstructed view of traffic, control devices including but not limited to official signs, traffic signals, or of approaching or merging traffic.
- (b) No banner shall be placed within the clear sight triangle, except as otherwise permitted by this article.

Sec. 29-169. - Submission requirements.

A neighborhood requesting permission to place vertical banners on public property shall complete the application for vertical banner permit (the application). The application and supporting documents must be submitted to the city manager or the manager's designee at least 30 days prior to the date(s) being requested. The city manager or the manager's designee will review the application for completeness to ensure all requirements are met and advise the applicant of any deficiencies by telephone or first class mail within five business days. The application must:

- (1) Identify the neighborhood and event being promoted (if applicable).
- (2) State the dates and times banners will be installed, displayed, and removed; and, if applicable, the date(s) of the special event/exhibit.
- (3) State the location and number of banners, specifically banner/street light pole locations. In the event of dual requests, the application with the earliest postmark will be given first consideration.
- (4) Include a color sample of the banner design/content.
- (5) Include a check made payable to the city for all applicable deposits and fees as established by this chapter and the city fee schedule.
- (6) Include certificates of insurance as required by this chapter. A binder reflecting the availability of insurance may be provided with the application, provided that the actual certificate of insurance is provided to the city at least two business days prior to the commencement of installation of the banners.

Sec. 29-170. - Installation of banners.

- (a) The neighborhood proposing the installation of banners shall be responsible, at it's own cost and expense, for having the same fabricated, installed, maintained and removed in accordance with the requirements of this chapter.
- (b) All banners placed on poles by the approved applicant shall be and remain the property of the applicant.
- (c) All poles and other attachments shall be and remain the property of the owner of the poles.

Sec. 29-171. - Deposit.

A deposit, in an amount established annually in the city fee schedule, is required to cover costs to the city in case of non-compliance (i.e., neighborhood's failure to remove banners, pole is damaged, etc.). The deposit must accompany the application. The deposit will be refunded if: (a) the request is denied, or (b) the neighborhood has complied with all requirements (including removal of the banners by the stated removal date) and an inspection by city reveals there has been no significant damage to the city poles or any other municipal property.

Sec. 29-172. - Fees.

The neighborhood will be responsible for a program fee as set in the annual fee schedule established by the city. In addition, the neighborhood will submit payment of a pole rental fee. The pole rental fee shall be an amount equal to the highest amount paid by the neighborhood to any entity that owns poles to be used for banner display.

- (1) All fees will cover the period for which the banner permit is granted and will not be applied to any permit renewals.
- (2) The pole rental fee will be refunded to the neighborhood if: (a) the application is denied, or (b) the request is approved but banners are not hung.

Sec. 29-173. - Insurance requirements.

All insurance requirements must be met before the banner permit is issued. The following insurance must be documented on a certificate of insurance, with the city named as the certificate holder.

- (1) Commercial general liability in the amount of \$1,000,000.00, per occurrence; \$1,000,000.00 annual aggregate.
- (2) The city shall be endorsed on the policy as an additional insured as its interests may appear.
- (3) The policy shall be endorsed to provide a 30 days' notice of cancellation or non-renewal to the city.

Sec. 29-174. - Approval authority.

The city manager or the city manager's designee, shall have sole authority to approve banner applications (including location and installation dates, but specifically excluding design or content) and issue a banner permit. Upon written request from the neighborhood to the city manager, any application which has been denied by the city manager or the city manager's designee may be administratively appealed pursuant to the process set forth later in this chapter.

Sec. 29-175. - Installation.

In order to minimize the effect on traffic flow, banners, rods and brackets must be installed on weekdays between 7:00 a.m. and 4:00 p.m. or during daylight hours on weekends. Nighttime installation is prohibited.

- (1) Banners may only be installed on designated poles by a contractor authorized to do business in the city who is in possession of insurance of the type and in the amounts set forth herein.
- (2) Banners may only be suspended from fiberglass banner rods attached to metal brackets.
- (3) The times for installation set forth above may be modified at the direction of the city manager or the city engineer in the event of exigent circumstances constituting a threat to the public health, safety and well being.
- (4) The contractor is responsible for all traffic control during installation and removal in accordance with the Hickory City Code and Policies.

Sec. 29-176. - Display and monitoring.

The neighborhood is responsible for monitoring banners to:

- (1) Ensure the banners remain in good condition during the display period.
- (2) Detect any problems and take corrective action.
- (3) Ensure a dangerous situation or imminent hazard is corrected immediately.



Sec. 29-177. - Maintenance.

Throughout the display period, the neighborhood must inspect the banners and brackets and take corrective action as required.

- (1) Should the city identify any problems with the appearance, condition, or maintenance of the banners, rods or brackets, the city will notify the neighborhood of the nature of the problem and the location.
  - a. The neighborhood has 12 hours after notification to correct the problem.
  - b. Should the neighborhood fail to correct the problem within 12 hours, the city may undertake the correction, which may include removal of the banners.
  - c. The neighborhood will reimburse the city for any costs associated with the correction.
- (2) If an identified problem presents a hazard to pedestrian and/or motor vehicle traffic, the city will remove the hazard immediately and without notice to the neighborhood, with the cost of such correction being deducted from the deposit.
  - a. The remaining balance, if any, will be returned to the neighborhood.
  - b. Removal costs in excess of the deposit will be billed to the neighborhood with payment due to the city in 30 days.

Sec. 29-178. - Damage to banners.

The city is not responsible for disappearance of or damage to banners from any cause including but not limited to wind, weather, theft, vandalism, fire or acts of God. The sponsoring neighborhood is responsible for banner replacement and installation costs associated therewith.

Sec. 29-179. - Removal.

In order to minimize the effect on traffic flow, all banners, rods and brackets must be removed on weekdays between 7:00 a.m. and 4:00 p.m. or during daylight hours on weekends. Nighttime removal is prohibited.

- (1) Banners may only be removed by a contractor authorized to do business in the city who is in possession of insurance of the type and in the amounts set forth herein.
- (2) Failure to remove the banners on the agreed upon date will result in removal by the city with the cost being deducted from the deposit.
  - a. The remaining balance, if any, will be returned to the neighborhood.
  - b. Removal costs in excess of the deposit will be billed to the neighborhood with payment due to the city in 30 days.
- (3) After removal, the city will inspect the poles owned or controlled by the city.
  - a. If there is any significant damage to the poles, repairs and/or replacements will be made by the city with the cost being deducted from the deposit.
  - b. The remaining balance, if any, will be returned to the neighborhood.
  - c. Removal costs in excess of the deposit will be billed to the neighborhood with payment due to the city in 30 days.
- (4) Should it become necessary for the attachment points occupied by a banner to be reclaimed for wireline or other facility attachments, the neighborhood shall be responsible for removal as per this section.

DIVISION 3. - ADMINISTRATIVE PROVISIONS

Sec. 29-191. - Denial and revocation of permits.

- (a) The city manager shall deny an application under this chapter or revoke any permit issued pursuant to the provisions of this chapter if, upon receipt of reasonably reliable information or upon investigation, the city manager shall find any of the following conditions exist:

- (1) If the applicant has not submitted a completed application;
  - (2) If the applicant or permit holder has submitted false information or has undertaken any fraud or misrepresentation in seeking or obtaining a permit;
  - (3) If the applicant or permit holder is not permitted by law to engage in such activity due to any factors;
  - (4) If the applicant or permit holder, or any agent or representative of an applicant or permit holder, is conducting business in such a manner as to create a public nuisance;
  - (5) If any agent or representative of a permit holder under this chapter is representing in any way that any permit granted hereunder is an endorsement by the city or any officer, agent, official or employee thereof;
  - (6) If the applicant has any other outstanding obligations or unpaid fees or fines of any type owing to the city.
  - (7) If the proposed banner fails to comply with the requirements of this Code regarding content or appearance.
- (b) Except for emergency reasons relating to the public safety or health, no permit shall be revoked except on 48 hours' prior written notice to the permit holder, delivered either personally to the permit holder's agent or left with some responsible person over 15 years of age at the address of the permit holder as provided on the application, or sent via first class mail to the address of the permit holder as provided on the application and upon a hearing before the city manager or the city manager's designee.
- (1) Such notice shall specify the grounds for such revocation.
  - (2) The applicant or permit holder shall have the right to appear at the hearing and to present evidence. The applicant or permit holder may be represented by counsel at the applicant or permit holder's expense if they so desire. Only attorneys licensed to practice in the State of North Carolina may act as counsel for any applicant or permit holder.
  - (3) After such hearing, a permit may be revoked as provided above if the city manager, after ascertaining the facts, determines that grounds exist for the denial or revocation of a permit as established in this chapter;
- (c) A permit which has been revoked shall immediately be surrendered to the city manager. Banners installed pursuant to such permit shall be removed within two business days at the sole cost and expense of the permit holder.
- (d) Appeals of a decision of the city manager shall be brought as specified elsewhere in this chapter.

Sec. 29-192. - Appeals.

The city manager shall be authorized to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of the provisions of this chapter of the Hickory City Code. The city manager may designate such other official to hear appeals as may, in the city manager's discretion, be necessary.

Sec. 29-193. - Filing of appeals.

Appeals of administrative decisions shall be submitted to the city manager in writing in any format generally describing the basis for the appeal and setting forth the alleged error. Appeals of administrative decisions shall be filed within ten days of the date that the administrative official's decision is communicated to the applicant.

Sec. 29-194. - Effect of filing.

- (a) The filing of a complete application for appeal stays all proceedings in furtherance of the action appealed, unless the official whose decision is being appealed certifies to the city manager, after the appeal is filed, that, because of facts stated in the certification, (i) that a stay would cause immediate peril to life or property or (ii) that the situation appealed from is transitory in nature, and therefore, an appeal would seriously interfere with enforcement of the provisions of the Hickory City Code.

- (b) In each instance, the official whose decision is being appealed shall place in the certificate facts to support the conclusion.
- (c) In such case, proceedings shall not be stayed other than by a restraining order, which may be granted by a court of record having jurisdiction in Catawba County, North Carolina.

Sec. 29-195. - Transmittal of record of administrative decision.

The official whose decision is being appealed shall transmit to the city manager all papers constituting the record upon which the action appealed is taken.

Sec. 29-196. - City manager review and decision.

The city manager shall hold at least one hearing on the appeal, which shall be open to the public and, following the close of the hearing, take final action based on the procedures and requirements of this section.

- (1) In exercising the appeal power, the city manager shall have all the powers of the official from whom the appeal is taken, and the city manager may reverse or affirm wholly or partly or may modify the decision being appealed.
- (2) If the city manager determines that it is necessary to obtain additional evidence in order to resolve the matter, the manager shall remand the appeal to the official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence.

Sec. 29-197. - Approval criteria; findings of fact; further appeals.

The city manager may reverse an order, requirement, decision, or determination of any administrative official only when the city manager finds substantial, factual evidence in the official record of the application that the administrative official erred. The decision of the city manager shall be supported by written findings of fact.

- (1) *Notice of decision.* Within ten days after a final decision on an administrative appeal is made by the city manager, copies of the written decision shall be sent to the applicant and filed in the office of the city clerk, where it shall be available for public inspection during regular office hours.
- (2) *Appeals.* Any person who is directly affected by a decision of the city manager may appeal the decision to the Superior Court of Catawba County, North Carolina. An appeal to superior court must be filed within 30 days of the filing by the city manager of the decision in the office of the city clerk.

Sec. 29-198. - Provisions of article cumulative.

The requirements of this article are cumulative to any provisions of state law or city ordinances regulating or governing any of the activities licensed herein. In the case of any conflict between the provisions of this article and those of any other city ordinance or state law, the more restrictive requirements shall apply.

Sec. 29-199. - Severability.

If any portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable, and such holding shall not affect the validity of the remaining portions hereof.

Sec. 29-200. - Violations.

The following shall constitute violations of this article, punishable as set forth herein:

- (1) When any action is taken in violation of the terms of the provisions of this chapter.
- (2) Knowingly submitting false information in an attempt to obtain any license or permit required herein.
- (3) Failure to obtain the permit necessary to install banners on public property.
- (4) Improper installation or removal of banners in violation of the provisions of this chapter.

Sec. 29-201. - Penalty.

Any violation of this chapter, or of the provisions of any license or permit issued under the authority of this chapter, shall result in revocation of such license or permit and shall further subject the offender to penalty as provided in section 1-9 of the Hickory City Code.

#### Chapter 30 - TAXICABS AND OTHER PASSENGER VEHICLES FOR HIRE<sup>(1)</sup>

##### ARTICLE I. - GENERAL REQUIREMENTS

###### Sec. 30-1. - Duties generally; definitions.

- (a) The police department designee is charged with the duties required under this chapter and, in general, shall be responsible for the inspection of taxicabs and shall make all investigations relative to licensing of drivers thereof. He shall advise the chief of police and the city council with respect to matters covered or incidentally involved in the operation or administration of this chapter. He shall make recommendations with respect to the adequacy of taxicab service and whether or not there are too many or too few taxicabs to serve the public's convenience and necessity and shall make such other reports and furnish such other information to the city manager and the city council as may be requested from time to time.
- (b) [For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:]

*Certificate* shall mean the certificate of public convenience and necessity granted by the city council to engage in the taxicab business or vehicle for hire business as provided in this article.

*Driver* shall mean and include every person in charge of or operating a taxicab or vehicle for hire.

*Driver's permit* shall mean the permit issued, after examination, authorizing a person to drive a vehicle which is authorized to operate under this article.

*Inspector* shall mean the police department designee.

*Limousine* shall mean and include any pre-arranged chauffeur-driven vehicle which prearrangement transports passengers for compensation, and does not accept passengers indiscriminately between points and along highways and which has a seating capacity of not more than 15 persons, provided that said compensation is not computed by means of a taximeter.

*Manifest* shall mean the daily record, prepared by the driver, of all trips made by the vehicle which he operated, showing the place of origin and destination of each trip and the amount of fare.

*Owner* shall mean any person to whom a certificate of public convenience and necessity for the operation of a taxicab or a vehicle for hire has been issued.

*Passenger vehicle for hire* shall mean and include all sight-seeing vehicles and taxicabs and limousines as defined herein.

*Permit* shall mean license issued by the Hickory Police Department under which a person may operate a vehicle for hire.

*Taxicab* shall mean and include any vehicle for hire for the purpose of transporting not more than nine passengers upon the streets which calculates the fare by means of a taximeter, except vehicles operated over a fixed route and between fixed termini. This term does not include limousines as defined herein.

*Taximeter* shall mean any mechanical or electrical device which is installed in a vehicle for the purpose of computing the fare for a trip upon the basis of distance traveled, waiting time or both.

###### Sec. 30-2. - Right of entry.

The chief of police or his agent shall have the right, at any time, after displaying proper identification, to enter into or upon any taxicab or other passenger vehicle for hire being operated under the provisions of this chapter for the purpose of reinspecting or ascertaining whether or not any of the provisions of this chapter or other ordinances of the city are being violated.

###### Sec. 30-3. - State registration and licenses required.

No person shall operate a motor vehicle as a taxicab or other passenger vehicle for hire until such vehicle has been registered in accordance with state requirements and all proper licenses have been obtained therefor.

Sec. 30-4. - General operating requirements.

- (a) Every taxicab shall be operated in accordance with the laws of the state, the provisions of this Code and other applicable city ordinances and with due regard to the safety, comfort and convenience of the passengers, the safe and careful transportation of property and the safety of the general public.
- (b) No taxicab or other passenger vehicle for hire shall be operated at a rate of speed greater than that established by state law, provisions of this Code or other city ordinances, nor in any event without proper regard for the traffic, surface and width of the highway and the hazards at intersections and any other conditions then existing, nor in such manner or condition as to endanger or to be likely to endanger the safety of passengers, pedestrians, vehicles or the person and property of others.

Sec. 30-5. - Insurance or other security required of owner or operator.

Every owner or operator of a taxicab or other passenger vehicle for hire engaged in the business of transporting passengers for hire in the city shall file with the city proof of financial responsibility as required by the North Carolina General statutes, specifically as required by G.S. art. 10, § 20-280.

Sec. 30-6. - Information to be filed by owner and operator.

Every owner and operator of a taxicab or other passenger vehicle for hire shall file with the police department his name, business address, home address, business and home telephone numbers and a list showing the serial numbers and makes of all taxicabs or other passenger vehicles for hire owned and operated by him and the names of all drivers and their permit numbers and addresses and shall, within 48 hours after any change in connection therewith, report such change to the police department.

Sec. 30-7. - Operator to make reports where more than one owner operates under same name.

In case more than one owner operates under the same name, the operator shall make all reports required by this chapter in behalf of all owners operating under his name.

Sec. 30-8. - Meters and rates—Generally.

- (a) *Meters.* Every taxicab operated under the provisions of this chapter shall have affixed thereto, in a position visible to the driver and passenger, a taximeter, which shall conform to the following specifications:
  - (1) A taximeter is a mechanical or electronic instrument or device by which the charge for hire of a taxicab is mechanically calculated, for distance travelled or for waiting time or for both, and upon which such charge shall be indicated by means of legible figures which are electrically lighted each time the taximeter is thrown from nonearning to earning position.
  - (2) Such taximeters must register upon visual counters the following items:
    - a. Total miles.
    - b. Paid miles.
    - c. Number of units.
    - d. Number of trips.
  - (3) No person shall use or permit to be used upon any taxicab a taximeter which shall be in such a condition as to be over five percent incorrect to the prejudice of the owner or any passenger.
  - (4) No certificate shall be issued for a taxicab until the taximeter attached thereto shall have been inspected and found to be accurate.
  - (5) No person shall use or permit to be used, or driven for hire, a taxicab equipped with a taximeter the case of which is unsealed and which does not have its cover and gear intact.
  - (6) No driver of a taxicab equipped with a taximeter, while carrying passengers or under employment, shall display the signal affixed to such taximeter in such a position as to denote that such vehicle is not employed or in such position as to denote that he is employed at a rate of fare different from that to which he is entitled under the provisions of this chapter. It shall be the duty of the driver to call the attention of passengers to the amount registered, and the taxicab flag shall not be changed to the "vacant" position until after the fare is paid. If demanded by the passenger,

the driver in charge of a taxicab shall give to the person paying for the hiring of the same, at the time of such payment, his name, permit number, taxicab number and the name of the owner.

- (7) No person shall drive a taxicab to which is attached a taximeter that has not been duly inspected and approved. It shall be unlawful to change the size of the wheels or tires of a taxicab in a manner which would cause the five percent tolerance to be exceeded or to change the gears operating the taximeter from one taxicab to another, unless the taximeter is retested and approved by the chief of police.
- (b) *Rates.* No person owning, operating or controlling a taxicab shall charge a rate therefor in excess of the following provisions. Such rate shall take effect at the time the passenger enters the taxicab.
  - (1) No other or different fare shall be charged to a passenger than is recorded on the reading face of the taximeter for a trip, except that the hourly rate may be used at mutual agreement of passenger and owner of the taxicab. No other rates or methods of measuring the distance of time charges shall be allowed, except as provided in this chapter.
  - (2) Established rates may be changed upon approval by the city council.

Sec. 30-9. - Same—Charging or paying other than prescribed rates; failure to pay rates.

It shall be unlawful for the driver, owner or operator of a taxicab to charge rates not in accordance with those approved by city council or for any passenger to pay rates not in accordance therewith or to refuse to pay such fares as may be charged in accordance therewith.

Sec. 30-10. - Same—Display of rates.

Every taxicab operated within the city or in unincorporated areas within a distance of one mile therefrom shall have at all times prominently displayed, so as to be easily visible to the passengers therein, the rates charged for the use of such taxicab.

Sec. 30-11. - Same—Resetting.

The operator of the taxicab shall not reset the taximeter until the fare due and owing for the use of the taxicab is paid.

Sec. 30-12. - Receipt requested.

When requested by a passenger, every driver shall give a numbered receipt showing the owner's name, date, permit number, and the amount of fare charged.

Sec. 30-13. - Vehicle equipment.

All taxicabs or other passenger vehicles for hire operated within the city shall be equipped and maintained in a satisfactory condition so as to comply with the General Statutes of North Carolina and the provisions of this Code, and among other requirements shall:

- (1) Have the body of the sedan, van, mini-van, or other multiple-passenger vehicle with a capacity of not less than four nor more than eight passengers, inclusive of the driver.
- (2) Have not less than three doors, of which there must be, two leading into the passenger's compartment and two leading into the driver's compartment, unless a van or mini-van style vehicle is used, in which case there may be only one door into the passenger's compartment of the vehicle, so long as such door gives full and complete access to the passenger compartment without the need to move or adjust any seats in the passenger compartment during entrance to or exit from the vehicle. All vehicles must be constructed so that all doors may be opened from the inside and outside.
- (3) Have all windows, vents and doors in proper working condition.
- (4) Be equipped with a heater sufficient to heat the interior of the taxicab or other passenger vehicle for hire adequately in cold weather.
- (5) Have all windshields and side and rear glasses clear and free of cracks and clear of dirt and obstructions to clear view.
- (6) Have front and rear bumpers of original manufacturer's design and attachments which shall be in place and in proper repair.

- (7) Have headlights in good working condition and as installed by the original manufacturer.
- (8) Be equipped with a number of seatbelts equal to the passenger capacity of the vehicle.
- (9) All upholstery covering or interior lining shall be of nonabsorbent and washable material and shall be free of cuts or tears. This provision shall become effective June 1995.

Sec. 30-14. - Condition of vehicle.

Every vehicle operating under this chapter shall be kept in a clean and sanitary condition. The interior and exterior of the vehicle shall be maintained safe and clean, and its general appearance shall be kept as close to possible to the manufacturer's original appearance with respect to sheet metal and finish of car, normal wear and tear expected. Dents and other exterior body damage shall be repaired as soon as practical.

Sec. 30-15. - Repair of vehicle.

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

Sec. 30-16. - Business headquarters.

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

Sec. 30-17. - Driver's manifests.

- (a) A daily manifest shall be maintained for each driver upon which is recorded all trips made each day, showing time and place of origin and destination of each trip, the number of passengers, and amount of fare. The forms for such records shall be of a manner approved by the chief of police.
- (b) Every operator shall retain and preserve all manifests in a safe place for at least 180 days and the manifests shall be made available upon demand for inspection by the police department or the city manager.

Sec. 30-18. - Identification of vehicle.

- (a) Each taxicab operated in the city shall have the name of the company operating the same and the taxicab number painted, with permanent paint, on both sides and the rear thereof, with letters and numbers at least six inches high on the sides and at least four inches high on the rear when possible. Colors shall be contrasting, so as to be easily visible at a reasonable distance.
- (b) No banner, card or other advertising matter shall be displayed on either side or the rear of a taxicab in such a manner as to cover or obscure the lettering required by this section nor obstruct the view of driver or the passenger.

Sec. 30-19. - Inspection of vehicle by city.

- (a) No person owning, operating or controlling any motor vehicle within the city shall cause or suffer the same to be operated as a taxicab or other passenger vehicle for hire, unless he shall first submit such vehicle for inspection to the police department and obtain a written statement from the police department inspector to the effect that the vehicle conforms to the requirements of this chapter and all other ordinances of the city. The inspector shall examine the taxicab or other passenger vehicle for hire, particularly, on the following points:

- (1) Foot brakes and hand or parking brakes.
- (2) Front and rear bumpers.
- (3) Spare tire properly inflated.
- (4) Heater sufficient to heat the interior of the taxicab.
- (5) Rear view mirror for driver.
- (6) Speedometer in good order.

- (7) Dual windshield wiper.
- (8) Lights, as approved by the state division of motor vehicles, and a passenger compartment light with accessible switch.
- (b) Any taxicab or other passenger vehicle for hire which is found, after an inspection authorized by this section, to be unsafe or in any way unsuitable, or to be operated in violation of any of the provisions of this chapter, may be immediately ordered out of service by the inspector and, before again being placed in service, shall be reinspected and approved.

Sec. 30-20. - Transportation of certain beverages.

No person shall transport alcoholic beverages in a vehicle which is then being operated as a taxicab or other passenger vehicle for hire, unless such alcoholic beverage is the property of and in the possession of a bona fide passenger for hire.

Sec. 30-21. - Records and reports of accidents involving taxicabs or other passenger vehicles for hire.

All accidents from or in connection with the operation of taxicabs or other passenger vehicles for hire shall be reported immediately to the police department. It shall be the duty of the police department to investigate and keep proper records of all accidents in which taxicabs or other passenger vehicles for hire are involved.

ARTICLE II. - CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY<sup>[2]</sup>

Sec. 30-41. - Required.

No person shall operate any taxicab or other passenger vehicle for hire in the city without first having obtained a certificate of public convenience and necessity from the city council authorizing such operation.

Sec. 30-42. - Application generally.

Any person desiring a certificate for the operation of a taxicab or other passenger vehicle for hire shall file with the city manager's office a sworn application, in triplicate, on a form provided by the council and shall furnish such information as the city manager, in his discretion, may require.

Sec. 30-43. - Issuance standards and procedures.

- (a) The city council shall not issue a certificate of convenience and necessity to any applicant unless the council is satisfied that the applicant qualified pursuant to the provisions of this chapter, and shall conform to and comply with the provisions, terms and conditions of this article, and the applicant has been determined to meet the following requirements:
  - (1) The applicant is at least 21 years of age.
  - (2) The applicant has not entered a plea of guilty or no contest to nor has been convicted of a felony nor has had an order continuing prayer for judgment.
  - (3) The applicant is not an habitual user of drugs or intoxicating liquors.
  - (4) There are no unpaid and unbonded judgments of record against the applicant; or, if unpaid and unbonded judgments of record exist, the applicant has established and maintained regular periodic payments in discharge of the liability, which payments are designed to discharge the liability within a reasonable period of time considering the amount of the liability.
  - (5) The applicant is not in default in the payment of any indebtedness secured by lien, mortgage or any other encumbrance on the vehicle intended to be operated pursuant to the certificate; or, if the vehicle intended to be operated pursuant to the certificate has not yet been purchased, the applicant has demonstrated the financial ability through projected revenues, or otherwise, to make the regularly scheduled payments of any indebtedness arising from any expected liens, mortgages or any other encumbrances, on the vehicle.
  - (6) The applicant has demonstrated the ability to purchase insurance as required by this chapter.
  - (7) The applicant has demonstrated the ability to place in service within 90 days of the issuance of the certificate a vehicle adequate to provide and maintain the quality of service required by this chapter and meeting all of the requirements of this chapter for a taxicab or other passenger vehicle for hire.



- (8) The applicant has demonstrated the ability to establish within 90 days of the issuance of the certificate, a depot or terminal for receiving of requests for taxicab or other passenger vehicle for hire service and the dispatching of taxicabs or other passenger vehicles for hire in response to requests for service adequate to provide and maintain the quality of service required by this chapter, and has demonstrated the ability to obtain within 90 days of the issuance of the certificate the necessary recording and office equipment and other necessary equipment and things adequate to provide and maintain the quality of service required by this chapter and sufficient to comply with all of the provisions of this chapter including all the record keeping and reporting provisions.
  - (9) The applicant has registered properly with the state the correct and true owner's name of any vehicle intended to be operated pursuant to the certificate.
  - (10) There has not been a revocation of a certificate of convenience and necessity previously issued to the applicant within the 12 months preceding application.
  - (11) Issuance of the certificate to the applicant will not result in the applicant holding such number of certificates or such percentage of all issued certificates that a detrimental effect on competition will result or that the quality of service to the public sought and required by the provisions of this chapter will be impaired.
  - (12) The applicant has made a material false statement in the application or knowingly omitted required information.
- (b) The applicant shall provide to the city manager any and all facts, evidence, information or documents within the possession or control of the applicant or available to the applicant that shall be reasonably related to the determination of the qualifications of the applicant and as the council or its designee shall request. Further, the submission of the application shall constitute a waiver of all applicant's privileges and rights of privacy with respect to any document in existence reasonably related to the determination of the applicant's qualifications and shall serve as an authorization to the council or its designee to make inquiry of any person or entity, and to receive any oral or written reports from any person or entity, regarding any facts, evidence or information reasonably related to the determination of the applicant's qualifications. The applicant shall sign any separate written authorization that any person or entity shall require prior to the release of any documents or information concerning the applicant.

Sec. 30-44. - Determination of public convenience and necessity; burden of proof on applicant.

The burden of proof shall be upon the applicant to establish the public convenience and necessity for the operation of the vehicles designated in his application and all other facts required for granting the application.

Sec. 30-45. - Enumeration of causes for suspension and revocation; procedure.

- (a) A certificate may be suspended or revoked by the chief of police:
- (1) Failure to operate the vehicles specified in the certificate, or other vehicles substituted therefor, in such manner as to serve the public therefor.
  - (2) Failure to maintain vehicles in good order and repair.
  - (3) Failure to maintain insurance as required by this article.
  - (4) Failure to pay taxes due to the city for the operation of vehicles for hire.
  - (5) Repeated and persistent violation of traffic and safety ordinances by drivers.
  - (6) Failure to report any accident.
  - (7) Willful failure to comply with any provision of this article.
  - (8) Unauthorized transfer of certificate.
  - (9) Failure to comply with any provisions of this article or any other law or ordinance regulating the operation of vehicles for hire within the city.

- (10) Failure of any owner to furnish the annual statement, or any part thereof.
  - (11) Failure to register properly with the state in the correct and true owner's name, any vehicle covered by owner's certificate.
  - (12) Owner's conviction of any of the following crimes:
    - a. A felony;
    - b. Violation of any federal or state statute or city ordinance relating to the possession or sale of intoxicating liquors;
    - c. Violation of any federal or state statute relating to prostitution;
    - d. Violation of any federal or state statute relating to the use, possession or sale of narcotic drugs;
    - e. Repeated violations of traffic laws or ordinances;
    - f. Owner becoming a habitual user of intoxicating liquors or narcotic drugs.
  - (13) False or misleading statement on application for certificate.
- (b) No certificate shall be revoked until the owner has had at least five days notice by personal service or by certified mail of the charges against him and of the time and place of a hearing thereon. After the hearing, the city council shall have the power to revoke or suspend a certificate or to condition revocation or suspension upon compliance with its order within any time fixed by it.
- (c) Applicant may appeal the decision of the chief of police within ten days following the decision of the chief of police. The city council's decision shall be final.

Sec. 30-46. - Fees.

The owner of each taxicab or other passenger vehicle for hire which is granted a certificate under this article shall pay into the general treasury of the city a sum to be established annually by the city council and made a part of the schedule of fees of the annual budget. Such fees shall be in addition to, and not in lieu of, any other license fees and charges established by proper authority and applicable to taxicabs or other passenger vehicles for hire in the city. The city council shall also establish an annual transfer of title fee.

Sec. 30-47. - Issuance.

Having declared that public convenience and necessity require the proposed taxicab or other passenger vehicle for hire service, the city council shall grant to every person who has filed application therefor as provided in this article a certificate of public convenience and necessity for such taxicab or other passenger vehicle for hire, subject to such conditions as the council may deem that public convenience and necessity require; provided, that:

- (1) The owner thereof shall have complied with all the provisions of this chapter.
- (2) The vehicle for which application for a certificate is made is found to be in strict compliance with this chapter.
- (3) The court record of the applicant is not such as would make it against the public interest for such application to be granted.

Sec. 30-48. - Issuance and display of memorandum certificate.

For each taxicab or other passenger vehicle for hire for which a certificate of public convenience and necessity has been granted, a memorandum certificate of public convenience and necessity shall be issued in such form as the city council may, from time to time, prescribe. Such memorandum certificate shall be displayed at all times in a conspicuous place in the taxicab or other passenger vehicle for hire for which issued.

Sec. 30-49. - Term.

Each certificate of public convenience and necessity issued under this article shall expire on June 30 of the fiscal year during which such certificate was granted.

Sec. 30-50. - Renewal.

Upon application prior to the termination of each fiscal year, the city council may renew any certificate issued under this article or cause a new certificate to be issued for the ensuing year, in the absence of any contrary evidence and finding of the council regarding the continued necessity for such taxicab or other passenger vehicle for hire service.

Sec. 30-51. - Assignment or transfer.

No certificate of public convenience and necessity issued under this article may be assigned or transferred, except upon written application to the city council setting forth the purpose, terms and conditions of such assignment or transfer. The city council shall, after investigation, approve or disapprove such application.

Sec. 30-52. - New certificates for replacement vehicles; permitting state license to be used on private vehicle.

- (a) Whenever an owner sells or transfers title to any taxicabs or other passenger vehicles for hire for which certificates have been granted under this article and retires such vehicles from use as taxicabs or other passenger vehicles for hire and, within 30 days after such sale or transfer, purchases other taxicabs or other passenger vehicles for hire, the city council shall, as a matter of right, upon written application to the council within 30 days of such purchase, issue new certificates for the operation of no greater number of taxicabs or other passenger vehicles for hire than those so sold or transferred; provided, that the owner has complied with all the provisions of this chapter. The cost for transfer is \$5.00.
- (b) Any owner whose taxicabs or other passenger vehicles for hire, for which certificates have been granted, have been destroyed involuntarily or who voluntarily destroys any taxicabs or other passenger vehicles for hire will, as a matter of right, upon written application to the council within 30 days after such destruction, be issued new certificates for the operation of no greater number of taxicabs or other passenger vehicles for hire than those so destroyed, upon satisfactory evidence presented to the council of such destruction; provided, that the owner has complied with all the provisions of this chapter.
- (c) No owner shall permit his taxicab or other passenger vehicle for hire license issued by the state to be used on any private vehicle.

Sec. 30-53. - Automatic revocation upon change of vehicle ownership or title.

Change of ownership of or title to any taxicab or other passenger vehicle for hire shall automatically revoke any certificate previously granted under this article for the operation of such taxicab or other passenger vehicle for hire. The purchaser of any such vehicle may not operate it as a taxicab or other passenger vehicle for hire until he has applied for and been granted a new certificate in the manner provided in this article. For the purposes of this section, a change of ownership is deemed to have taken place, in addition to other methods usually employed, if the owner of any taxicab or other passenger vehicle for hire leases the same to any person under any lease or other arrangement whereby such person shall have the right, upon the payment of an amount of money or other consideration, to acquire title at any future date to such taxicab or other passenger vehicle for hire or any other thing of value.

Sec. 30-54. - Surrender of certificate when taxicab or other passenger vehicle for hire retired and not replaced.

Any owner who permanently retires any taxicab or other passenger vehicle for hire from taxicab or other passenger vehicle for hire service and does not replace the same within 30 days thereof shall immediately surrender any certificate granted for the operation of such taxicab or other passenger vehicle for hire to the city council. Such owner may not secure an additional certificate for the operation of any taxicab or other passenger vehicle for hire, without having first made application therefor in the manner provided in this article.

#### ARTICLE III. - DRIVERS

Sec. 30-76. - To be cleanly and neatly dressed.

All drivers of taxicabs or other passenger vehicles for hire shall be cleanly and neatly dressed and will not wear tank tops or shorts.

Sec. 30-77. - Permitting more passengers than seating capacity of taxicab or other passenger vehicle for hire.

No taxicab or other passenger vehicle for hire driver shall permit more persons than the seating capacity of the taxicab or other passenger vehicle for hire, including the driver, to be carried in a taxicab or other passenger vehicle for hire in the city at any one time.

Sec. 30-78. - Permitting additional passengers over objection of original passenger.

Whenever any taxicab or other passenger vehicle for hire is occupied by a passenger, the driver shall not permit any other person to occupy or ride in the taxicab or other passenger vehicle for hire, if the original passenger objects thereto.

Sec. 30-79. - Unauthorized refusal of passenger.

No taxicab or other passenger vehicle for hire driver shall refuse or neglect to convey any orderly person upon request, unless previously engaged or unable to or forbidden by the provisions of this chapter to do so.

Sec. 30-80. - Deception of passenger as to destination or fares.

No taxicab or other passenger vehicle for hire driver shall deceive or attempt to deceive any passenger or prospective passenger as to his destination or rate of fare to be charged.

Sec. 30-81. - Conveyance of passenger to directed destination.

No taxicab or other passenger vehicle for hire driver shall convey any passenger to a place other than that directed by the passenger.

Sec. 30-82. - Use of shortest route.

No taxicab driver shall take a longer route to the destination directed by the passenger than necessary, unless requested to do so by the passenger.

Sec. 30-83. - Compliance with passengers' requests as to speed and routes.

All taxicab or other passenger vehicle for hire drivers shall comply with all reasonable and lawful requests of passengers as to speed and routes to be taken.

Sec. 30-84. - Search for and disposition of lost articles.

Every taxicab or other passenger vehicle for hire driver shall thoroughly search his taxicab or other passenger vehicle for hire at the termination of each trip for lost articles which may be left in the taxicab or other passenger vehicle for hire by passengers, and any article found shall be immediately returned to its rightful owner, if he is known; otherwise, it should be deposited with the owner or operator of the taxicab or other passenger vehicle for hire and shall, within 24 hours, be reported and turned over to the police department.

Sec. 30-85. - Solicitation, acceptance and discharge of passengers generally.

- (a) No driver shall solicit passengers for a taxicab except when seated in the driver's compartment of such taxicab. The driver of any taxicab shall remain in a driver's compartment or immediately adjacent to his vehicle at all times when such vehicle is upon the business streets, except that, when necessary, a driver may be absent from his taxicab for not more than ten consecutive minutes; and provided further, that nothing herein contained shall be held to prohibit any driver from alighting to the street or sidewalk for the purpose of assisting passengers into or out of such vehicle.
- (b) No driver of a vehicle for hire without a taximeter may solicit passengers except through printed advertisement for pre-arranged service.

Sec. 30-86. - Prohibited solicitations.

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

Sec. 30-87. - Maximum hours of active duty.

No driver of any taxicab or other passenger vehicle for hire shall be permitted to continue on active duty for more than 12 consecutive hours, mealtime included, during any 24-hour period; provided, that a driver may continue on active duty for a maximum of 16 consecutive hours during any 24-hour period on Friday and Saturday of any week.

Sec. 30-88. - Operation of taxicab or other passenger vehicle for hire along established bus routes.

No owner, operator or driver of a taxicab or other passenger vehicle for hire shall cause or permit a taxicab or other passenger vehicle for hire to be operated along or over established bus routes for the purpose of picking up passengers who are waiting for buses. This section shall not be construed to prohibit or interfere with the response to any call for a taxicab or other passenger vehicle for hire.

#### ARTICLE IV. - APPLICATION AND DRIVER'S PERMIT<sup>[3]</sup>

##### Sec. 30-111. - Required.

No person shall drive any taxicab or other passenger vehicle for hire carrying passengers for hire from place to place within the corporate limits or within a distance of one mile thereof, without first having applied for and obtained a driver's permit (as defined in subsection 30-1(b), above).

##### Sec. 30-112. - Application—Photograph and fingerprints to accompany.

The applicant for a driver's permit shall attach to his application his photograph, which shall constitute a part of his application, and shall impress his fingerprints on the back of the application.

##### Sec. 30-113. - Same—Investigation.

The police department shall investigate and confirm the facts stated in each application for a driver's permit.

##### Sec. 30-114. - Same—Required information.

- (a) An application for a driver's permit shall be filed with the police department on forms provided by the department. Such application shall be verified under oath and shall include the following information:
  - (1) The name and permanent address of the applicant.
  - (2) The applicant's criminal and traffic conviction history.
  - (3) The number and date of issuance of the applicant's driver's license.
  - (4) Such other information as the department shall require.
- (b) Each application shall be accompanied by the following:
  - (1) Full fingerprints of the applicant.
  - (2) A fee to be set by the police department for the processing of the application, which shall be nonrefundable.

##### Sec. 30-115. - Refusal; suspension; revocation.

- (a) Upon consideration of the application for a permit under this article, the chief of police shall either approve or reject the application. The police department may refuse to grant or renew or may revoke or suspend the driver's permit for any applicant or driver who fails or refuses to comply with the provisions of this chapter or otherwise ceases to be qualified. In cases of suspension, revocation or refusal to grant or renew a driver's permit, the driver shall be notified of the reasons for such action through personal service or in writing.
- (b) Factors to be considered relative to such refusal, suspension or revocation include the following:
  - (1) The applicant or driver is less than 18 years of age.
  - (2) The applicant or driver does not possess a valid driver's license issued by the state.
  - (3) The applicant is physically or mentally incapable of operating a taxicab or other passenger vehicle for hire or has been treated for any mental disorder, heart attack, epilepsy, or diabetes in a six-month period prior to filing his application; provided, any applicant who has been treated for any mental disorder, heart attack, epilepsy, or diabetes shall have a written opinion from a physician or psychiatrist, or both, stating that the applicant is physically capable and mentally competent to operate a taxicab, and that the applicant has been free from such recurrence for the past six months. Such medical statement shall accompany such application.
  - (4) The applicant or driver is addicted to or a habitual user of alcoholic beverages, narcotics or other habit-forming substance.

- (5) The applicant or driver has knowingly made a false statement or given false information on the application for the permit.
- (6) The applicant or driver is or has been a habitual violator of local or state traffic or criminal laws.
- (7) The applicant or driver has accumulated a sufficient number of points against his driving record under the schedule in G.S. Chapter 20 to justify the suspension or revocation of a driver's license.
- (8) The applicant or driver has been convicted of or pled no contest to a felony against this state, or convicted of any offense against another state which would have been a felony if the applicant had been convicted in this state.
- (9) The applicant or driver has been convicted of or has entered a plea of guilty to any of the following offenses within a period of three years immediately prior to the date of application:
  - a. A crime involving a motor vehicle resulting in death.
  - b. Driving a motor vehicle while intoxicated.
  - c. A violation of any local, state or federal law relating to alcoholic beverages, narcotics or prostitution.
- (10) Failure to comply with the provisions of this chapter.
- (11) Following suspension by chief of police pursuant to section 30-147 if chief of police determines the action by the applicant or driver to be detrimental to public safety, health, morals, or welfare.

(Amend. No. 12, 5-3-94; Amend. No. 9, 8-5-97)

Sec. 30-116. - Appeals.

- (a) In a case of refusal to grant or renew a driver's permit or upon the suspension or revocation of such permit, the applicant or driver may appeal to the chief of police. Such appeal must be made within ten days following receipt of notice of such action and shall be filed with the police department.
- (b) Upon failure of an applicant or driver to appeal within the prescribed time, such decision shall be considered final.
- (c) During the pendency of any appeal, the driver's permit shall be immediately surrendered to the police department and it shall be unlawful for the appellant to drive a taxicab or other passenger vehicle for hire within the city.
- (d) During consideration of any appeal, the chief of police shall limit his scope of review to findings of fact only. Applicants may appeal the decision of the chief of police within ten days following receipt of chief of police's decision to city council. The city may attach any conditions to any decision or order which it deems appropriate.

Sec. 30-117. - Display.

The driver of every taxicab or other passenger vehicle for hire shall, at all times while operating such taxicab or other passenger vehicle for hire, prominently display in such cab, so as to be easily visible to the passengers therein, a current permit issued under this division.

Sec. 30-118. - Expiration and renewal.

All drivers' permits shall expire on June 30. Upon application prior to each such expiration date, the chief of police may, upon such application being filed at least ten days before such expiration, renew any such permit.

Sec. 30-119. - Fees.

Fees to cover the administrative cost of the driver's permit shall be determined on an annual basis by the city council and contained in the schedule of fees of the annual budget.

ARTICLE V. - MISCELLANEOUS

Sec. 30-141. - Accidents to be reported.

All accidents involving the operation of taxicabs or other passenger vehicles for hire shall be reported to the inspector immediately. The operating permit holder for the taxicab or other passenger vehicle for hire involved in an accident and the driver of the taxicab or other passenger vehicle for hire so involved shall be jointly and individually responsible for making the required report, which shall be on a form to be furnished by the inspector. A taxicab or other passenger vehicle for hire involved in an accident shall be immediately ordered out of service by the inspector and shall be repaired before again being placed in service.

Sec. 30-142. - Color schemes for taxicabs.

No person shall operate a vehicle that is identified as a taxicab unless use of the vehicle as a taxicab has been authorized pursuant to this chapter. No person shall operate a taxicab containing a taxicab company's color scheme or identification without authorization from such taxicab company.

Sec. 30-143. - Passengers under 16 years of age.

If a child under 16 years of age is the original passenger, no other passengers shall be permitted in the taxicab, except for members of the child's family or other authorized adult. This shall not apply to police officers who might be engaged in the performance of their official duty and unable to obtain other immediate adequate means of transportation.

Sec. 30-144. - Unlawful passengers.

It shall be unlawful for a driver to transport in a taxicab or other passenger vehicle for hire any person, male or female, who is not a bona fide passenger.

Sec. 30-145. - Corporate limits.

No person shall drive or operate any taxicab or other passenger vehicle for hire carrying passengers for hire from place to place within the corporate limits, or to points within a radius of one mile thereof, unless that person shall first have applied to the city manager and secured the approval of a driver permit to operate a taxicab or other passenger vehicle for hire.

Sec. 30-146. - Fire lanes.

It shall be unlawful for any person to park any vehicle for hire for any time upon any of the streets of the city within the fire limits as now established or hereafter established, except for loading or unloading; provided, that nothing herein contained shall prevent any such vehicle from occupying any taxicab or limousine parking zone lawfully pending necessary temporary repairs or removal of the vehicle from the streets.

Sec. 30-147. - Suspension/revocation by chief of police.

Whenever the permittee has violated this chapter or any city ordinance, or any state law dealing with public safety or public morals, the chief of police shall have the power and authority to suspend such permit and require the surrender of such permit for a period determined by the chief of police. Whenever the chief of police shall be of the opinion that the further driving of a taxicab or other passenger vehicle for hire carrying passengers by a permittee is or will be dangerous, or that continuing to drive such a taxicab or other passenger vehicle for hire will be detrimental to public safety, health, morals or welfare, he shall have the power and authority to revoke the permit. The chief of police shall notify the permittee at the time his permit is suspended or revoked. Whenever such permit is temporarily suspended or revoked by the chief of police, the permittee shall immediately deliver to the chief of police his permit and his identification card which had heretofore been issued to him by the chief of police as elsewhere provided.

Sec. 30-148. - Additional penalties.

- (a) It shall be unlawful for any person to violate any of the provisions of this article. If the person violating an provision of this article is a corporation, the officers, agents, affiliated drivers, or employees thereof who shall violate or procure, aid or abet any violation of any provisions of this article or permit the operation of any passenger vehicle for hire contrary to the requirements hereof, shall be subject to the same penalties as if they, themselves, were personally operating such passenger vehicle for hire at the time such violations were committed.
- (b) Upon a person's violation of an provision of this article, the chief of police or his designee may suspend or revoke any operating permit held by such person, and the chief of police may suspend or revoke any driver's permit held by such person.

- (c) Any person or company who violates any provision of this article may also be fined civil penalties of up to \$500.00 per day that the person or company remains in violation of this article. This penalty may be recovered by the city, in a civil action, in the nature of a debt if the violator does not pay the penalty within 30 days from the date the violator is notified of the penalty. Those persons violating any article of this ordinance shall be guilty of a misdemeanor and punished as provided in G.S. § 14-4.
- (d) Progressive penalties may be applied when determined by the chief of police when the same driver or operator violates a second or subsequent violation of the same rule or any combination of the rules listed for the same progressive penalty schedule within any 12-month period. Assessment of penalties shall be given by the chief of police. The progressive penalty schedule shall be posted in the city police department.
- (e) If the violator fails to pay or appeal the penalty within ten working days, the chief of police may suspend or revoke the driver's and/or the operator's permit in addition to any other action taken pursuant to this section. Civil penalties shall be levied against the company according to the total amount of civil penalties incurred during a calendar year by the passenger vehicle for hire drivers employed by that company. The amount of penalties shall be determined by the number of passenger vehicles for hire operated by the company and the total amount of civil penalties incurred by the drivers for the company annually as follows:
  - (1) 1-25 vehicles: each \$1,000.00 in driver penalties shall result in \$5,000.00 civil penalty.
  - (2) 26-50 vehicles: each \$2,000.00 in driver penalties shall result in a \$5,000.00 civil penalty.
  - (3) 51-75 vehicles: each \$4,000.00 in driver penalties shall result in a \$5,000.00 civil penalty.
  - (4) 76 or higher: each \$6,000.00 in driver penalties shall result in a \$5,000.00 civil penalty.
- (f) In addition of the authority of this article to deny, suspend, or revoke a permit, the city may seek enforcement of this article by instituting a civil action for injunctive relief, abatement order, or any other appropriate relief in the Superior Court of Catawba County.

Sec. 30-149. - Passenger defrauding owner a misdemeanor.

Any person who engages, uses, employee or hires any vehicle for hire and who fails or refuses to pay for the same, with intent to cheat and defraud the owner and/or agent of the owner of the rental price, charge, fee or fare shall be guilty of a misdemeanor.

## Chapter 31 - WATER AND SEWERS<sup>[1]</sup>

### ARTICLE I. - IN GENERAL

Sec. 31-2. - Systems to be operated as single unit designated as public utilities department.

The water and sewer systems of the city shall be operated as a unit, which shall be designated as the public utilities department.

Sec. 31-3. - City manager to be chief executive of department.

The chief executive of the public utilities department shall be the city manager.

Sec. 31-4. - General powers and duties of city manager relative to water and sewers.

- (a) The city manager shall see that all charges for water and sewer services are correctly made and promptly collected; shall keep an accurate record of the department's receipts and disbursements; shall enforce all provisions of this Code and other ordinances, rules and regulations adopted by the city council insofar as they apply to the public utilities department; and shall require the director of public utilities to perform efficiently the duties of his position.
- (b) The city manager shall, from time to time, submit reports to the city council covering the operations of the public utilities department, its receipts and disbursements and the efficiency of the operation of the same.

Sec. 31-5. - Director to file monthly report with city manager.

The director shall file with the city manager a monthly report showing the operating expenses of the department, the number of new patrons added, the number whose services have been discontinued, the amount of water pumped and the length and size of the extensions made to the lines.



Sec. 31-6. - Permits for connections generally.

- (a) No person shall make any connection to the city's water system or in any way take water for his or another's use from any city water line, without first applying for and receiving a permit from the city manager, unless such taking is through a spigot legally in use on the premises of a person who has obtained a permit.
- (b) No person shall make any sewer connection for his or another's use without first applying for and receiving a permit from the city manager.
- (c) Any person desiring a water and sewer connection made so as to receive water and sewer services shall file with the city manager an application in writing, approved by the director, and shall pay the fees required.

Sec. 31-7. - Mandatory connections.

- (a) Each person owning a lot and building in the city, which lot abuts or adjoins a street or alley along which are a water main and a public sewer line, shall make water and sewer connections with his premises. No person shall be required to construct connecting lines across the private property of another or to construct connecting lines of more than 200 feet in length.
- (b) Within 30 days after any water or sewer main is completed and ready for use, the owner of every abutting lot whereon water is supplied from other sources for human use shall cause such lot to be connected with such water or sewer main; provided, that the city shall notify the property owner in writing of the installation of such main. Residential property owners with drilled, properly capped wells that meet the standards of the state board of health are exempt from a mandatory connection for water. Commercial and business property owners with drilled, properly capped wells that meet the standards of the state board of health are exempt from a mandatory connection for water but must pay a tap fee for the well to meter the flow for sewer service charges.
- (c) In the event of a broad and general annexation to the city, the 30-day period referred to in this subsection shall be increased to 12 months.

Sec. 31-8. - Use of water for building purposes.

A contractor or builder desiring the use of water shall make application to the city manager and shall secure from him a permit for such use, and shall pay the charges provided in this chapter.

Sec. 31-9. - Connection charges.

Any person desiring or required to connect to the city's water or sewer system shall pay for each such connection such charges as are fixed, from time to time, by resolution of the city council. Water shall not be supplied to any premises, nor shall the use of a sewer connection be permitted, until all such charges have been paid to the city manager and a receipt therefor obtained from him.

Sec. 31-10. - City to tap lines and extend service pipes to curbing.

The city reserves the exclusive right of tapping the water mains and sewer lines for all connections and of extending all service pipes to the nearest curbing.

Sec. 31-11. - Construction of service pipes across private property.

Water and sewer service pipes shall not be constructed across the private property of one person for the purpose of providing water and sewer services to another person, without first obtaining a written instrument conveying to the city a perpetual right-of-way for the construction, repair and maintenance of any such service line.

Sec. 31-12. - Curb box and curb cock; turning water on or off at curb cock.

A curb box shall be placed over a curb cock, which shall be under the exclusive control of the city. No person shall turn the water on or off at such curb cock, except the director of public utilities or some employee of the city acting under the express orders of the director.

Sec. 31-13. - Location and ownership of water meters.

- (a) Each residence, building, manufacturing plant or other place where city water is used shall have at least one water meter, the location of which may be changed from time to time as the director may direct. Such water meter shall remain the property of and be under the exclusive control of the city.

- (b) In addition to the requirements of subsection 31-13(a), effective upon adoption of this section by city council, each newly installed in-ground irrigation system shall be required to have a separate water meter for a potable water system.

Sec. 31-14. - Disposition of privies and unused wells after water and sewer connections.

Within 30 days after a sewer connection is made, any pit privy, after being cleaned, shall be filled with clean, compacted earth to the level of the ground surface. Within 30 days after a water connection is made, any open, dug, bored or drilled well that does not comply with the provisions of section 31-15 shall be filled with clean, compacted earth to the level of the ground surface.

Sec. 31-15. - Use of private well in addition to city water.

If a property owner wishes to maintain a well in addition to a city tap, he must register the same and have the installation approved by the public utilities department. No direct connection will be allowed between the city supply and the well.

Sec. 31-16. - Inspection and approval of plumbing prerequisite to service.

Water shall not be supplied to any premises, nor shall the use of a sewer connection be permitted, until all plumbing has been inspected and approved by the director.

Sec. 31-17. - Shutting off water in case of accident or for making connections, repairs, etc.

The city reserves the right at any time to shut off the water in the mains in the case of accident or for the purpose of making connections, alterations or repairs, and it shall be the duty of the director of public utilities to give one hour's notice, if possible, to all patrons within the district who will be temporarily deprived of water. In case of emergency, the water may be cut off without notice.

Sec. 31-18. - Maintenance of lines and fixtures in good repair.

- (a) The owner and occupant of any building, place or other premises having water and sewer connections shall keep the water and sewer pipelines or fixtures in proper condition and repair.
- (b) Upon the failure of any such owner or occupant to make the necessary repairs within five days after notice of the defective condition, the service shall be discontinued by the director.

Sec. 31-19. - Taking water from public hydrant, fountain, etc.

No person, except the city manager, the director of public utilities, the chief of the fire department or someone authorized by one or more of them, shall take water from any public hydrant, pipe or fountain, plug, street washer, drawcock or hose, except for firefighting purposes or for the use of the fire department.

Sec. 31-20. - Industrial waste and sewage not to be dumped into creeks, streams, etc.

It shall be unlawful for any person, directly or indirectly, to dump industrial waste or industrial sewage into any branch, creek, or stream within the corporate limits.

Sec. 31-21. - Entering pumping station or filtering plant.

No person shall enter any pumping station or filtering plant of the city, without being accompanied by the engineer on duty at such station or plant or by an official of the city.

Sec. 31-22. - Right of entry for inspection and reading of meters.

The city manager, the director or an inspector designated by either of them shall have the right to enter any dwelling, apartment house, store, business building, hotel or other premises between the hours of 8:00 a.m. and 7:00 p.m., for the purpose of inspecting and reading the meters. No person shall oppose, obstruct or interfere with any such officer entering such premises or with such inspection.

Sec. 31-23. - Discharging residue from washing of motor vehicles into sanitary sewers.

No person shall discharge into the sanitary sewers of the city residue from the washing of motor vehicles, except from wash pits constructed and maintained in accordance with the plans and specifications for such construction and maintenance on file in the office of the city clerk.

## ARTICLE II. - SERVICE CHARGES<sup>[2]</sup>

Sec. 31-47. - Deposit to secure payment.

- (a) All new applicants for water and sewer service who do not own property in the city shall post a deposit in such amount as the city council shall from time to time establish, at no interest, prior to receiving water or sewer service from the city.

- (b) Deposits made under this section shall be returnable at any time the applicant desires, but such return will result in the water and sewer service being immediately cut off at that location.

Sec. 31-48. - Determination of sewer charge by meter on private water supply.

Where a patron of the city's sewer system uses his own water supply in accordance with the provisions of this chapter and there is disagreement as to the quantity of water used, the city manager may require the patron to install a meter on his supply line for the purpose of determining the amount of the sewer service charge.

Sec. 31-49. - Responsibility for payment in case of multiple dwelling.

- (a) The owner of an apartment house, duplex house or other premises occupied by more than one tenant may, if he so desires, within 30 days after the completion of the same, file with the city manager a written statement to the effect that he will personally pay for all water and sewer services thereafter furnished to all occupants of such apartment house, duplex house or other premises. Thereupon, only one meter shall be required for such apartment house, duplex house or other such premises. In such event, the owner shall pay for all water and sewer service at such rates as shall be established by resolution of the council. The owner, if he occupies the building or any part thereof, shall be construed to be a tenant under the provisions of this section.
- (b) If the owner does not file the written statement provided for in subsection (a) of this section, the owner shall have installed a separate meter for each apartment, suite of rooms or other space occupied or arranged for occupancy by a separate tenant in such apartment house, duplex or other premises.
- (c) If any owner of any apartment house, duplex house or other premises arranged for occupancy by two or more tenants does not file with the city manager the written statement provided for in subsection (a) or does not have installed separate meters as required by subsection (b), the director shall discontinue water service to such apartment house, duplex house or other premises.

Sec. 31-50. - When and where payable; charges for fractional part of billing period.

- (a) All patrons of the water and sewer services of the city shall pay their water and sewer service charges in advance at the office of the city manager within ten days after the bill therefor is mailed.
- (b) Charges for water and sewer services for a fractional part of a billing period shall be payable on demand.

Sec. 31-51. - Discontinuance of services for failure to pay; renewal procedure.

- (a) If water and sewer charges are not paid within ten days after the due date, the city manager may instruct the director to discontinue the services to such delinquent patron.
- (b) If water and sewer services are discontinued by reason of the failure to pay the charges therefor, such services shall not be renewed until all charges for cutting on the water are paid in full.
- (c) Any person whose water and sewer services have been discontinued by the director as provided in this section who shall thereafter cut on the water or otherwise make such services available, except by renewal as provided above, shall be deemed guilty of a misdemeanor.

Sec. 31-52. - Fire hydrants on private property.

Any person desiring to run a large pipe from the city main to his premises within the city for the purpose of providing a hydrant for use in case of fire shall be permitted to connect with the street main at his own expense and shall be permitted to use water therefrom, for fire purposes only, at no charge. All hydrants so constructed on premises of patrons shall be sealed with suitable material. Any person breaking or permitting another to break such seal, except for the purpose of obtaining water for firefighting purposes, shall be deemed guilty of a misdemeanor. Each week the seal remains broken shall be construed to be a separate and distinct offense.

### ARTICLE III. - WATER CONSERVATION

Sec. 31-53. - Purpose.

It is the purpose and intent of this article to maintain and protect the water resources available to the city for essential and community and business water uses during a water shortage declaration. This article seeks to achieve that purpose by providing for the issuance of an official water shortage declaration and

the implementation of mandatory water conservation controls during the time when such declaration is in effect. This article shall be liberally construed to effectuate such purpose and intent.

Sec. 31-55. - Imposition of mandatory water conservation controls.

- (a) The city manager is authorized to impose mandatory water conservation controls as authorized by this article on the usage of water obtained directly or indirectly from the HPUD water system by declaring a water shortage. After receiving written recommendations from HPUD, the city manager may impose such controls, upon consideration of the following factors:
  - (1) Pressure at monitoring locations of the HPUD water system;
  - (2) Ability to refill water storage tanks of the HPUD water system;
  - (3) Ability to maintain an amount of water in the ground level storage tanks at HPUD's water treatment plants which is adequate for fire protection purposes;
  - (4) Ability to maintain adequate water pressure in every portion of the HPUD water system;
  - (5) Adequacy of the HPUD water supply in terms of quantity and/or quality for the foreseeable future to satisfy the anticipated demand for water;
  - (6) Conditions downstream of the HPUD water intakes;
  - (7) Regulatory requirements affecting the operation, repair or maintenance of any portion of the HPUD water system;
  - (8) Such factors as are identified in a water shortage management plan adopted by HPUD pursuant to this article;
  - (9) Such other factors as may affect HPUD's ability to supply, treat and/or distribute water through its water system;
  - (10) Declaration of drought stages by the drought management advisory group as defined by the low inflow protocol (LIP) based on preset trigger points; and
  - (11) Declaration of drought stages by the N.C. Department of Environment and Natural Resources if local water supply and demand factors indicate need.
- (b) HPUD's recommendation to the city manager on the issuance, amendment or termination of a water shortage declaration shall set forth the basis for such recommendation, including the factors leading to such recommendation.
- (c) HPUD is authorized to adopt a water shortage management plan, which shall be consistent with and guide HPUD in the implementation and enforcement of the provisions of this article.

Sec. 31-56. - Procedure for issuance of water shortage declaration.

- (a) The city manager may issue a water shortage declaration by signing a notice of water shortage declaration. A water shortage declaration will take effect on the effective date and time specified in said notice. A water shortage declaration, including any amendment thereto, may be issued for the entire HPUD water distribution system or for any designated portion(s) thereof. Upon issuance, a water shortage declaration shall remain in effect until amended or terminated in accordance with this article.
- (b) A water shortage declaration may be amended or terminated by the issuance of a notice of such action signed by the city manager and posted in accordance with this section. Water conservation controls imposed pursuant to this article and/or the portion of the HPUD water distribution system subject to an existing water shortage declaration may be revised by amending such a declaration. The termination of any water shortage declaration will automatically terminate all mandatory water conservation controls imposed pursuant to this article.
- (c) A notice required by this article must specify the effective date and time of said notice and be publicly posted in the City of Hickory Municipal Building, 76 North Center Street, Hickory, North Carolina, or any other place designated by law or the city council for the posting of public notices for at least 12 hours before taking effect; provided that, the city manager may determine that the following notices need not be posted for any minimum period of time: a notice of termination of a water shortage

declaration; a notice of amendment of a water shortage declaration that reduces the portion of the HPUD water distribution system subject to said declaration and/or the mandatory water conservation controls in effect; and a notice of a water shortage declaration or amendment thereto under emergency conditions as set forth therein. All notices posted pursuant to this article shall state the date and time of posting.

Sec. 31-57. - Stages of water conservation.

- (a) Any one of the following stages of water conservation may be implemented by the issuance of a water shortage declaration or amendment of a previously issued declaration:

Stage 0, drought watch;

Stage 1, voluntary;

Stage 2, mandatory, outdoor irrigation limited to two times a week;

Stage 3, mandatory, outdoor irrigation limited to one time a week; and

Stage 4, emergency.

- (b) A water shortage declaration, including, without limitation, an amendment thereto, imposing Stage 0, 1, 2, 3 or 4 water conservation controls shall specify the controls imposed by such declaration. Customers and users shall comply with such mandatory controls as are specified in a water shortage declaration, including any amendment thereto, issued pursuant to this article. Violation of any mandatory control specified in a declaration issued pursuant to this article shall be subject to such enforcement action as is set forth in this article.
- (c) No mandatory control imposed by a water shortage declaration shall apply to any public or volunteer fire department while fighting a fire.
- (d) The water shortage management plan adopted pursuant to this article may include classifications of the uses made of water from the HPUD water system as discretionary, community and business and essential and take such classifications into account in determining the water conservation controls that may be imposed pursuant to this article.

Sec. 31-58. - Stage 0.

A water shortage declaration, including an amendment thereto, may impose a Stage 0 drought watch at any time.

Sec. 31-59. - Stage 1.

- (a) A water shortage declaration, including an amendment thereto, may impose Stage 1 water conservation controls at any time that, based upon a recommendation from HPUD, the city manager determines that HPUD may not be able to meet all demand for discretionary, community and business and essential water uses based on any one or more of the factors set forth in subsection 31-55(a).
- (b) A water shortage declaration imposing Stage 1 water conservation controls may include: restrictions on the manner, day of the week, and time of day of one or more discretionary water uses and/or complete prohibitions on one or more of such uses.
- (c) Community athletic associations, golf courses and similar customers whose use of water to irrigate large areas is a community and business water use may submit a plan for approval by HPUD allowing alternatives to the water conservation controls imposed by a water shortage declaration. Approval of alternatives shall be limited to a customer's community and business water uses and shall require such customers to comply with substantially equivalent controls on water usage. Violation of any portion of a customer's approved plan shall be considered as a violation of a water conservation control and subject to the provisions of section 31-66 in the same manner as any other violation of a water conservation control imposed pursuant to this article.
- (d) Reduction of use goal is established at voluntary participation.

Sec. 31-60. - Stage 2.

- (a) A water shortage declaration, including an amendment thereto, may impose Stage 2 water conservation controls at any time that, based upon a recommendation from HPUD, the city manager determines that HPUD may not be able to meet all demand for discretionary, community and business and essential water uses based on any one or more of the factors set forth in subsection 31-55(a).
- (b) A water shortage declaration imposing Stage 2 water conservation controls may include: restrictions on the manner, day of the week, and time of day of one or more discretionary water uses; and/or complete prohibitions on one or more of such uses.
- (c) Community athletic associations, golf courses and similar customers whose use of water to irrigate large areas is a community and business water use may submit a plan for approval by HPUD allowing alternatives to the water conservation controls imposed by a water shortage declaration. Approval of alternatives shall be limited to a customer's community and business water uses and shall require such customers to comply with substantially equivalent controls on water usage. Violation of any portion of a customer's approved plan shall be considered as a violation of a water conservation control and subject to the provisions of section 31-66 in the same manner as any other violation of a water conservation control imposed pursuant to this article.
- (d) Reduction of use goal is established at five to ten percent.

Sec. 31-61. - Stage 3.

- (a) A water shortage declaration, including an amendment thereto, may impose Stage 3 water conservation controls at any time that, based upon a recommendation from HPUD, the city manager determines that HPUD may not be able to meet all demand for community and business and essential water uses based on any one or more of the factors set forth in subsection 31-55(a).
- (b) A water shortage declaration imposing Stage 3 water conservation controls may include: restrictions on the manner, day of the week, and time of day of one or more discretionary or community and business water uses; and/or complete prohibitions on one or more of such uses.
- (c) Reduction of use goal is established at ten to 20 percent.

Sec. 31-62. - Stage 4.

- (a) A water shortage declaration, including an amendment thereto, may impose Stage 4 water conservation controls at any time that, based upon a recommendation from HPUD and the city manager, the city council determines that HPUD may not be able to meet all demand for essential water uses based on any one or more of the factors set forth in subsection 31-55(a); provided that, the city manager may impose Stage 4 water conservation controls without the approval of the city council at any time that, based upon a recommendation from HPUD, the city manager determines that HPUD may not be able to meet all demand for essential water uses based on any one or more of the factors set forth in subsection 31-55(a) and also finds that emergency conditions exist. If the city manager imposes Stage 4 water conservation controls pursuant to this section, such controls shall be subject to amendment or termination by the city council.
- (b) A water shortage declaration imposing Stage 4 water conservation controls may include: restrictions on the manner, day of the week, and/or time of day of one or more discretionary, community and business or essential water uses; and/or complete prohibitions on one or more of such uses.
- (c) The city manager, based upon a recommendation from HPUD, shall determine the specific water conservation controls included in a water shortage declaration imposed pursuant to this section. The provisions of subsection 31-62(a) shall not be construed under any circumstances to limit the authority of the city manager under this article to issue, amend or terminate a water shortage declaration or to require approval of the city council in order for the city manager to amend or terminate any water shortage declaration imposing Stage 4 water conservation controls, including, without limitation, amending a water shortage declaration to revise Stage 4 water conservation controls or to impose Stage 2 or 3 water conservation controls.
- (d) In addition to the controls authorized by section 31-62(b), the city manager shall also be authorized, based upon a recommendation from HPUD, to take such actions as may be reasonably necessary or convenient to ration water among HPUD customers, including, without limitation, suspending water service to customers pursuant to a plan approved by the city council.

- (e) Reduction of use goal is established at 20 to 30 percent.

Sec. 31-63. - Termination for leak in customer's plumbing.

It shall be unlawful for any customer or owner of a plumbing system receiving water from the HPUD water system to fail to repair a leak in such plumbing system within a reasonable time while a water shortage declaration is in effect. Any customer or owner who fails to repair a leak in such plumbing system within five calendar days after notice to do so from HPUD shall be subject to a civil penalty of \$100.00, termination of service or both.

Sec. 31-64. - Temporary discontinuation of water connection.

- (a) Duration. During a declared mandatory (Level II, III, or IV) [Stage 2, 3 or 4] water emergency, the city manager or his designee may direct that the issuance of zoning clearance permits and/or divisions of land that involve waterline connections or extensions, or any upgrade in capacity for water usage be temporarily suspended for the duration of the water emergency.

Exceptions. Notwithstanding subsections of this section, water connections to the water system owned by the city may continue to be made during a declared mandatory water emergency for the following facilities:

Public schools satisfying compulsory education requirements of the state.

Public facilities for police, sheriff, fire or emergency medical services.

Hospitals.

- (b) In any permit issued pursuant to this section, HPUD may impose such conditions and restrictions as are appropriate to require that water used from the HPUD water system be minimized to the extent practical.
- (c) Unless otherwise expressly provided in a permit, any permit subject to this section shall automatically terminate upon the effective date and time of the imposition of Stage 4 water conservation controls.
- (d) Any person or entity receiving a permit subject to this section that violates the terms thereof shall be subject to a civil penalty pursuant to subsection 31-66(e) and to the revocation of the permit. Any person who has violated the term of any permit subject to this section, any variance issued pursuant to this article or any mandatory water conservation control imposed pursuant to this article may be denied a permit, notwithstanding any provision of this section to the contrary.

Sec. 31-65. - Variances.

- (a) HPUD is authorized to issue a variance in accordance with this article permitting any customer satisfying the requirements of this article to use water for a purpose that would otherwise be prohibited by water conservation controls then in effect.
- (b) During any time that Stage 2 water conservation controls have been imposed pursuant to this article and except as otherwise provided in this article, HPUD shall issue variances under the following circumstances: A customer with a new lawn and/or landscape installed within 30 days of the application for a variance (but not during any time when Stage 3 or Stage 4 water conservation controls were in effect) may be permitted to water such newly installed landscaping on the date of installation and for up to 30 days after the date of installation and, during such time period, shall not be subject to restrictions on the days of the week, but shall be subject to any restrictions on the times of the day, when outdoor vegetation may be watered in accordance with the water conservation controls otherwise in effect. A variance issued pursuant to this subsection may be extended by HPUD under such terms and conditions as are set forth in the water shortage management plan.
- (c) During any time that Stage 3 water conservation controls have been imposed pursuant to this article and except as otherwise provided in this article, HPUD shall issue variances for the following uses: A customer with a new lawn and/or landscape installed within 30 days prior to the implementation of Stage 3 water conservation controls (but not during any time when Stage 3 or Stage 4 water conservation controls were in effect) may be permitted to water such newly installed landscaping on

the date of installation and for up to 30 days after the date of installation and during such days of the week and times of the day as designated in the variance.

- (d) During any time that Stage 1, 2 or 3 water conservation controls have been imposed pursuant to this article, HPUD shall issue variances for the following uses:
  - (1) A public or volunteer fire department during any training exercise using water from the HPUD water system under circumstances when such training is reasonably necessary to maintain effective fire fighting capabilities;
  - (2) Any customer or user undertaking any activity required by applicable law; and
  - (3) Any person or entity proposing to eliminate or reduce unsanitary conditions that poses a substantial risk of injury or disease.
- (e) During any time that Stage 3 water conservation controls have been imposed pursuant to this article, HPUD may, but shall be under no obligation to, issue variances for the uses listed in subsection 31-65(d).
- (f) In any variance issued pursuant to this section, HPUD may impose such conditions and restrictions as are appropriate to require that water used from the HPUD water system be minimized to the extent practical.
- (g) Unless otherwise expressly provided in a variance, any variance issued pursuant to this section shall automatically terminate upon the effective date and time of the imposition of Stage 4 water conservation controls.
- (h) Any person or entity receiving a variance pursuant to this section that violates the terms thereof shall be subject to a civil penalty pursuant to subsection 31-66(e) and to the revocation of the variance. Any person who has violated the term of any permit subject to this article, any variance issued pursuant to this section or any mandatory water conservation control imposed pursuant to this article may be denied a variance, notwithstanding any provision of this section to the contrary.

Sec. 31-66. - Enforcement.

- (a) The use of water from the HPUD water system in violation of any mandatory water conservation control imposed pursuant to this article, the term of any permit subject to section 31-64 or the term of any variance issued pursuant to section 31-65 is unlawful. Further, the refusal or failure of a customer or other person acting on the customer's behalf to cease immediately a violation of a water conservation control, after being directed to do so by a person authorized to enforce the provisions of this article, is unlawful. Each customer is responsible for any use of water that passes through the service connection associated with the customer's account or otherwise passes through the customer's private water system.
- (b) Any customer who violates or permits the violation of any mandatory water conservation control imposed pursuant to section 31-60 shall be subject to a civil penalty according to the following schedule of penalties:

	1½" service connection or smaller	2" service connection or larger
First offense	\$100.00	\$200.00
Second offense	200.00	400.00
Third and subsequent offenses	300.00	600.00



- (c) Any customer who violates or permits the violation of any mandatory water conservation control imposed pursuant to sections 31-61 and 31-62 shall be subject to a civil penalty according to the following schedule of penalties:

	1½" service connection or smaller	2" service connection or larger
First offense	\$200.00	\$400.00
Second offense	400.00	800.00
Third and subsequent offenses	600.00	1,200.00

- (d) Any customer who violates or permits the violation of any term of a permit subject to section 31-64 or a variance issued pursuant to section 31-65 shall be subject to a civil penalty of \$500.00.
- (e) Any customer or other person acting on behalf of the customer who refuses or otherwise fails to cease immediately a violation of a water conservation control after being directed to do so by a person authorized to enforce the provisions of this article shall be subject to a civil penalty equal to twice the amount of the civil penalty applicable to the violation which such customer or person was directed to cease.
- (f) In addition to the payment of any civil penalty assessed pursuant to this section, a customer shall be subject to termination of water service through any irrigation service connection used to violate any water conservation controls imposed pursuant to this article during any period of time during which a water shortage declaration is continuously in effect under the following circumstances:
- (1) Five or more violations of any water conservation control, including, without limitation, the terms of any variance or permit issued pursuant to this article; or
  - (2) Two or more violations of any Stage 2 or Stage 3 water conservation control, including, without limitation, the terms of any variance or permit issued pursuant to this article.

In the discretion of HPUD, termination of such service may include one or more of the following actions: turnoff, meter removal, yoke removal and turnoff at main. Water service will not be restored at such service connection until the customer agrees to such terms as HPUD determines are reasonably necessary or advisable to assure the customer's compliance with such water conservation controls as are then in effect or may be imposed pursuant to this article and the payment of all the customer's obligations, including, without limitation, all outstanding charges for water service, civil penalties and all other fees, amounts and penalties charged in accordance with the provisions of this chapter. If a customer violates such a term or condition, the customer shall be subject to a civil penalty of up to \$1,000.00 in addition to any other remedy that may be authorized by law or agreement and termination of water service through such serviced connection for up to a minimum period of 15 days. Service may be restored thereafter in accordance with the provisions of this section.

- (g) A customer whose water service is terminated pursuant to subsection 31-66(f) shall not be entitled to notice and an opportunity for a hearing in advance of such termination. Notice of such termination shall be given as soon as reasonably possible after a decision is made by HPUD to terminate such service, but service of such notice and an opportunity for a hearing shall not be conditions precedent to such termination. A customer whose service is terminated pursuant to this section or who receives notice of such a termination shall have five calendar days after termination of service or receipt of notice of termination, whichever is later, to appeal such termination to the director of HPUD, or his/her designee, by delivering a written notice of appeal. A hearing shall be held on such appeal within three business days of receipt of the notice of appeal, or by such other date as approved by the director of HPUD, or his/her designee, and the customer.

- (h) The violation of any water conservation control or provision of this article may be enforced by all remedies authorized by law for noncompliance with municipal ordinances, including the assessment of a civil penalty and action for injunction, order of abatement or other equitable relief.
- (i) Each civil penalty assessed against a customer pursuant to this article shall be added to said customer's water bill and shall be paid in the same manner as set forth in this chapter for the payment of water bills. Failure to pay all or any portion of a water bill, including any civil penalty assessed pursuant to this article, in a timely manner may result in the termination of water service from HPUD.
- (j) Except as provided in this subsection, each day that a violation of a mandatory water conservation control occurs shall be considered to be a separate violation.
  - (1) If a customer or other person acting on behalf of the customer refuses or otherwise fails to cease immediately a violation of a water conservation control after being directed to do so by a person authorized to enforce the provisions of this article, such failure shall constitute a separate violation; and
  - (2) After receiving a notice of violating a water conservation control and ceasing such violation, a customer who resumes the violation of said water conservation control on the same day shall be guilty of a separate violation.
- (k) HPUD and any other city employees or persons designated by the city manager shall be authorized to enforce the provisions of this article.

Sec. 31-67. - Applicability to combined distribution system.

Adoption and enforcement of section provisions. Municipal customers, water corporations or company compliance municipalities, water corporations or companies purchasing water from the city shall adopt and enforce this entire section as a condition of continuing existing water sales agreements. Upon declaration of a water emergency, such municipalities and companies shall enforce the appropriate water use restrictions for the level of declared emergency. Water service to such municipalities and companies shall be terminated for not enforcing the provisions of this section.

### **Hickory Land Development Code**

#### **Sec. 13.5.4 Stop Work.**

A. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this Land Development Code, the Planning Director may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work and the owner of the property, if different from the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order shall constitute a misdemeanor.

B. Any person aggrieved by the issuance of a stop work order may appeal the issuance of the order to the Board of Adjustment pursuant to Sec. 2.10 of this Land Development Code. An appeal shall not stay the operation of the stop work order.

C. The notice of hearing requirements set forth in this Land Development Code shall not apply to appeals of stop work orders. However, the staff shall orally notify the appellant of the date, time, and place of the hearing as soon as it has been scheduled and shall send to the appellant a written confirmation of this notice as soon as possible.

D. Neither the person whom a stop work order is served nor an owner or developer served with a copy under subsection (A) may thereafter cause, suffer, or permit a violation of the order while it remains in effect.

