

Mayor

Mr. Edward Waltz

Commissioners

Ms. Lisa Moore (Mayor Pro-Tem)

Ms. Janet G. Baker

Ms. Cara Dunn

Ms. Myra Fryar

Mr. Daniel P. Ryan



Town Manager

Mr. Schumata Brown

Finance Officer/Clerk

Ms. Sholante Gordon

Town of Maysville
404 Main St. P.O. Box 265
Maysville, NC 28555
(910) 743-4441 Fax (910) 743-0895

October 4, 2019

TO: *Via Electronic Delivery Only*

Rep. James L. Boles, Jr

Rep. Ted Davis, Jr.

Rep. Sarah Stevens

Sen. Andy Wells

Susan L. Sitze, Committee Staff

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RE: Session Law 2019-198 Compliance by the Town of Maysville

Dear Madams and Sirs:

According to the latest census, the Town of Maysville had a population of 1,009, and as such under S.L. 2019-198, it must report to the Joint Legislative Administrative Procedures Oversight Committee and staff, all ordinances that contain enforcement by criminal penalties.

Please accept this summary of the Town of Maysville ordinances as compliance with the session law. The Town of Maysville codified its ordinances in 2011, which has been updated and amended several times since. All of the Town of Maysville Ordinances are subject to G.S. 14-4 unless specified in the ordinance or it involves parking or vehicle violations. The Ordinance is summarized below with the Chapters or sections that are subject to the criminal penalties.

Sincerely,

Beth Faleris

Town Attorney

bfaleris@gmail.com

baf@propertylawnc.com

910-577-7771

Ordinance with criminal (misdemeanor) penalties, pursuant to G.S. 14-4:

Chapter 4 – Alcoholic Beverages

Chapter 6 – Animals

Chapter 8 – Smoking in Buildings Owned, Leased, or Occupied by Town of Maysville

Chapter 10, Article 1 – Sexually Oriented Businesses

Chapter 10, Article 2 – Peddling and Solicitation

Chapter 11 – Parks and Recreation (except parking violations)

Chapter 12 – Civil Emergencies

Chapter 14, Article 2 – Solid Waste Disposal

Chapter 14, Article 3 – Public Health Nuisance Abatement

Chapter 14, Article 6 – Junk and Abandoned Vehicles

Chapter 14, Article 7 – Uncontrolled Growth of Vegetation

Chapter 18 – Misc. Offenses: Only Sections 18-5 (Curfews) and 18-6 (Noise)

Chapter 25 – Street, Public Right of Way, and Sidewalks

Chapter 26 – Utilities

These are enforced as follows in the Ordinance:

Sec. 1-14. Criminal Infractions and Penalties for violation of Code

(a) Except as may be otherwise in provided the Code, if any person violates an ordinance of the town, he shall be guilty of a class 3 misdemeanor as provided in G.S. 14-4 and shall be fined not more than \$100.00. No fine shall exceed \$100.00 unless the ordinance expressly states that the maximum fine is greater than \$100.00.

(b) If any person shall violate an ordinance of the town regulating the operation or parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than \$50.00.

(c) Each day a violation of this Code or of any ordinance or rule or regulation continues constitutes a separate offense, except as may be otherwise specifically provided.

Below are the Chapters of the Ordinance listed above:

CHAPTER 4 ALCOHOLIC BEVERAGES

Sec. 4-1. Requirements for taverns and bars

Sec. 4-2. Reserved

Sec. 4-3. Consumption, possession

Sec. 4-1. Requirements for taverns and bars

(a) A bar or tavern licensed by the state alcoholic beverage control board means any place primarily engaged in the sale of malt beverages as provided in G.S. 18B-101 et seq.

(b) All bars and taverns shall provide bathroom facilities as required by the latest edition of the state building code.

(c) All bars and taverns during the hours of operation shall keep the windows and doors closed. Air cooling and ventilation shall be from mechanical means only and shall comply with the standards contained in the current state building code criteria for restaurants.

(d) All bars and taverns shall have a person managing the business on the premises during the hours of operation at all times. The name of such person shall be conspicuously displayed at the entrance of the business premises.

(e) All bars and taverns shall provide off-street parking spaces.

(f) No open-air bars and taverns or bars and taverns on rooftops shall be allowed, or public access permitted to any open-air decks or rooftops from any bar and/or tavern.

(g) Whenever the town board has reasonable cause to believe that any person is violating any section of this Code, the town may, either before or after the institution of any other action or proceeding authorized by this Code, institute a civil action in the name of the town for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the appropriate division of the general court of justice in the county. The institution of an action for injunctive relief under this subsection shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations to this Code.

Sec. 4-2. Reserved

Sec. 4-3. Consumption, possession

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

Malt beverage means beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage containing at least one-half of one percent (0.5%), and not more than fifteen percent (15%), alcohol by volume. Any malt beverage containing more than six percent (6%) alcohol by volume shall bear a label clearly indicating the alcohol content of the malt beverage. G.S. 18B-101(9). *Revised May 10, 2012; Ordinance No. 2012-03.*

Open container means a container the seal of which has been broken or a container other than the manufacturer's unopened original container, G.S. 18B-300(c).

Public street means any highway, road, street, avenue, boulevard, alley, bridge or other way within and/or under the control of the town and open to public use, including the sidewalks of any such street.

Unfortified wine means any wine of sixteen percent (16%) or less alcohol by volume made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States. G.S. 18B-101(15). *Revised May 10, 2012; Ordinance No. 2012-03.*

(b) *Consumption on public streets and on municipal property prohibited.* It shall be unlawful for any person who is not an occupant of a motor vehicle to consume malt beverages and/or unfortified wine on the public streets. Furthermore, it shall be unlawful for any person to consume malt beverages and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied or controlled by the town, including but not limited to public buildings and the grounds appurtenant to such buildings, municipal parking lots, public parks, playgrounds, recreational areas, tennis courts, and other athletic fields.

(c) *Possession of open containers on public streets and on municipal property prohibited.* It shall be unlawful for any person who is not an occupant of a motor vehicle to possess any open container of malt beverage and/or unfortified wine on the public streets. Furthermore, it shall be unlawful for any person to possess any open container of malt beverage and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied or controlled by the town, including but not limited to public buildings and the ground appurtenant to such buildings, municipal parking lots, public parks, playgrounds, recreational areas, tennis courts, and other athletic fields.

(d) *Possession during special event prohibited.* It shall be unlawful for any person to possess malt beverages and/or unfortified wine on public streets, alleys or parking lots which are temporarily closed to regular traffic for special events, unless the town board adopts a resolution authorizing the possession or consumption of malt beverages and/or unfortified wine at the special event.

(e) *Penalty.* Violation of this section shall constitute a misdemeanor punishable as provided in Part II of this Code.

Sec. 4-4. Sale of Alcohol

Pursuant to the authority contained in G.S. 160A-205.3, the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages is allowed within the corporate limits of the Town of Maysville beginning at 10 A.M. of Sunday pursuant to the licensed premises' permit issued under G.S. 18B-1001. *Revised October 5, 2017; Ordinance No. 2017-5*

CHAPTER 6 ANIMALS

Article I. In General

Sec. 6-1. Definitions

Sec. 6-2. Territorial Application

Sec. 6-3. Duties of Animal Control Officer

Sec. 6-4. Licensing

Sec. 6-4.1. Fund for Injured Animals; licensing program and low cost spay and neuter program

Sec. 6-5. Interference or Concealment

Sec. 6-6. Duty of Owner to Control Animals

Sec. 6-7. Running at Large

Sec. 6-8. Public Nuisance

Sec. 6-8.1. Regulation of Large-Volume Breeders

Sec. 6-9. Mistreatment of Animals Prohibited

Sec. 6-10. Cruel Treatment Prohibited

Sec. 6-11. Notice in Case of Injury

Sec. 6-12. Destruction of Animals That Cannot be Seized by Reasonable Means

Sec. 6-13. Setting Humane Animal Traps and Authority to Receive Trapped Animals

Sec. 6-14. Humane Euthanasia of Injured or Diseased Animals

Sec. 6-15. Handling of Stray Animals by the Public

Sec. 6-16. Relation to Hunting Laws

Sec. 6-17. Wild Animals

Sec. 6-18. Protection of birds; town declared bird sanctuary

Sec. 6-19. Killing or injuring bird

Sec. 6-20. Potentially dangerous dog -Designation

Sec. 6-21. Appeals

Sec. 6-22. Domestic fowl and livestock running at large prohibited

Article II. Enforcement and Penalties

Sec. 6-23. Enforcement

Sec. 6-24. Penalties

Sec. 6-25. Article Cumulative

ARTICLE I. IN GENERAL

Sec. 6-1. Definitions

In the construction of this article, the following definitions shall be observed:

Animal: Living creature, domestic or ~~nondomestic~~ non-domestic, but does not include humans and does not include invertebrates.

Animal Control: That department, person, or persons assigned animal control duties by the Town Manager.

Animal control officers: Any animal control officer assigned by the Town Manager.

Animal control supervisor: The officer or employee placed in supervision of animal control.

Animal shelter: An animal shelter operated ~~and~~ and/or maintained by a public or private entity for the purpose of impounding animals for the care, confinement, Quarantine, return to owner, adoption. ~~or humane euthanasia.~~

Cat: A domestic or feral feline of either sex.

Dog: A domestic canine of either sex.

Equine: Horse, mule, donkey, and pony.

Enclosure: Pen, paddock, stall, stable, or pasture with properly hung and marked fence.

Harboring of animal: An animal shall be deemed to be harbored if it is fed or sheltered seven days ~~or more~~, unless the animal is being boarded for a fee.

Hazard: Any object above or below ground, natural or artificial that could cause harm or injury to an animal.

Impounded: Any animal which is received into custody by an animal control officer or person(s) designated by the Town Manager.

Incorporated area: This term shall apply to the area within the corporate limits of the Town.

Large-volume breeders: Any person, corporation, owner, or keeper that sells at retail or wholesale (or barter, trades, gives away or re-homes multiple dogs or cats) for any purpose. The term "large volume breeder" shall not include retail pet stores that obtain all their dogs and cats at wholesale from other sources, or non-profit 501(c)(3) animal rescue organizations, or any person, corporation, owner, or keeper who, during any calendar year:

(1) Sells (at retail or wholesale or barter, trades, gives away or re-homes) not more than 12 dogs or cats (at retail or wholesale) to the public; or

(2) Does not whelp more than three litters of dogs or cats, and sells only dogs or cats bred or raised on the premises of the person, corporation, owner, or keeper directly at retail to persons who purchase such animals for their own use and enjoyment and not for resale.

Neutered male: Any male dog or cat which has been rendered sterile by a surgical procedure.

Owner: Any person, group of persons, firm, partnership, corporation, organization, or association owning, keeping, having charge of, sheltering, feeding, harboring, or boarding any animal for a fee. The owner is responsible for the care, actions and behavior of his animal(s).

Keeper: Any person, acting in the capacity of the owner, or at the owner's request, who is responsible for the care, welfare and maintenance of the animal.

Spayed female: A female dog or cat which has been rendered sterile by a surgical procedure.

Stray Any domestic animal that is not under restraint or is not on the property of its owner and is wandering at large, or is lost or does not have an owner, or does not bear evidence of the identification of any owner.

Tether: Any rope, chain, wire, cord or similar material used to tie an animal to a hard-to-move object.

Vaccination: The administration of rabies vaccine ~~as required by state law.~~ And other vaccines required by state law in order to quarantine or kennel an animal.

Wild animal: Any animal which can normally be found in the wild state, particularly those feral, exotic, dangerous or ~~nondomestic~~ non-domestic animals which generally do not live in or about the habitation of humans, including, but not limited to: deer, lions, monkeys, raccoons, skunks, squirrels, tigers and snakes.

Sec. 6-2. Territorial application

This chapter shall be effective within the incorporated areas of the Town. This chapter also applies to property immediately adjacent to property within the incorporated areas of the Town and owned by the same person(s) or corporation if the property line of the property is continuous and the property owner obtains services from the Town.

Sec. 6-3. Duties of animal control officer

The animal control officer or designee as appointed by the Town Manager shall be responsible for the enforcement of all state and local laws pertaining to the ownership and control of animals and shall cooperate with all other law enforcement officers operating within their jurisdiction in fulfilling this responsibility. ~~The animal control officer may deputize trained individuals when needed during specific situations where their training and expertise is required. Such authorization will be made with a defined termination point as determined by the situation at hand.~~

Sec. 6-4. Licensing

- (a) All dogs must be licensed, with annual licensing fees paid to the Town as determined for the following categories:

- Neutered & microchipped dog
- Neutered, but not microchipped dog

- I Intact, but not microchipped dog
 Intact & microchipped dog

Acceptable proofs of sterilization are veterinary records, veterinary hospital receipts showing payment for spays & neuters and veterinarian-issued spay-neuter certificates. Licenses are non-transferable in all cases.

(b) All dogs shall have digital photographs, detailing front, back, ~~and left & and~~ right side views, together with permanent scars and unique physical traits recorded by or provided to the Town Clerk or designee by the Town Manager. The photographs shall assist ~~Animal Control~~ in identification of stray animals but shall not act as a guarantee that correct identification will be made in the absence of an owner-caretaker.

(c) A small licensing tag, suitable for both cats & dogs, shall be issued to each licensee. Said tag shall be worn at all times, along with current rabies tag.

(d) 501c3 non-profit rescues, owners of actively showing dogs and owners of hunting kennels may purchase discounted permits and licenses at fees determined by the Town:

A rescuers permit shall be made available at an assigned fee per location. Rescuers must show proof of 501c3 eligibility (letter from the IRS or copy of 501c3 application). This permit shall be provided at no charge if 100% of animals are sterilized prior to adoption (~~with a prepaid spay-neuter fee of \$70 or more required in the case of adoptions of dogs less than 5 months of age or cats less than 4 months of age~~). Proof of ~~said~~ sterilization policy shall consist of a copy of the organization's rescuer's adoption contract, ~~records of past adoptions and notation of their spay-neuter policy on the rescuer's website~~.

Show dog licenses shall be made available at an assigned fee. Intact & microchipped dogs qualify for this discounted permit if the owner can demonstrate active participation in AKC, UKC or other state or nationally recognized organization's dog shows, agility trials or field trials. Proof of such participation shall consist of one or more of the following: confirmation of payment, cancelled checks for event registration fees, photocopy of entry catalog with the name of the owner & animal and date of the event, or dated photos of the dog at events.

Hunting dog licenses shall be made available at an assigned fee. Intact & microchipped dogs qualify for this permit when the owner registers all of his/her existing dogs initially and subsequent dogs as he/she obtains them. Dogs that a hunter houses, for any reason, in the Town of Maysville for more than 20 days must be licensed, regardless of the address of owner.

~~—(e)— Police dogs, dogs kept in the Town for less than 20 days and dogs under 5 months of age are exempt from licensing requirements.~~

~~—(f)~~ (e) Those dogs certified by a NC-licensed veterinarian and documentation provided as proof, to be unfit for sterilization due to medical problems are eligible to pay the "neutered" license fee.

~~(g)~~ (f) Owners, handlers and caretakers must show a valid rabies certificate at the time of licensing.

~~(h)~~ (g) Licensure fees shall not be reimbursed upon the death of animal.

~~(i)~~ (h) All licensing fees shall be used toward the ~~Animal Control~~ budget to: (1) implement the licensing program and (2) improve the quality of life for unowned and unclaimed animals, (3) Spay and neuter program for qualified low income families and not the Town's general fund.

~~(j)~~ At its discretion, the Town may allow the purchase of licenses through a duly licensed veterinary hospital, rabies vaccination clinic or via a Town-sponsored website. It may authorize an additional fee to be paid by the animals' owners to participating veterinarians for this service.

~~(k)~~ (i) One, ~~two~~ or three-year licenses may be purchased, and discounts may be offered, at the Town's discretion, for two and three-year licensure, discount not to exceed ~~40%~~ 5% of said license fees.

~~Neutered & microchipped dog: \$3/year~~ \$5/year
~~Neutered, but not microchipped dog: \$6/year~~ \$10/year
~~Intact, but not microchipped dog: \$30/year~~ \$20/year
~~Intact & microchipped dog: \$20/year~~ \$15/year
~~Rescuers permit: \$50 / \$0~~ \$40/year
~~Show dog license: \$15/year/dog~~ \$10/year/dog
~~Hunting dog license: \$15/year/dog~~ \$10/year/dog
~~Lifetime License: \$12~~ 3 year license add 5% to above yearly fees

Revised October 4, 2012; Ordinance Number 2012-08.

Sec. 6-4.1. ~~Fund for injured animals~~ Fund for injured animals; licensing program and low cost spay and neuter program

~~Animal control~~ Designee of the Town Manager and/or Town Council may maintain a fund to aid injured animals without owners, ~~if the Animal Control personnel desire maintain the licensing program and/or maintain funds for a low cost spay and neuter program for low income families within the Town of Maysville.~~ Said funds and any interest on them shall go only ~~to helping said injured animals, not to the rest of the Animal Control budget or to these three (3) programs and not to the General Fund.~~ Any owner or caretaker of an animal reclaiming an animal served with these funds is liable for complete repayment of the funds within thirty days. ~~Animal Control~~ Designee of the Town Manager can impound said animal if 100% of the funds are not repaid within ~~said~~ thirty days of reclaim.

Sec. 6-5. Interference or concealment

(a) *Interference.* It shall be unlawful to interfere with, hinder, molest, resist, or obstruct employees of ~~animal control~~ the Town or its agents or veterinarians in the performance of any

duty authorized by law or ordinance, including removing animals from traps, cages, or other enclosures, except as specifically provided or authorized by ~~animal control~~ the Town Manager's designee.

(b) *Concealment of animals*. It shall be unlawful for any person to conceal, for the purpose of evading the licensing requirement or ~~rabies~~ vaccination requirement of the law or any applicable ordinance, any animal from any employee of ~~animal control~~ the Town Manager or designee.

Sec. 6-6. Duty of owner to control animals

All animals within the town shall remain under the immediate control of their owner or keeper. For the purpose of this section, immediate control by owner or keeper shall be construed to mean:

(1) Restrained upon the property of the owner or keeper of the animal either by being tied, chained, within the confines of a fence or kennel specifically designed to restrain an animal of that species, or an electronically operated fence sufficient to restrain the animal upon the property or in the presence of the owner or keeper.

(2) While being walked or exercised off the premises or property of the owner or keeper, the animal must be restrained by a leash connected to a collar or harness, sufficient to restrain the animal from breaking loose.

~~Cats shall be exempt from this provision.~~

Sec. 6-7. Running at large

(a) Animals shall not be allowed to run at large by their owners or keepers.

(b) For the purpose of this section running at large shall mean any animal, including cats, that roams, runs, or self-hunts off the property of its owner or keeper and that is not under the immediate control of its owner or keeper.

Sec. 6-8. Public nuisance

(a) The actions of an animal constitute a public nuisance when an animal disturbs the rights of, threatens the safety of, or damages a member of the general public, or interferes with the ordinary use and enjoyment of another person's property.

(b) It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner as to constitute a public nuisance. By way of example and not limited to, the following acts or actions by an owner or possessor of an animal are hereby declared to be a public nuisance and are therefore unlawful:

(1) Having an animal that disturbs the rights of, threatens the safety of, or damages a member of the general public, or interferes with ordinary use and enjoyment of another person's property.

(2) Allowing or permitting an animal to damage the property of anyone other than its owner/possessor, including but not limited to: turning over garbage containers, or damaging gardens, flowers, or vegetables, or defecating upon the property of another. Owners shall remove any fecal waste deposited by their animals on public property or the property of others.

(3) Maintaining animals in an unsanitary environment, which results in offensive odors or is dangerous to the animal or the public health, safety or welfare, or a failure to maintain a condition of good order and cleanliness that reduces the probability of transmission of disease.

(4) Allowing or permitting an animal to habitually bark, whine, howl, crow, cackle, or create any other noise that might interfere with the reasonable use and enjoyment of neighboring premises between the hours of 10:00 p.m. and 6:00 a.m.

(5) Maintaining an animal that any veterinarian or ~~animal control officer~~ designee of the Town Manager determines to be diseased and dangerous to the public health.

(6) Maintaining an animal that habitually or repeatedly chases, snaps at or attacks pedestrians, joggers, animals walked on a leash by owners, bicycles, or other vehicles.

(7) Failing to confine a female dog or cat while in heat in a building or secure enclosure in such a manner that she will not be in contact with another dog or cat or attract other animals; provided, this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area.

(8) Upon filing a written statement by a resident for a nuisance described by the complainant, the ~~animal control officer~~ designee of the Town Manager shall endeavor to investigate the complaint within 24 hours. If through investigation these complaints are substantiated, ~~he~~ they shall request that the nuisance be corrected within a 24-hour period of notifying the owner/keeper. The ~~animal control officer~~ designees of the Town Manager will then make a return visit to determine whether the initial cause for complaint has been corrected and may then institute proper legal procedures if the nuisance has not been abated.

(9) Commercial farms are exempt from this section. In addition to any other enforcement remedies available under this chapter, if the ~~animal control officer~~ designee of the Town Manager declares an animal to be a nuisance under this section, then the ~~animal control officer~~ designee has the authority to order the owner to confine the animal in accordance with the ~~animal control officer's~~ designee's instruction. It shall be unlawful for the owner to fail to comply with such an order or with the instructions in the order.

Sec. 6-8.1. Regulation of large-volume breeders

(a) All large-volume breeders shall:

(1) Register the owner's name, business name, business address, business phone number and name and address of registered agent if a corporation, with the ~~Town Animal Control Officer~~ Town's designee and pay an annual fee as may be established by the Town Manager or Board.

(2) Show proof of appropriate license, registration, or notification as directed by the U.S Department of Agriculture and NC Department of Agriculture.

(3) Prepare, retain and make available for inspection and copying a record of:

- a. The name and address of the person from whom each dog or cat was purchased or otherwise acquired if not whelped on premises;
- b. The date each dog or cat was acquired;
- c. The name and description of the mother of each dog or cat whelped on the premises if any dogs or cats were sold from the litter either in wholesale or retail;
- d. The date of each litter if whelped on the premises;
- e. The name and address of the person who purchased each dog or cat; and
- f. The date each dog or cat was acquired or sold.

(b) All large-volume breeders shall be subject to inspection by the ~~Animal Control Officer~~ Town Manager's designee without prior notice between the hours of 9 am and 5 pm to ensure the premises are in compliance with North Carolina Animal Welfare regulations for shelters and breeding facilities, the reasonable facility or operating standards for animal care, as well as all other provisions in this chapter including, without limitation, section 6-9 (Mistreatment of animals prohibited) and section 6-8 (Public nuisance). Large volume breeders shall remain in compliance with all such regulations and standards identified herein.

(c) It shall be unlawful for any large-volume breeder to violate any provisions of subsections 6-8.1(a) or 6-8.1(b). In addition to all other available remedies, animals in the possession, care, or custody of a large volume breeder found to be in violation of this section may be impounded and the large-volume breeder shall be responsible for the subsequent feeding, health care, and boarding expenses of the animals. If sufficient payment to cover reasonable feeding, health care and general boarding expenses of said animals is not deposited with the persons or organization appointed by the Town to care for the animals within 72 weekday hours of impoundment, the animals will be deemed to be forfeited to that organization or persons so appointed, with all rights of ownership and responsibility relinquished. Payments made by the

large-volume breeder in excess of reasonable expenses incurred shall be returned to the breeder upon animal return or forfeiture. Forfeiture of the animals will not automatically relieve the large-volume breeder from penalties under applicable law & ordinance.

Sec. 6-9. Mistreatment of animals prohibited

It shall be unlawful for any person to subject or cause to be subjected any animal to cruel treatment or to deprive or cause to be deprived any animal of adequate food and water, necessary medical attention, proper shelter and space, protection from the weather or humanely clean conditions.

(a) *Adequate food and water.* No person owning or responsible for any animal may fail to supply the animal with sufficient supply of food and water as prescribed in this section.

(1) *Adequate food.* The provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrients for each animal. Such foodstuff shall be served in a receptacle, dish, or container that is physically clean.

(2) *Adequate water.* A constant access to a supply of clean, fresh water provided in a sanitary manner in a clean container.

(b) *Reasonable medical attention.* No person owning or responsible for any animal shall fail to provide the animal with reasonable medical attention when the animal is or has been suffering from illness, injury, disease or excessive parasitism.

(c) *Proper shelter and space, protection from the weather and humanely clean conditions.* No person owning or responsible for any animal shall fail to provide the animal with proper shelter with space appropriate for the animal's species & size, protection from the weather and humanely clean conditions as prescribed in this section.

(1) *Outdoor standards.* Minimum outdoor standards of shelter shall be as follows:

a. When sunlight is likely to cause heat exhaustion of an animal tied or confined outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight.

b. If a dog is tied or confined unattended outdoors for longer than 30 minutes, an artificial shelter with a minimum of four solid sides, with one side having an adequate opening to allow the animal to enter and exit the shelter safely, and firmly attached to a waterproof roof with a floor above ground with sufficient space to allow for normal sitting, standing, turning, stretching and sleeping positions, and appropriate to the local climate conditions for the species concerned, and/or manufactured for the sole purpose of sheltering dogs shall be provided for the health of the animal. Vehicles and vessels may not be used to shelter animals. ~~Barrels,~~ ~~transport~~ Transport cages, airline crates and cages are not acceptable for use as shelter for animals.

(2) *When confinement prohibited.* No animal may be confined in a building, enclosure, car, boat, vehicle, or vessel of any kind when extreme heat or extreme cold will be harmful to its health.

(3) *Space standards.* Minimum space requirements for outdoor enclosures shall include the following:

a. The shelter shall be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.

b. Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement. Minimal lawful space per animal under 25 pounds is 100 square feet. Minimal lawful space per animal 26-50 pounds is 150 square feet. Minimal lawful space per animal over 50 pounds is 200 square feet.

c. No animals shall be tethered for longer than ~~6~~ 10 hours out of 24 hours. No animals shall be tethered with material wider than 1/2" in diameter at any time. No dogs deemed "dangerous" by ~~Animal Control~~ the designee of the Town Manager shall be tethered at any time per Section 6-22 of this ordinance.

(4) *Humanely clean conditions.* Minimum standards of sanitation necessary to provide humanely clean conditions for outdoor enclosures shall include cleaning at least once every 48 ~~24~~ hours to remove 100% of excretions and other waste materials.

(5) *Proper fitted collars required.* An owner or keeper of any animal shall not permit injury to or infliction of pain upon such animal from an improperly fitting or embedded collar, harness, or halter.

Sec. 6-10. Cruel treatment prohibited

(a) *Molestation, torture, etc. prohibited.* It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat or treat, needlessly mutilate or kill, wound, injure, poison, abandon or subject to conditions detrimental to its health or general welfare any animal or to cause or procure such action. The words "torture" and "torment" and the term "cruelly beat or treat" shall be held to include dog or cock fighting as well as every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but such terms shall not be construed to prohibit an ~~animal control officer~~, the Town Manager's designee, his agents or veterinarians from euthanizing dangerous, unwanted, or injured animals in a humane manner.

(b) *Luring, enticing, seizing, molesting or teasing an animal.* It shall be unlawful for any person to entice or lure any animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on the property of its owner or keeper for the purpose of causing harm to the animal; but such actions of luring, enticing and seizing shall not be construed to

prohibit lawful taking of animals under the jurisdiction and regulations of this chapter by duly authorized ~~animal control officers~~ Town Manager's designee.

(c) *Abandonment.* It shall be unlawful for any owner or person responsible for any animal to drop or leave such animal on a street, road, highway, or in a public place or on private property with intent to abandon. No owner of an animal shall abandon such animal except to relinquish an animal to an animal shelter or humane organization with the permission of that shelter or organization. If the ~~animal control division~~ designee of the Town Manager finds that an animal has been abandoned, the animal may be impounded. When it has been suspected the animal has been abandoned in a house or within a fenced area, the ~~animal control division~~ designee of the Town Manager must make a reasonable effort to locate the owner or manager of the property. The property will be posted for 48 hours at which time the animal will be removed from the property. Animals deemed to be in danger or distress may be removed from the premises immediately and ~~put into town appointed foster care or~~ turned over to an animal shelter or 501c3 organization for safekeeping, with all subsequent expenses for care the responsibility of the owner. If the owner contacts the ~~animal control division~~ Town Manager or his designee or animal shelter to reclaim the animal, an explanation for the animal's abandonment must be provided to the satisfaction of the ~~animal control supervisor~~ Town Manager or designee before the animal is reclaimed by the owner and all expenses for the care of the animal must be paid upon receipt. If no owner steps forward to assume financial responsibility and possession of the animal within 72 more hours, ownership of the animal is deemed to be permanently forfeited.

(d) *Performing animal exhibitions.* No person may sponsor, promote, or train a wild or domestic animal to participate in unnatural behavior in which the animal is wrestled, fought, harassed, or displayed in such a way that the animal is abused. This prohibition applies to events and activities taking place in either public or private facilities or property and applies regardless of the purpose of the event or activities and whether or not a fee is charged to spectators.

(e) *Confinement of animals in motor vehicle.* No person may place or confine an animal or allow an animal to be placed or confined in a motor vehicle for such a period of time as to endanger the health or well-being of such animal due to temperature, lack of food, or water, and such other conditions as may reasonably be expected to cause suffering, disability or death.

(1) After making a reasonable effort to find the driver of a vehicle in which an animal is confined, ~~an employee of the animal control section~~ the designee of the Town Manager and at the direction of a law enforcement officer, may use the least intrusive means to break and enter the vehicle, with no liability to the town to remove the animal where reasonable cause exists to believe that the animal is in the vehicle in violation of this subsection.

(2) The ~~animal control officer~~ designee of the Town Manager removing the animal shall then impound the animal and leave in a prominent place on the motor vehicle a written notice of the animal's impoundment a brief description of the animal, and where and when the animal may be reclaimed. The officer may also issue a warning citation for violation of this subsection.

(f) *Intentionally striking animals with motor vehicle.* It shall be unlawful for any person to intentionally strike an animal with an automobile or other vehicle causing injury or death.

(g) *Authority to use force against animals.* Nothing in this section shall prohibit use of force against an animal which is in the act of causing severe injury on a human being or a domestic animal.

Sec. 6-11. Notice in case of injury

It shall be unlawful for any person who causes injury to an animal (including livestock) including, but not limited to running over or hitting a domesticated animal with any vehicle to fail to notify immediately at least one of the following: the owner(s) or keeper(s) of the animal (if known or ascertainable with reasonable efforts made to locate the owner or keeper), ~~an animal control officer~~ the Town Manager's designee, the appropriate police or sheriff's department, or the animal shelter.

Sec. 6-12. Destruction of animals that cannot be seized by reasonable means

Notwithstanding any other provision of this chapter, an animal that cannot be seized by reasonable and normal means, retrieved by ~~an animal control officer~~ by the designee of the Town Manager trapped in a humane, live-capture animal trap, or tranquilized by ~~animal control~~ an authorized designee of the Town Manager or licensed veterinarian may be humanely destroyed in the field upon the authorization of the ~~animal control supervisor~~ Town Manager's designee.

Sec. 6-13. Setting humane animal traps and authority to receive trapped animals

~~Animal control~~ The designee of the Town Manager is authorized to place, upon request, live animal traps on private property to trap and remove stray, at large, unwanted, or nuisance animals, including cats. It is unlawful for any person other than ~~an animal control officer~~ the designee of the Town Manager or law enforcement to remove any animal from the trap, or to damage, destroy, move or tamper with the trap. ~~Animal control is authorized to receive and impound animals that are trapped by other agencies within the Town.~~ Humane traps must not be set in any way as to lure cats off their owner's property onto a neighboring property.

Sec. 6-14. Humane euthanasia of injured or diseased animals

Notwithstanding any other provision of this chapter, any animal impounded which is badly injured/wounded or diseased (not rabies suspect) and has no identification may be euthanized by the shelter in a humane manner. If the animal has identification, the animal shelter shall attempt expeditiously to notify the owner or keeper before euthanizing such an animal, but if the owner cannot be reached readily and the animal is suffering, the ~~animal control supervisor or his designee of the Town Manager or law enforcement~~ may cause the animal to be euthanized at his/her discretion in a humane manner. The animal shelter, veterinarian and animal control section shall have no liability for euthanizing injured/ wounded/diseased animals or animals that have been abandoned or unclaimed in excess of ten days.

Sec. 6-15. Handling of stray animals by the public

It shall be unlawful for any person, without the consent of the owner or keeper, knowingly and intentionally to harbor, keep in possession by confinement or otherwise any animal that does not

belong to him/her. Any person in possession of a stray animal shall contact animal control within 72 hours to arrange for impoundment or provide notification of the stray animal's description and location and it shall be unlawful for any person, other than the owner or keeper of an animal, to remove the collar, license tag or rabies tag from around the neck of the animal.

Sec. 6-16. Relation to hunting laws

Nothing in this chapter is intended to be in conflict with the laws of the State of North Carolina regulating, restricting, authorizing or otherwise affecting dogs while used in hunting, but this exception applies while the dogs are under the control of the owner or keeper, or competent person and are actually lawfully being used for hunting or training in compliance with applicable statutes, regulations, or ordinances. This chapter should be read and enforced consistent with any such law.

Sec. 6-17. Wild animals

No person shall keep or permit to be kept on his premises any dangerous wild animal. This section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.

Sec. 6-18. Protection of birds; town declared bird sanctuary

The territory embraced within the corporate limits of the town is declared to be a bird sanctuary.

Sec. 6-19. Killing or injuring birds

It shall be unlawful for any person to hunt, kill, maim, injure or trap any birds in the town or to destroy, rob or molest the eggs or nests and breeding places of any birds within the town.

Sec. 6-20. Potentially dangerous dog--Designation

The chief of police is designated as the person responsible for determining when a dog is a potentially dangerous dog and shall take all action against the same in accordance with the provisions of G.S. 67-4.1 (c).

Sec. 6-21. Appeals

The town manager and two members of the town board appointed by the mayor are designated as the board responsible for hearing appeals from a decision of the chief of ~~police determining~~ police's determination that a dog is a potentially dangerous dog as provided in G.S. 67-4.1(c).

Sec. 6-22. Domestic fowl and livestock; Restrictions within the Town

- a. It shall be unlawful for the owner or keeper of any livestock to permit such animal to run at large within the town. For the purposes of this section, livestock shall include horses, mules, cows, pigs, hogs, goats, sheep and all other animals that typically are kept primarily for productive or agricultural purposes.

- b. No more than six (6) chickens or tame or domestic fowl shall be permitted within the Town under the following condition:
1. No owner or keeper of any chicken or tame or domestic fowl shall allow such animal to run at large within the Town.
 2. All chickens, or tame or domestic fowl, shall be housed in adequate, sanitary pens or enclosures subject to the requirements outline in this Chapter 6.
 3. All pens and enclosures shall be located within the rear yard of any dwelling or building. No pen or enclosure shall be located in the front or side yard of any dwelling or building.
 4. Roosters are prohibited with the Town.
 5. All owners and keepers of any chicken or tame or domestic fowl shall refrain from creating a public health nuisance under Chapter 14 of this Ordinance, and refrain from violating Section 18-6 (b) (4) as it pertains to noise created by any animal or bird. Any owner and keeper of any chicken or tame or domestic fowl that violates these or any other provisions of the Ordinance shall be subject to the penalty and enforcement provisions of Chapter 14.” *Revised August 7, 2014; Ordinance No. 2014-06.*

ARTICLE II. ENFORCEMENT AND PENALTIES

Sec. 6-23. Enforcement

(a) Enforcement of this article shall rest with the ~~animal control officer~~ Town Manager, Board Members, Town Manager’s designee and law enforcement personnel and those governmental agencies and personnel authorized to exercise police powers by North Carolina statute to include, without limitation, the police department and the Jones County Sheriff’s department, to include the Jones County Sheriff’s Department Animal Crimes Division.

(b) All law enforcement personnel are authorized to investigate suspected violations of this chapter and are empowered to issue citations, warning citations, or letters of warning when any of the provisions of this chapter have been violated. Citations shall be delivered by enforcement officials in person to the alleged violator or delivered by registered mail return receipt requested to the person so charged.

(c) Where enforcement personnel determine that a violation is a first offense for the person charged, a written warning letter or citation may be issued at the discretion of the enforcement officer.

Sec. 6-24. Penalties

Any person violating the provisions of this chapter shall be subject to the following criminal or civil penalties and actions.

(a) *Civil penalty.*

- (1) The town may assess a civil penalty of \$50.00 for a first offense, \$100.00 for a second offense, and \$250.00 for all subsequent offenses, which amount(s) may be recovered by the town in a civil action in the nature of debt. Each day a violation occurs shall be a separate violation. The town may, at its discretion, additionally seek restitution for the actual cost of maintaining, transporting, boarding, or providing veterinarian services for any animal impounded under this chapter.
- (2) ~~Regarding~~ Penalties for non-licensure of animals, proof of neutering done between the date of violation and the date of penalty payment is acceptable ~~for discounted licensing~~, as long as the fine is paid in full, at the Town Hall, within 30 days.

(b) *Injunction and order of abatement.* The provisions of this article may be additionally enforced by injunction and order of abatement.

(c) *Criminal penalties.* Any person who violates the provisions of this chapter (excepting dog fighting and animal cruelty which are both defined by state statute as felonies) shall be guilty of a misdemeanor and shall be subject to a fine of \$50.00 for a first offense, \$100.00 for a second offense, and \$250.00 for all subsequent offenses, or imprisonment of not more than 30 days. Each day a violation occurs shall be a separate offense.

Sec. 6-25. Article cumulative

Procedures set forth in this article shall be in addition to any other remedies that may exist under law or ordinance.

Revised August 1, 2019; Ordinance No. 2019-1

CHAPTER 8 SMOKING IN BUILDINGS OWNED, LEASED OR OCCUPIED BY THE TOWN OF MAYSVILLE

Sec. 8-1. Scope

Sec. 8-2. Definitions

Sec. 8-3. Smoking Prohibited in Municipal Buildings and Vehicles

Sec. 8-4. Applicability

Sec. 8-5. Signage

Sec. 8-6. Public Education and Cessation

Sec. 8-7. Smoking Permitted Outside Buildings

Sec. 8-8. Compliance and Enforcement

Sec. 8-1. Scope

The purpose of this Ordinance is to regulate smoking in public buildings owned or leased by the Town of Maysville.

Sec. 8-2. Definitions

“Buildings” – All structures owned and leased by the Town of Maysville, to include the curtilage of such buildings within twenty-five feet of any public or private entrance.

“Smoker” – A person who is smoking.

“Smoking” – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.

“Town” – Town of Maysville

Sec. 8-3. Smoking Prohibited in Municipal Buildings and Vehicles

Smoking is prohibited in all of the following:

- (a) Buildings that are owned by the Town.
- (b) Buildings that are leased by the Town as lessor.
- (c) Buildings or areas of buildings that are leased by the Town as lessee and occupied by the Town.
- (d) Vehicles owned or leased by the Town.

Sec. 8.4. Applicability

This policy applies to all employees, volunteers, contractors and the public.

Sec. 8.5. Signage

- (a) Persons in charge of buildings as defined herein shall post signs at all entrances and exits stating the Town’s prohibition on smoking. Signs may be posted in other area as well to include, without limitation, bathrooms, garage bays, and similar spaces.
- (b) Persons in charge of vehicles as defined herein shall post signs in the vehicles stating the Town’s prohibition on smoking. The signs must be displayed in areas where passengers will be able to see the signs, but the placement of the sign must not interfere with the safe operation of the vehicle.
- (c) The signs required by subsections (a) and (b) of the Section must use clean and unambiguous language to convey the prohibition. The signs may include language such as “SMOKE FREE BUILDING”, “SMOKING PROHIBITED IN THIS BUILDING”,

SMOKING NOT PERMITTED IN THIS BUILDING, or “SMOKING NOT PERMITTED IN THIS VEHICLE.” If a sign includes the international “No Smoking” symbol (which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it), it must also include written text explaining the prohibition.

- (d) Persons in charge of public buildings and vehicles shall determine whether signs should be posted in languages other than English.
- (e) All publicly available ashtrays shall be removed from any area where smoking is prohibited by this ordinance.

Sec. 8-6. Public Education and Cessation

The Town shall engage in a continuing program to explain and clarify the purposes and requirements of this ordinance to affected citizens, and to guide owners, operators, and managers in compliance and enforcement.

Sec. 8-7. Smoking Permitted Outside Buildings

Smoking is permitted outside buildings as defined herein, provided that the person smoking does not stand within twenty –five (25) feet of the building.

Sec. 8-8. Compliance and Enforcement

- (a) Employees who violate this ordinance may be subject to disciplinary action.
- (b) A person in charge of the building or vehicle identified herein or his or her designee, who observes an individual who is smoking in violation of this policy must ask the person to stop smoking. If, after having been asked to stop smoking, the person continues to smoke, the person in charge of the building or vehicle shall issue a warning and must ask the smoker to leave the building or vehicle. If the person refuses to leave the building or vehicle, or subsequently engages in smoking in violation of the policy after receipt of a warning, that person shall be charged with a misdemeanor punishable by a fine not to exceed \$50.00 for the first offense, and \$100.00 for all subsequent offenses. G.S. 14-4 and 130A-498(c2).

CHAPTER 10 – BUSINESSES AND BUSINESS REGULATIONS

ARTICLE I. SEXUALLY ORIENTED BUSINESSES

Secs. 10-1—10-49. Reserved.

Sec. 10-50. Purpose

For the purpose of promoting the health, safety, morals and general welfare of the citizenry of the Town, this article is adopted by the Board of Commissioners to regulate adult and sexually oriented businesses, as hereby defined. The regulations of this article have been made with reasonable consideration, among other things, as to the character of the Town and its areas and their peculiar suitability for these businesses.

Sec. 10-51. Abrogation

These regulations shall not repeal, impair, abrogate or interfere with any existing easements, covenants, deed restrictions, setback requirements, rules, definitions, or regulations previously adopted pursuant to law in any established zoning district in the Town. However, where these regulations impose greater restrictions, the provisions of these regulations shall govern.

Sec. 10-52. Definitions

For the purpose of this article, the following definitions apply:

Adult arcade means an establishment where, for any form of consideration, one or more motion picture projectors, slide projectors or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas (as defined hereinafter).

Adult bookstore means an establishment that has as a substantial portion (over 25 percent of total retail space) of its stock-in-trade and offers for rent or sale, for any consideration, any one or more of the following: 1) books, magazines, periodicals or other printed matter; or photographs, films, motion pictures, video cassettes, slides or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities.

Adult business means any business activity, club or other establishment which permits its employees, members, patrons or guests on its premises to exhibit any specified anatomical areas before any other person or persons.

Adult motion picture theater means an establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion 25 percent of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater means a theater, concert hall, auditorium or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.

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

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

Sexually oriented business means any business activity, club or other establishment, within which the exhibition, showing, rental or sale of materials distinguished or characterized by an emphasis on material depicting, describing or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Sexually oriented businesses shall include, but are not limited to: adult arcades, adult bookstores, adult motion picture theaters, adult theaters and massage parlors, as defined by this article.

Specified anatomical areas means less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola.

Specified sexual activities means:

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

Total retail space means any space within the structure that is used for the direct sale of merchandise to the public and storage areas for those items.

Sec. 10-53. Scope and provisions of article

(a) *Adult business.*

(1) An adult business shall be defined as any business activity, club or other establishment which permits any employee, member, patron or guest on its premises to exhibit any specified anatomical areas before any other person or persons.

(2) No adult business shall be permitted in any building:

- a. Located within 1,000 feet in any direction from a building used as a dwelling.
- b. Located within 1,000 feet in any direction from a building in which an adult business or a sexually oriented business is located.
- c. Located within 1,000 feet in any direction from a building used as a church, synagogue or other house of worship.

d. Located within 1,000 feet in any direction from a building used as a public school or as a state licensed day care center.

e. Located within 1,000 feet in any direction from any lot or parcel on which a public playground, public swimming pool, or public park is located.

f. Where otherwise prohibited by the Zoning Ordinance of the Town of Maysville.

(b) *Sexually oriented business.*

(1) A sexually oriented business shall be further defined as any business activity, club or other establishment, within which the exhibition, showing, rental or sale of materials distinguished or characterized by an emphasis on material depicting, describing or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Regulated businesses shall include, but are not limited to: adult arcades, adult bookstores, adult motion picture theaters, adult theaters, and massage parlors, as defined herein.

(2) No sexually oriented business shall be permitted in any building:

a. Located within 1,000 feet in any direction from a building used as a dwelling.

b. Located within 1,000 feet in any direction from a building in which an adult business or a sexually oriented business is located.

c. Located within 1,000 feet in any direction from a building used as a church, synagogue or other house of worship.

d. Located within 1,000 feet in any direction from a building used as a public school or as a state licensed day care center.

e. Located within 1,000 feet in any direction from any lot or parcel on which a public playground, public swimming pool or public park is located.

f. Where otherwise prohibited by the Zoning Ordinance of the Town of Maysville.

(c) *Nonconforming adult business and sexually oriented adult business.* Any adult business or sexually oriented business lawfully operating on the date of initial adoption of the ordinance, that is in violation of this article shall be deemed a nonconforming use. Any use which is determined to be nonconforming by application of the provisions of this section shall be permitted to continue for a period not to exceed two years. Such nonconforming uses shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming

use. If a nonconforming use is discontinued for a period of 180 days or more it may not be reestablished. If two or more adult businesses or sexually oriented adult businesses are within 1,000 feet of one another and otherwise in a permissible location, the business which was first established and continually operating at its present location shall be considered the conforming use and the later-established business(es) shall be considered nonconforming. An adult business or sexually oriented adult business lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a dwelling, church, house of worship, day care center, school, playground, public swimming pool or public park within 1,000 feet of the adult business or sexually oriented business.

Sec. 10-54. Interpretation of terms and definitions

- (a) Words used in the present tense include the future tense.
- (b) Words used in the singular number include the plural and words used in the plural number include the singular.
- (c) The word "person" includes an owner, firm, joint venture, association, organization, partnership, corporation, trust and company, as well as an individual.
- (d) The word "owner" when applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by entirety of the whole or part of such building or land.
- (e) The word "lot" includes the words "plot" or "parcel".
- (f) The word "building" includes the word "structure".
- (g) The word "shall" is always mandatory and not merely directory.
- (h) The words "located", "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be located, used or occupied".
- (i) The word "dwelling" shall mean a structure or portion thereof which is used exclusively for human habitation.

Sec. 10-55. Severability

It is hereby declared to be the intention of the board that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this article is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases,

clauses, sentences, paragraphs and sections of this article, since the same would have been enacted by the board of commissioners without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Sec. 10-56. Enforcement

(a) Any person who violates this article shall be guilty of a misdemeanor punishable by Part II, Chapter I of this Code (general penalty).

(b) This article may be enforced against any person who is in violation by an appropriate equitable remedy issuing from a court of competent jurisdiction.

(c) Each day's continuing violation of this article by any person is a separate and distinct offense.

(d) As used herein, "person" shall include:

(1) The agent in charge of the building, premises, structure or facility.

(2) The owner of the building, premises, structure or facility when such owner knew or reasonably should have known the nature of the business located therein.

(3) The owner of the business or the manager of the business.

ARTICLE II. PEDDLING AND SOLICITING

Sec. 10-100. Solicitation prohibited in certain areas

Any person or business located within or from without the town shall be prohibited from soliciting or attempting to solicit any person upon the public streets, sidewalks, thoroughfares, public parks, public areas and public municipal buildings from any type or kind of solicitation whatsoever except solicitations from nonprofit corporations or eleemosynary institutions, which have properly applied for and obtained permits to solicit. All other solicitation and solicitors are prohibited from soliciting in these areas.

Sec. 10-101. Permit required; exception

It shall be unlawful for any person to go upon the public streets of the town to solicit or canvass for orders and sales for goods and merchandise or services of any character, or for the purpose of offering to give or furnish any goods and merchandise or service to any person, or to induce or invite such orders or make such solicitations without having first obtained a permit from the town manager. This section shall not apply to brokers and regularly employed traveling sales persons engaged in soliciting sales and selling to merchants and regularly operating firms and industries.

Sec. 10-102. Application for permit

(a) Any person desiring to secure a permit required by this Article shall first make written application to the town manager on a form provided by the town.

(b) Such application shall state at least the following:

- (1) The name and address of the applicant;
- (2) The name and address of the person by whom such applicant is employed or whom such applicant represents;
- (3) The length of time such applicant has been so employed;
- (4) The place or residence and nature of employment of the applicant during the preceding year;
- (5) The nature and character of the goods, wares, merchandise or services to be offered by the applicant; and
- (6) The personal description of the applicant.

(c) Such application shall be accompanied by credentials and other evidence of good moral character and identification as may be reasonably required by the town manager.

Sec. 10-103. Issuance, expiration, possession and exhibition of permit

(a) If upon investigation reasonably made the town manager ascertains and determines that the applicant for a permit required by this Article is a person of good moral character and proposes to engage in a lawful commercial or professional enterprise, he shall then issue the permit applied for, which shall expire 30 days following such issuance.

(b) Such permit shall be carried at all times by the applicant when soliciting or canvassing in the town and shall be worn to be visible during solicitations.

Sec. 10-104. Reports required of permittee

It shall be mandatory for the soliciting organization to file with the town clerk reports showing what percentage of its total receipts are devoted to the charitable purpose for which it solicited funds.

Sec. 10-105. Revocation of permit

Any permit issued as provided in this Article shall be revoked by the town manager for any violation by the holder of any provision of this article or other ordinance of the town or whenever there is a violation by the holder of any condition, provision or qualification as set forth in the application for such permit.

Sec. 10-106. Permit required for begging

It shall be unlawful for any person to engage in the business of soliciting of alms or begging charity for his benefit or for the benefit of any other person, or as a means of aid or for livelihood, within the town unless such person shall first apply for and obtain a written permit from the town.

Sec. 10-107. Appeal

Any licensee denied/revoked must file a written appeal with the town manager within ten days of the denial/revocation. The town manager will review the application and render a decision to uphold the denial/revocation or re-issue the permit within a reasonable time.

Sec. 10-108. Exemption

Charitable/nonprofit organizations are exempt from the permitting process.

Sec. 10-109. Enforcement

(a) Any person who violates this article shall be guilty of a misdemeanor punishable by Part II, Chapter I of this Code (general penalty).

(b) This article may be enforced against any person who is in violation by civil action including appropriate equitable remedies issuing from a court of competent jurisdiction.

(c) Each day's continuing violation of this article by any person shall be a separate and distinct offense.

Secs. 10-110--10-200. Reserved

CHAPTER 11 PARKS AND RECREATION

Sec. 11-1. Definitions

Sec. 11-2. Scope

Sec. 11-3. Permits

Sec. 11-4. Removing, destroying trees, flowers, etc.

Sec. 11-5. Injuring, defacing buildings, signs, etc.

Sec. 11-6. Dressing and undressing.

Sec. 11-7. Disposal of refuse.

Sec. 11-8. Vehicles prohibited in certain areas

Sec. 11-9. Parking

Sec. 11-10. Obstructing traffic

Sec. 11-11. Speed Limit.

Sec. 11-12. Dogs, other animals

Sec. 11-13. Golf

Sec. 11-14. Firearms

Sec. 11-15. Explosives

Sec. 11-16. Fires, disposal of lighted cigarettes, cigars, etc.

Sec. 11-17. Smoking.

Sec. 11-18. Intoxicating beverages

Sec. 11-19. Picnicking

Sec. 11-20. Commercial activities

Sec. 11-21. Advertising.

Sec. 11-22. Meetings and exhibitions

Sec. 11-23. Aviation

Sec. 11-24. Closing and opening hours

Sec. 11-25. Violations by minors

Sec. 11-26. Admission charges

Sec. 11-27. Camping

Sec. 11-28. Hunting

Sec. 11-29. Enforcement.

Sec. 11-1. Definitions

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

Department means the Town of Maysville or its designee.

Foot path or trail means any path or trail maintained for pedestrians.

Owner means any person owning, leasing, operating or having the exclusive use of a vehicle, animal or any other property under a lease or otherwise.

Park, unless specifically limited, includes all designated parks, parkways, sites and other recreational areas under the jurisdiction of the Town of Maysville.

Parking sites means any land designated by the town as a public parking site.

Permit means any written license issued by the town manager, permitting the performance of a specified act or acts.

Regulation means any regulation duly adopted by the Town of Maysville.

Unnecessary stopping means bringing a vehicle to a complete stop at a point other than in a parking place, or other than in conformity with traffic regulations and other than because of a defect in the vehicle.

Sec. 11-2. Scope

All Town parks regulations shall be effective within and upon all town parks, sites and other public recreational areas in the town and shall regulate the use thereof by all persons.

Sec. 11-3. Permits

A permit to do any act shall authorize the same only insofar as it may be performed in strict accordance with the terms and conditions thereof. Any violation by its holder or his agents or employees of any term of condition thereof shall constitute grounds for its revocation by the town. In case of revocation of any permit, all moneys paid for or on account thereof shall, at the option of the town, be forfeited to and be retained by it; and the holder of such permit, together with the agents and employees who violated such terms and conditions, shall be jointly and severally liable to the town for all damages and loss suffered by it in excess of money so forfeited and retained; but neither such forfeiture and retention by the department of the whole or any part of such moneys nor the recovery or collection thereby of such damages, or both, shall in any manner relieve such person from liability of punishment for any violation of any provision of any Town park regulation.

Sec. 11-4. Removing, destroying trees, flowers, etc.

No person shall remove, destroy, cut down, scar, mutilate, injure, take or gather in any manner any tree, flower, fern, shrub, rock or other plant or mineral in any park.

Sec. 11-5. Injuring, defacing buildings, signs, etc.

No person shall, in any manner, injure, deface, disturb, destroy or disfigure any part of any park, nor any buildings, signs, equipment or other property found therein.

Sec. 11-6. Dressing and undressing

No person shall dress or undress in any place in any park as may be maintained by the town. The undressing and removal from the person of street clothes, other than coats, jackets, sweaters, shoes and stockings is prohibited, except in designated restrooms or changing areas and facilities for such purposes.

Sec. 11-7. Disposal of refuse

No person shall deposit in any part of any park any garbage, sewage, refuse, waste, fruit, vegetables, foodstuffs, boxes, tin cans, paper or other litter, or other waste material or obnoxious material, except in containers designated for such purposes.

Sec. 11-8. Vehicles prohibited in certain areas

No person shall drive a vehicle in any park within or upon a safety zone, walk, or any part of any park not designated or customarily used for such purpose.

Sec. 11-9. Parking

No owner or driver shall cause or permit a vehicle to stand anywhere in any park outside of designated parking spaces, except a reasonable time in a drive to receive or discharge passengers where permitted. No vehicles will be parked on Bynum Street, across from the park at any time.

Sec. 11-10. Obstructing traffic

No person shall cause or permit a vehicle to obstruct traffic by unnecessary stopping.

Sec. 11-11. Speed limit

Rate of speed in excess of five (5) miles per hour in a park is prohibited.

Sec. 11-12. Dogs, other animals

No person shall cause or permit any animal owned by him, in his custody or under his control, except a dog restrained by a leash not exceeding six feet in length or under direct voice control, to enter any park.

Sec. 11-13. Golf

It is prohibited to strike golf balls on any/all portions of park property/boundaries.

Sec. 11-14. Firearms

No person except law enforcement personnel shall carry or possess firearms of any description or air guns or BB guns within any park.

Sec. 11-15. Explosives

No person shall bring into or have in any park an explosive or explosive substance.

Sec. 11-16. Fires, disposal of lighted cigarettes, cigars, etc.

No person shall kindle, build, maintain or use a fire in a park other than in places provided or designated for such purposes. Any fire shall be continuously under the care and direction of a competent person over eighteen (18) years of age from the time it is kindled until it is extinguished. Any lighted match, cigarette, cigar or other burning object must be entirely extinguished before being thrown away or discarded.

Sec. 11-17. Smoking

No person shall smoke in any structure, bathroom, or place in any park where smoking is prohibited.

Sec. 11-18. Intoxicating beverages

No person shall sell or attempt to sell any beer, wine, whiskey or other intoxicating liquor or beverage within the confines of any park without permission of the town board for special events. Possession and/or consumption of beer, wine, whiskey or other intoxicating liquor or beverage or the containers thereof is prohibited except as may be authorized by the town board for special events.

Sec. 11-19. Picnicking

No person shall prepare to or eat in picnic fashion on sites designated as parking sites for cars.

Sec. 11-20. Commercial activities

No person shall, in any park, without a permit issued by the town manager for special events, sell or offer for sale, hire or lease, or let out, any object or merchandise, property, privilege, services or any other thing, or engage in any business or erect any building, booth, tent, stall or any other structure whatsoever. No person to whom property of any park has been entrusted for personal use or special events shall hire, lease, let out or sell the same to any other person.

Sec. 11-21. Advertising

No sign, notice or advertisements of any nature shall be erected or posted at any place within any park without permission from the board, nor shall any musical instrument, radio, talking machine or drum be operated or any noise be made for the purpose of attracting attention to any exhibition of any kind, except with permission from the board.

Sec. 11-22. Meetings and exhibitions

No person shall in any park erect any structure, stand or platform, hold any meetings or exhibition, perform any ceremony, make any speech or address except by permit.

Sec. 11-23. Aviation

No person shall voluntarily bring, land, or cause to descend or alight within or upon any park and airplane, flying machine, balloon, parachute or other apparatus for aviation except under permit. "Voluntarily" as used in this section shall mean anything other than a forced landing.

Sec. 11-24. Closing and opening hours

No person except employees or officers of the town shall be allowed within the park after closing and opening, except under permit. The hours of operation of the park shall be established by the board.

Sec. 11-25. Violations by minors

No parent, guardian or custodian of any minor shall permit or allow him to do any act prohibited by any parks and recreation regulation.

Sec. 11-26. Admission charges

No person shall make, use or gain admittance to, or attempt to use or gain admittance to the facilities in any park for the use of which a charge is made by the town unless he pays the charge or price fixed by the board.

Sec. 11-27. Camping

No camp shall be maintained in any park except under permit, and at such places and for such periods as may be designated.

Sec. 11-28. Hunting

No person within the confines of any park shall hunt, pursue, trap, shoot, injure, kill or molest in any way any bird or animal, nor shall any person have any wild bird or animal in his possession within the park.

Sec. 11-29. Enforcement

(a) All law enforcement officers shall have the duty and responsibility to enforce this article and shall be empowered to issue citations when any provisions of this article have been violated.

(b) Any person who violates this article shall be guilty of a misdemeanor punishable by Part II, Chapter I of this Code (general penalty).

(c) This article may be enforced against any person who is in violation by civil action including an appropriate equitable remedy issuing from a court of competent jurisdiction.

(d) Each day's continuing violation of this article by any person is a separate and distinct offense.

CHAPTER 12 CIVIL EMERGENCIES

Sec. 12-1. State of emergency; restrictions authorized

Sec. 12-2. Proclamation imposing prohibitions and restrictions
Sec. 12-3. Evacuation
Sec. 12-4. Curfew
Sec. 12-5. Restrictions on possession, consumption, transfer of alcoholic beverages
Sec. 12-6. Restrictions on possession, transportation and transfer of dangerous weapons and substances
Sec. 12-7. Restrictions on access to areas
Sec. 12-8. Restrictions on price gouging
Sec. 12-9. Prohibitions, restrictions
Sec. 12-10. Removal of prohibitions and restrictions
Sec. 12-11. Superseding and amendatory proclamations
Sec. 12-12. Termination of proclamation
Sec. 12-13. In case of absence or disability of mayor
Sec. 12-14. Discretionary Delegation of Authorities to Jones County Board of Commissioners
Sec. 12-15. Enforcement

Sec. 12-1. State of emergency; restrictions authorized

(a) A state of emergency shall be deemed to exist whenever during times of public crisis, disaster, rioting, catastrophe or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.

(b) In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the town, or threatening damage to or destruction of property, the mayor is authorized and empowered under G.S. 14-288.12 and G.S. 166A-8 to issue a public proclamation declaring to all persons the existence of such a state of emergency and, in order to more effectively protect the lives and property of people within the town, to place in effect any or all of the restrictions authorized by statute and this chapter.

(c) The mayor is authorized and empowered to limit by the proclamation the application of all or any part of such restrictions to any area specifically designated or described within the town limits and to specific hours of the day or night, and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firefighters and other public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; 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 town.

Sec. 12-2. Proclamation imposing prohibitions and restrictions

(a) The mayor by proclamation may impose the prohibitions and restrictions specified in sections 12-3 through 12-9 in the manner described in those sections. The mayor may impose as many of those specified prohibitions and restrictions as he finds are necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety and property. The mayor shall recite his findings in the proclamation.

(b) The proclamation shall be in writing. The mayor shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the town hall. The

mayor shall send reports of the substance of the proclamation to the mass communications media which serves the affected area. The town clerk shall retain a text of the proclamation.

Sec. 12-3. Evacuation

The mayor may direct and compel the evacuation of all or part of the population of the town; prescribe routes, modes of transportation and destination in connection with evacuation; and to control ingress and egress of a disaster area and the movement of persons within the area. Details of the evacuation may be set forth or amended in a subsequent proclamation which shall be well publicized.

Sec. 12-4. Curfew

(a) The proclamation of emergency may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of anyone who is not a member of an exempted class. The proclamation shall specify the geographical area and the period during each 24-hour day to which the curfew applies. The mayor may exempt from some or all of the curfew restrictions classes of people whose exemption the mayor finds necessary for the preservation of the public health, safety and welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(b) Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the mayor by proclamation removes the curfew.

Sec. 12-5. Restrictions on possession, consumption, transfer of alcoholic beverages

(a) The proclamation of emergency may prohibit the possession or consumption of any alcoholic beverage, including beer, wine and spirituous liquor other than on one's own premises, and may prohibit the transfer, transportation, sale or purchase of any alcoholic beverage within the area of the town described in the proclamation.

(b) If imposed, the restrictions shall apply throughout the jurisdiction of the town or such part of the town as designated in the proclamation.

Sec. 12-6. Restrictions on possession, transportation and transfer of dangerous weapons and substances

(a) The proclamation of emergency may prohibit the transportation or possession off one's own premises, or the sale or purchase of any dangerous weapon or substance. The mayor may exempt from some or all of the restrictions classes of people whose possession, transfer or transportation of certain dangerous weapons or substances is necessary to the preservation of the public's health, safety, or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(b) Dangerous weapon or substance means:

(1) Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device as defined in G.S. 14-288.8(c), or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property.

(2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument or substance will be so used.

(3) Any part or ingredient in any instrument or substance included in subsection (b)(1) or (b)(2) of this section when the circumstances indicate a probability that such a part or ingredient will be so used.

(c) If imposed, the restrictions shall apply throughout the jurisdiction of the town or such part thereof as designated in the proclamation.

Sec. 12-7. Restrictions on access to areas

(a) The proclamation may prohibit obtaining access or attempting to obtain access to any area, designated in the manner described in this section, in violation of any order, clearly posted notice, or barricade indicating that access is denied or restricted.

(b) Areas to which access is denied or restricted shall be designated by the chief of police and his subordinates when directed in the proclamation to do so by the mayor. When acting under this authority, the chief of police and his subordinates may restrict or deny access to any area, street, highway or location within the town if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

Sec. 12-8. Restrictions on price gouging

The proclamation of emergency may impose regulations relating to the sales price of goods and the cost of services to prevent price gouging. The term "price gouging," as it relates to the sales price of goods, means the sale of goods in excess of the manufacturer's suggested retail price or at a price above the pre-emergency level, unless the merchant can document purchase of the goods at an increased cost. The term "price gouging," as it relates to the cost of services, means the providing of such services at a cost greater than that customarily charged for such services in a nonemergency situation unless the contractor can document special circumstances or expenses justifying a higher cost. Any restrictions imposed under this section shall extend for a period of 30 days following the date of the declaration of the state of emergency unless sooner terminated or extended by subsequent proclamation or resolution.

Sec. 12-9. Prohibitions, restrictions

The proclamation of emergency may prohibit or restrict:

- (a) Movements of people in public places;
- (b) The operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate; and
- (c) Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the proclamation.

Sec. 12-10. Removal of prohibitions and restrictions

The mayor shall by proclamation terminate the declaration of emergency or parts thereof as necessary.

Sec. 12-11. Superseding and amendatory proclamations

The mayor in his discretion may invoke the restrictions authorized by this chapter in separate proclamations and may amend any proclamation by means of a superseding proclamation in accordance with the procedures set forth in section 12-2.

Sec. 12-12. Termination of proclamation

Any proclamation issued under this chapter shall expire 30 days after its last imposition unless sooner terminated in writing under the same procedures set forth in section 12-2 for proclamations.

Sec. 12-13. In case of absence or disability of mayor

In case of the absence or disability of the mayor, the mayor pro tempore shall have and exercise all of the powers given the mayor in this chapter. In case of the absence or disability of the mayor pro tempore, such other member of the town board as designated by the board shall have and exercise all of the powers given the mayor in this chapter.

Sec. 12-14. Discretionary Delegation of Authorities of Jones County Board of Commissioners

The powers and authorities of this chapter may be delegated in whole or in part to the Jones County Board of Commissioners by written request of the Town Board of Commissioners. Any such delegation may be rescinded by the board without notice.

Sec. 12-15. Enforcement

(a) All law enforcement officers shall have the duty and responsibility to enforce this article and shall be empowered to issue citations when any provisions of this article have been violated.

(b) Any person who violates this article shall be guilty of a misdemeanor punishable by Part II, Chapter I of this Code (general penalty).

(c) This article may be enforced against any person who is in violation by civil action to include any appropriate equitable remedy issuing from a court of competent jurisdiction.

(d) Each day's continuing violation of this article by any person is a separate and distinct offense.

CHAPTER 14 SOLID WASTE MANAGEMENT AND NUISANCES

ARTICLE II. SOLID WASTE DISPOSAL

Sec. 14-201. Purpose

The purpose of this article is to promote the public safety, health, and welfare of the citizens of the Town of Maysville by the regulation of the storage, collection, and disposal of solid waste in the town.

Sec. 14-202. Regulated Activities

(a) It shall be unlawful for any person to maintain a residence, commercial establishment, or parcel of land where solid waste is permitted to accumulate in any manner that:

- (1) Constitutes a nuisance;
- (2) Causes injury to the health or welfare of residents in the vicinity;
- (3) Detracts from the value of the property or neighboring properties; or
- (4) Violates any provision of this ordinance.

(b) It shall be unlawful for any person to place refuse, garbage, or solid waste generated outside the corporate limits of the town on any property located within the town or in any dumpster or trash receptacle located within the town.

(c) It shall be unlawful for any person to leave or deposit bulky waste in public view without prior coordination with the town for disposal and payment of a bulky waste fee as periodically established by the Board of Commissioners. In no event shall bulky waste be allowed to remain in public view for a period in excess of seven days.

Sec. 14-203. Storage and Placement of Solid Waste

All solid waste shall be stored or placed for collection in accordance with the following provisions.

(a) *Maintenance.* All solid waste shall be placed and maintained in covered refuse receptacles or in authorized collection bags until the solid waste is disposed. Solid waste shall not be placed on the curb or street for pick-up more than one day prior to the date of scheduled collection.

(b) *Construction Sites.* Every person in possession, charge, or control of a construction or demolition project for which a building permit or manufactured home set-up permit is required shall provide an on-site commercially manufactured refuse receptacle, bulk container, covered vehicle, or detachable container for the collection of construction debris and other solid waste that is produced by work performed on the site. All such materials shall be containerized by the end of each day, and the site shall be kept in a clean and litter-free condition. Construction debris and solid waste blown or otherwise deposited in any manner upon any public or private property of a third person as a result of construction or demolition shall be immediately removed and appropriately deposited by the person in possession, charge, or control of the construction or demolition project.

(c) *Public streets and private property.* No person shall place any solid waste in any street, median strip, alley, or other public place of travel, nor upon any public or private property except as stated herein.

(d) *Unauthorized accumulations.* Any accumulation of solid waste on any lot, property, premises, residence, establishment, public street, alley, or other public or private place in violation of any provision of this ordinance is hereby declared to be a public nuisance and is prohibited.

Sec. 14-204. Application of Partial Payments

Any partial payment made by a resident on a joint utility bill shall be applied first to payment of the resident's solid waste collection bill and then to the resident's water and sewer bill.

Sec. 14-205. Unlawful Deposits

It shall be unlawful for any person or responsible person to:

(a) Cause or allow accumulated junk, solid waste, tree or shrubbery trimmings, or yard trash to remain in public view except where such materials and waste are placed on curbs or roads for scheduled collection;

(b) Discard, place, or abandon any solid waste on public property or fail to use receptacles provided for such waste on public property.

(c) Discard, place, or abandon any solid waste on the private property of others.

Sec. 14-206. Littering

It shall be unlawful for any person to engage in littering as defined herein or as provided at G.S. 14-399(a). Fines and penalties for littering shall be as provided by the statute.

Secs. 14-207 – 14-300. Reserved.

ARTICLE III PUBLIC HEALTH NUISANCE ABATEMENT

Sec. 14-301. Purpose

The purpose for this article is to promote the public safety, health, and welfare of the citizens of the Town of Maysville through regulation of public health nuisances.

Sec. 14-302. Regulated Activities

It shall be unlawful for any person to create a public health nuisance on any parcel of land or allow a nuisance to remain on the person's property. Public health nuisances are defined as any action or condition that is dangerous or prejudicial to public health or safety, including, but are not limited to, the following:

(a) Accumulated junk, tires, trash, refuse, or construction debris that creates a breeding ground or nest for mosquitoes, insects, rats, or other pests.

(b) Anything causing offensive odors or health risks to others such as dead animals, stagnant water, decayed vegetables and fruit, or filthy privies and stables.

(c) Uncovered manmade structures or containers with stagnant water that are a breeding ground or nest for mosquitoes, other insects, rats, or other pests.

(d) Any uncovered well; open pit; unsecured vehicle, appliance, building, or mobile home; or other condition or structure that may cause entrapment or injury, or be a breeding ground or nest for mosquitoes, insects, rats, or other pests.

Sec. 14-303. Removal of Nuisance; Notice and Hearing

The removal of nuisances by the town may be exercised by the town at its sole discretion and is in addition to all other remedies or penalties available to enforcement personnel provided in this ordinance. The town may remove nuisances from property within its corporate limits and cause the cost of such removal to be a lien upon property and collected as unpaid taxes as provided herein.

If, following notice by hand delivery, services of process, or certified mail, the owner of real property upon which a nuisance exists fails to remove, abate, or remedy the nuisance within the time limitations period identified in the notice or following appeal, the town may enter the property and remove, abate, or remedy the nuisance as provided herein.

The notice to the owner shall (1) identify the property and describe the nuisance located thereon to be removed, abated or remedied; (2) direct the owner to remove, abate, or remedy the identified nuisance; (3) provide the owner a reasonable time limitations period in which to comply but in no event more than ninety days; (4) inform the owner that the town shall enter the property to remove, abate, or remedy the nuisance if the owner fails to take appropriate action during the time period provided; (5) inform the owner that the costs incurred by the town to remove, abate, or remedy the nuisance, if not paid by the owner, shall be a lien upon the land or property and shall be collectable as unpaid taxes; and (6) notify the owner of its right to appeal the basis of the notice to the town manager for a decision within fifteen calendar days of receipt of the notice.

If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall, in addition to the above, include the date, time, and location for a hearing before the town manager on the matter. The notice shall be considered properly and adequately served if a copy thereof is conspicuously posted on the property in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the county at least once not later than one week prior to the hearing. If the owner does not appear at the hearing after notice is provided herein, the town manager shall consider the evidence and circumstances of the case and shall issue a decision either canceling the notice or directing the owner to remove, abate, or remedy the identified nuisance.

Owners may appeal a notice to the town manager for decision. The owner may either rely on written materials or appear before the town manager for a hearing at which he or she shall be heard in person or by counsel and may present arguments and evidence pertaining to the matter. The only issues for appeal are (1) whether the person is the actual owner of the real property, or (2) whether the action or condition that serves as the basis of the notice is dangerous or prejudicial to public health or safety. The fact the owner did not bring the nuisance to the property or does not have a possessory interest in the condition creating the nuisance is not a defense.

The town manager shall within fifteen days of the date of the hearing or the date of the written appeal if a hearing is not requested, issue an order either canceling the notice or directing the owner to remove, abate, or remedy the identified nuisance. Owners may appeal decisions of the town manager to the Board of Commissioners within thirty days of the date of the town manager's decision. Decisions of the Board of Commissioners may be appealed to Superior Court within thirty days of the decision of the Board of Commissioners.

If the owner fails to remove, abate, or remedy a nuisance during the time period provided by the initial notice, or within thirty days of a decision of the town manager or board or judicial court from which an appeal has not been taken, the town may, subject to the provisions of Article 8, Chapter 160A of the

General Statutes, enter the property and remove, abate, or remedy everything that is dangerous or prejudicial to the public health or safety. The expense of such action shall be paid by the person in default, and shall, if not paid, be a lien upon the land or premises where the nuisance occurred, and shall be collected as unpaid taxes in accordance with G.S. 160A-193. The expense of the action is also a lien on any real property owned by a person in default within the city limits.

Secs. 14-304 – 14-400. Reserved.

ARTICLE IV. ENFORCEMENT

Sec. 14-401. Authorized Enforcement

Enforcement of this article shall rest with the town manager and those governmental agencies and personnel authorized to exercise police powers under G.S. 14-399 and shall include, without limitation, enforcement officers designated by the town manager, the police department of the Town of Maysville and the Jones County Sheriff's Department.

Sec. 14-402. Inspections and Citations

The provisions of this article shall be enforced by the inspection of property and by the observation of persons who are suspected of violating any the provisions contained herein. Enforcement personnel are empowered to issue citations, warning citations, or letters of warning when any of the provisions of this article have been violated. Criminal citations shall be delivered by enforcement officials in person to the alleged violator or delivered by registered mail return receipt requested to the person so charged. Any citation so delivered or mailed shall direct the alleged violator to appear in district court on or before a specific day or hour named in the citation. The period so specified shall not be less than seventy-two (72) hours after its delivery to the violator.

Sec. 14-403. Warning Citations

Where enforcement personnel determine that a violation is a first offense for the person charged, a written letter or warning citation may be issued. Such letter or warning citation shall state therein the nature of the violation, the corrective measures to be taken, and the time and date when corrections are to be completed. Failure to comply with the corrective measures stated in such warning notices shall be just cause for enforcement personnel to issue a subsequent citation for violation of this article.

Sec. 14-404. Remedial Penalties in Lieu of Civil and Criminal Enforcement

Persons found to be in violation of the provision of this article may be allowed at the discretion of the town manager to perform remedial cleanup work in lieu of prosecution, injunctive action, or civil penalties.

Secs. 14-405 – 14-500. Reserved.

ARTICLE V. PENALTIES

Sec. 14-501. Penalties

(a) Civil penalty: The town may assess a civil penalty of \$100.00 per ton or portion thereof with a maximum penalty of \$500.00 for the unlawful disposal, accumulation, or storage of solid waste by

any person in violation of this article, which amount may be recovered by the town in a civil action in the nature of debt. The town may assess a civil penalty of \$100.00 for first offense violations of all other provisions of this article, \$200.00 for the second offense, and \$500.00 for each subsequent offense, which amount may be recovered by the town in a civil action in the nature of a debt. Each day in which the violation occurs or continues shall constitute a separate offense. No civil penalty shall be assessed prior to receipt of notice of violation by citation or letter. The town may, at its discretion, additionally seek restitution for the actual cost of cleanup incurred by the town or its agents resulting from any violation of this article.

(b) Injunction and order of abatement: The provisions of this article may be enforced by injunction and order of abatement.

(c) Criminal penalties: Except as provided herein for offenses related to littering, any person who violates any provision of this article shall be guilty of a misdemeanor and shall be subject to a fine of not more than one hundred dollars (\$100.00) for a first offense, two hundred and fifty dollars (\$250.00) for a second offense, and five hundred (\$500.00) or imprisonment of not more than thirty (30) days for a third offense. Each day a violation occurs shall be a separate violation. Any person who engages in littering shall be subject to a fine of not more than \$50.00, imprisonment of not more than thirty (30) days, or both, for each offense.

Secs. 14-502 – 14-599. Reserved.

ARTICLE VI. JUNKED AND ABANDONED VEHICLES

Sec. 14-601. Definitions

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

Abandoned vehicle, as authorized and defined in G.S. 160A-303, means one that is left on:

- (1) A public street or highway in violation of a law or ordinance prohibiting parking;
- (2) A public street or highway for longer than seven days;
- (3) Property owned or operated by the town for longer than 24 hours; or
- (4) Private property without the consent of the owner, occupant or lessee for longer than two hours.

Authorizing official means the town manager or his designee who is authorized to remove vehicles under the provisions of this article.

Junked motor vehicle, as authorized and defined in G.S. 160A-303.2, means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

- (3) Is more than five years old and appears to be worth less than \$100.00.

Motor vehicle, vehicle and *manufactured home* mean machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

Nuisance vehicle means a vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
- (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.;
- (6) So situated or located that there is a danger of it falling or turning over;
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
- (8) One which has sharp parts which are jagged or contain sharp edges of metal or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the town board.

Sec. 14-602. Abandoned vehicle unlawful; removal authorized

- (a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned.
- (b) Upon investigation, the town manager or his designee may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

Sec. 14-603. Nuisance vehicle unlawful; removal authorized

- (a) It shall be unlawful for the registered owner or person entitled to possession 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 a nuisance vehicle.
- (b) Upon investigation, the town manager or his designee may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle and order the vehicle removed.

Sec. 14-604. Junked motor vehicle regulated; removal authorized

(a) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle or for the owner, lessee or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(b) It shall be unlawful to have more than one junked motor vehicle on the premises of private property. A single, permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section.

(c) It shall be unlawful for any owner, person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to fail to comply with the locational requirements or the concealment requirements of this section.

(d) Subject to the provisions of subsection (e) of this section, upon investigation, the town manager or his designee may order the removal of a junked motor vehicle after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant factors may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community; and
- (5) Promotion of the comfort, happiness and emotional stability of area residents.

(e) Permitted concealment or enclosure of a junked motor vehicle is as follows:

- (1) a. One junked motor vehicle, in its entirety, can be located in the rear yard if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering.

b. The town manager or his designee has the authority to determine whether any junked motor vehicle is adequately concealed as required by this section. The covering must remain in good repair and must not be allowed to deteriorate. The covering or enclosure must be compatible with the objectives of this article.
- (2) If there is more than one junked motor vehicle on a parcel of private property, all other junked motor vehicles must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicles cannot be seen from a public street or abutting property.

Sec. 14-605. Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirements

(a) Except as set forth in section 14-606, an abandoned, nuisance or junked motor vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing

addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee or occupant of the real property upon which the vehicle is located on is ascertained in the exercise of reasonable diligence, the notice shall be given by telephone, if feasible. Whether or not the owner is reached by telephone, notice shall be mailed to his/her last known address unless he/she or his/her agent waives this notice in writing. The notice shall include the following:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the vehicle; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

(b) The person who mails the notice shall retain a written record to show the name and address to which mailed, and the date mailed. If such name and address cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the town on a specified date. The notice shall state that the vehicle will be removed by the town 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.

(c) Whenever an abandoned, nuisance or junked motor vehicle is removed and such vehicle has no valid registration or registration plates, the authorizing city official 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 set forth in subsection (a)(1)–(5) of this section.

Sec. 14-606. Exceptions to prior notice requirement

The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include the following:

(a) *Vehicles abandoned on the streets.* For vehicles left on the public streets and highways, the police department determines that immediate removal of such vehicles may be warranted when they are:

1. Obstructing traffic;
2. Parked in violation of an ordinance prohibiting or restricting parking;
3. Parked in a no stopping or standing zone;
4. Parked in loading zones;
5. Parked in bus zones; or

6. Parked in violation of temporary parking restrictions imposed under this Code.

(b) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on city-owned property other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

Sec. 14-607. Right to probable cause hearing before sale or final disposition of vehicle

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the chief district court judge to receive such hearing requests. The magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. 20-219.11.

Sec. 14-608. Redemption of vehicle during proceedings

At any stage in proceedings under this article, 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 allow or engage in further violations of this article.

Sec. 14-609. Sale and disposition of unclaimed vehicle

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the Town and in accordance with G.S. 44A-1 et seq.

Sec. 14-610. Conditions on removal of vehicles from private property

As a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the town from private property without a written request of the property owner, occupant or lessee except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the town manager or his designee. The town may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage or sale of the vehicle.

Sec. 14-611. Protection against criminal or civil liability

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle for disposing of such vehicle as provided in this article.

Sec. 14-612. Exceptions

Nothing in this article shall apply to any vehicle which is:

(a) Located in a bona fide automobile graveyard or junkyard as defined in G.S. 136-143, in accordance with the Junkyard Control Act, G.S. 136-141 et seq.;

(b) In an enclosed building;

(c) On the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or

(d) In an appropriate storage place or depository maintained in a lawful place and manner by the town.

Sec. 14-613. Unlawful removal of impounded vehicle

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provisions of this article unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

Sec. 14-614. Exception for regular business or personal use

No motor vehicle that is used on a regular basis for business or personal use shall be removed or disposed of pursuant to this article.

Sec. 14-615. Enforcement

(a) All law enforcement officers shall have the duty and responsibility to enforce this article and shall be empowered to issue citations when any provisions of this article have been violated.

(b) Any person who violates this article shall be guilty of a misdemeanor punishable by Part II, Chapter I of this Code (general penalty).

(c) This article may be enforced against any person who is in violation by an appropriate equitable remedy issuing from a court of competent jurisdiction.

(d) Each day's continuing violation of this article by any person is a separate and distinct offense.

ARTICLE VII. UNCONTROLLED GROWTH OF VEGETATION

Sec. 14-701. Conditions Constituting Uncontrolled Growth; Definitions

The existence of any of the following conditions on any vacant or improved lot, parcel or tract or real property within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

1. The uncontrolled growth of noxious weeds or grass to a height in excess of eight (8) inches causing or threatening to cause a hazard detrimental to the public health or safety;
2. Any accumulation of rubbish, trash, refuse, junk and other materials, metals, lumber or other things causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health;
3. Any accumulation of animal or vegetable matter that is offensive by virtue of odors to vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health;
4. Any accumulation of overgrowth of weeds, vines, kudzu, fallen trees or other poisonous plants that may be dangerous or prejudicial to the public health;
5. The growth of noxious weeds or grass in violation of this Article.

Sec. 14-702. Weeds, Noxious Growth; General Restrictions

It shall be unlawful for any owner, lessee or occupant of any agent, servant, representative or employee of any such owner, lessee or occupant having control of any lot or land or any part thereof in the town, to permit or maintain on any such lot or land any growth of weeds, grass or other similar vegetation to a height greater than eight (8) inches. It shall also be unlawful for any person to cause, suffer or allow poison ivy, ragweed, or other poisonous plants, or plants detrimental to health, to grow on any such lot or land in such manner that the plants, seeds, pollen or poisonous particles or emanations therefrom can come in contact with persons in any public place or onto adjoining lots.

Sec. 14-703. Duty to Cut

It shall be the duty of any owner, lessee or occupant of any lot or land to cut and remove, or cause to be cut and removed, all weeds, grass or poisonous or harmful vegetation as often as may be necessary to comply with the provisions of this Article.

Sec. 14-704. Determination of Nuisance

The Town Manager and the Building Inspector of Jones County shall each have the concurrent authority to determine whether such conditions exist as to constitute a public nuisance as declared in Section 14-701.

Sec. 14-705. Notice to Abate Nuisance

Upon a determination that the conditions constituting a public nuisance exist, the Town Manager shall notify in writing the owner of the land, and may also serve such notice on the occupant or person in possession of the premises in question, of the conditions constituting the public nuisance and shall order the prompt abatement thereof within fifteen (15) days from the receipt of the written notice. Such notice shall be served personally, or may be mailed, certified mail, return receipt requested and, if served by mail, the date of mailing shall be the date of serving the notice. If the notice cannot be served by either

personal delivery or by certified mail, service of the notice may be made by posting such notice on the premises, or by publication of the notice once in a newspaper in general circulation in Jones County. If service is by posting or publication, the date of posting or the date of publication shall be deemed the date notice is served.

Sec. 14-706. Hearing

Within seven (7) days from receipt of the notice provided for in Section 14-705, the owner, occupant, or person in possession of the premises may request a hearing before the Town Manager, Building Inspector of Jones County, or any other town official whose investigation and findings resulted in the initial abatement order. The Town Manager shall fix a time for the hearing, and the initial abatement order shall be temporarily suspended pending the hearing. At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order. Upon completion of the hearing, the Town Manager shall consider the evidence before him and shall either revoke the initial order, issue a final order which differs from the initial order or reinstate the initial order as a final abatement order.

Sec. 14-707. Removal by Town

- (a) If any person, having been ordered by a town official or by the Town Manager following a hearing under Section 14-706, fails, neglects or refuses to abate or remove the condition constituting the nuisance within fifteen (15) days from the service of the order, the Town Manager shall cause the condition to be removed or otherwise remedied by having employees or permittees of the Town to go upon the premises and remove or otherwise abate such nuisance.
- (b) If no hearing is requested or held, and the person having been ordered to abate the public nuisance fails, neglects or refuses to abate or remove the condition constituting the nuisance within fifteen (15) days from receipt of the order, the Town Manager shall cause the condition to be removed or otherwise remedied by having employees or permittees of the Town to go upon the premises and remove or otherwise abate such nuisance.
- (c) Any person who has been finally ordered to abate a public nuisance may within the time allowed by this Article request the Town in writing to remove the condition, the cost of which shall be paid by the person making the request.

Sec. 14-708. Cost Incurred By Owner

The actual cost incurred by the Town in removing or otherwise remedying a public nuisance shall be charged to the owner of the lot or parcel of land.

Sec. 14-709. Administrative Fees

Any owner of a lot or parcel of land notified pursuant to Section 14-605 that the property is a public nuisance as provided in Section 14-601 of this Article shall, upon the issuance of a second nuisance notice of violation within twelve (12) months of the first nuisance notice of violation, be subject to an administrative fee of seventy five dollars (\$75.00) in addition to any other charge, including, but not

limited to, reimbursement to the Town for additional contractors to remedy the nuisance. For each additional nuisance notice of violation occurring prior to the expiration of a twelve (12) month period following issuance of the first nuisance notice of violation, the owner shall be subject to an additional administrative fee in the amount of one hundred and fifty dollars (\$150.00) in addition to any other charge, including, but not limited to, reimbursement to the Town for additional contractors to remedy the nuisance.

Sec. 14-710. Recovery of Costs

If charges for the removal or abatement of the public nuisance are not paid within two (2) weeks after a statement of such costs is mailed to the owner of the lot or parcel of land where the nuisance occurred, the charges shall become a lien upon the land or premises in question and shall be collected as unpaid taxes, as provided in N.C.G.S. §160A-193.

Sec. 14-711. Procedure in Alternative to Other Authorized Procedures

The procedure set forth in this Article shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and this chapter shall not prevent the Town from proceeding in a criminal action against any person violating the provisions of this Article as provided in Section 1-14 herein of this Code.

Revised January 3, 2013; Ordinance Number 2013-01.

CHAPTER 18 – OFFENSES AND MISCELLANEOUS PROVISIONS

Sec. 18-5. Curfew

Sec. 18.5.1. Definitions

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

a. “*Curfew Hours*” The time between the following hours:

<u>Day</u>	<u>Begin Curfew Hour</u>	<u>End Curfew Hour</u>
Monday	10:00 p.m.	6:00 a.m. Tuesday morning
Tuesday	10:00 p.m.	6:00 a.m. Wednesday morning
Wednesday	10:00 p.m.	6:00 a.m. Thursday morning
Thursday	10:00 p.m.	6:00 a.m. Friday morning
Friday	11:00 p.m.	6:00 a.m. Saturday morning

Saturday	11:00 p.m.	6:00 a.m. Sunday morning
Sunday	10:00 p.m.	6:00 a.m. Monday morning

b. “*Custodian*” A parent, guardian, step-parent, foster parent, house parent, or other person legally responsible for the care and custody of a minor as defined by this ordinance.

c. “*Minor*” Any person who has not reached eighteen years of age and who is not married or emancipated under the law of the State of North Carolina.

d. “*Public Place*” Any place which is generally open to and used by the public, whether it be publicly or privately owned, including but not limited to sidewalks, streets, alleys, highways, public vehicular areas, parks, stores, shops, restaurants, any other place of business, parking lots, and other common areas open to the public.

e. “*Town*” The Town of Maysville, North Carolina.

Sec. 18-5.2 Unlawful Activities

Except as provided in Section 18-5.3, it shall be unlawful:

- (a) For any minor to be or remain upon any public place within the town during curfew hours.
- (b) For any custodian to allow or permit any minor to be in or upon, or remain in or upon a public place within the town during curfew hours.
- (c) For any owner or manager of a firm or corporation operating a place of business or amusement (“business”) to allow or permit any minor to be in or upon, or to remain in or upon the premises of such place of business or amusement within the town during curfew hours.

Sec. 18-5.3 Exceptions

The restrictions provided by Section 18-5.2 shall not apply to any minor who is:

- (a) Accompanied by his/her custodian as defined in Section 18-5.1;
- (b) Accompanied by a responsible person over the age of 18 years of age who has the written permission of the minor’s custodian to have the minor under his/her supervision;
- (c) Traveling by a direct route to or from the minor’s employment, religious activity, or attendance at a function sponsored by the town or school;
- (d) Temporarily within the town or on town property while engaged in interstate travel;
- (e) Attending or traveling by a direct route to or from an activity involving the exercise of first amendment rights of free speech, freedom of assembly or free exercise of religion and who has given the police department or town manager written notice of his/her intention to attend such activity and location thereof; or
- (f) Attempting to obtain assistance in a medical emergency.

Sec. 18-5.4. Enforcement

(a) When a police officer believes a person appearing to be a minor is in violation of this ordinance, the police officer shall ask the person to:

- (i) identify him/herself;
- (ii) present evidence of his/her age; and
- (iii) if a minor, to establish whether his/her presence in the public place during curfew hours is excepted as provided in Section 18-5.3. Unless the person can establish either that he/she is not a minor, or that his/her presence in a public place during curfew hours is excepted as provided in Section 18-5.3, the police officer shall take the minor into custody and deliver the minor to his/her custodian. If the police officer is unable to reach the custodian of the minor, the police officer shall contact the Jones County Department of Social Services and shall release the minor to such agency.

(b) First Offense. A written warning shall be given to the custodian and, if applicable, the business owner and/or manager and an information report will be taken by the officer. The report shall include the name of the business owner and/or manager (if applicable), the name of the minor and the custodian, and the time, date, and location of the offense. This report shall be maintained by the police department.

(c) Second Offense. \$50.00 fine issued to the business owner/manager (if applicable) and custodian.

(d) Third Offense. \$100.00 fine issued to the business owner/manager (if applicable) and custodian.

(e) Subsequent Offenses. Any business owner, business manager, custodian, and minor found to be in violation of the curfew ordinance for a fourth or subsequent offense shall be guilty of a misdemeanor punishable by imprisonment for up to thirty (30) days in jail and a fine of \$500.00.

Sec. 18-6. Noise

(a) Subject to the provisions of this section, the creation of any unreasonably loud and disturbing noise in the Town is prohibited. Noise of such character, intensity and duration as to be detrimental to the health, safety or welfare of any individual is prohibited.

(b) The following acts, among others, are declared to be loud and disturbing noises in violation of this section, but each enumeration shall not be deemed to be exclusive.

1. The use of any loud, boisterous or raucous language or shouting so as to annoy or disturb the quiet, comfort or repose of any person in the vicinity.
2. The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, 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 such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unreasonable period of time.

3. The playing of any radio, phonograph or any musical instrument in such manner or with such volume, as to annoy or disturb the quiet, comfort or repose of any person in any dwelling, hotel, other type of residence, or in an area defined as a “public vehicular area” in G.S. 20-4.01(32).
4. The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity.
5. The use of any automobile, motorcycle or other vehicle so out of repair, or in such manner as to create loud grating, grinding, rattling or other noises.

(a) Any person violating any provision of this section shall be guilty of a misdemeanor punishable by Part II, Chapter 1 of this Code (general penalty).

CHAPTER 25 STREETS, PUBLIC RIGHTS OF WAY, AND SIDEWALKS

Article I. In General

Sec. 25-1. Purpose and Findings

Sec. 25-2 – 25-10. Reserved

Article II. Administration

Sec. 25-11. Administration of rights-of-way

Sec. 25-12. Right-of-way encroachment agreement

Sec. 25-13 – 25-19. Reserved

Article III. Public Rights-of-Way; Obstructions

Sec. 25-20. Obstructions generally; merchandise on sidewalks; building material

Sec. 25-21. Lights at obstructions

Sec. 25-22. Basketball goals restricted

Sec. 25-23. Maintenance of poles

Sec. 25-24. Planting trees

Sec. 25-25. Cutting or trimming of trees

Sec. 25-26. Removing dirt from streets

Sec. 25-27. Maintenance of grass between sidewalk and street

Sec. 25-28. Permitting water to flow in street

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Article IV. Sidewalks

Sec. 25-36. Specifications for construction of sidewalks

Sec. 25-37. Permitting water to flow on sidewalk

Sec. 25-38. Merchants soliciting in front of their places of business.

Sec. 25-39. Auctions prohibited on streets, sidewalks and public property

Sec. 25-40 – Sec. 25-60. Reserved

ARTICLE I. - IN GENERAL

Sec. 25-1. - Purpose and Findings

- (a) The Town finds that there is an increased use of the public rights-of-way and increased costs to the taxpayers of the Town and that these costs are likely to continue into the foreseeable future.
- (b) The Town finds that excavation and occupancy of the public rights-of-way causes direct and indirect costs to be borne by the Town and its taxpayers, including, but not limited to:
 - (1) Administrative costs associated with public right-of-way projects, such as registration, permitting, inspection and supervision, supplies and materials.
 - (2) Repair costs to the roadway associated with the actual excavation into the public right-of-way.
 - (3) Degradation costs defined as depreciation caused to the roadway in terms of decreased useful life, due to excavations into the public rights-of-way.
- (c) The Town's authority to enact this ordinance is pursuant, but not limited, to N.C.G.S. §160A-296.
- (e) The purpose of this Section is to provide the Town with a legal framework within which to regulate and manage the public rights-of-way, and to provide for the health, safety and welfare of the residents of the Town as they use the rights-of-way of the Town, as well as to ensure the structural integrity of the public rights-of-way. The taxpayers of the Town bear the financial burden for the upkeep of the rights-of-way. A primary cause for the early and excessive deterioration of its rights-of-way is the frequent excavations by persons who locate facilities and driveways therein.
- (f) Under this chapter, all persons who excavate, obstruct and/or occupy the public rights-of-way will reimburse the Town's administrative, ongoing management and degradation costs as set forth in this chapter. Right-of-way users will bear a fair share of the financial responsibility for the integrity of the public rights-of-way.

Sec. 25-2 – 25-10. Reserved

ARTICLE II. – ADMINISTRATION

Sec. 25-11. - Administration of rights-of-way

The Town is responsible for the administration of rights-of-way and permits and ordinances related thereto.

Sec. 25-12. - Right-of-way encroachment agreement

Right-of-way users shall execute a right-of-way encroachment agreement with the Town for use of right-of-way facilities. The right-of-way encroachment agreement applies to utilities that use

or occupy the right-of-way to furnish telecommunication service, or, places, maintains or uses wires, mains, pipes, or any other facilities in the right-of-way. Fees are charged to recover the costs incurred by the Town in ongoing management of the right-of-way. Ongoing management costs include, but are not limited to, inventory maintenance, facility tracking, GIS, tree trimming, grass mowing, right-of-way maintenance, location marking and general inquiries related to public right-of-way users.

Sec. 25-13 – 25-19. Reserved

ARTICLE III. – PUBLIC RIGHTS-OF-WAY; OBSTRUCTIONS

Sec. 25-20. - Obstructions generally; merchandise on sidewalks; building material

No brick, stone, wood or other obstruction shall be suffered to lie in the streets and no person shall place in any street or alley, or upon any sidewalk, any boxes, casks, crates, barrels or other obstructions, or goods of any kind. Building material, earth and other obstructions of like character may, by permission of the Town Manager in writing, be allowed, under such restrictions as he may impose.

Sec. 25-21. - Lights at obstructions

It shall be unlawful to allow building material or other obstructions of any kind whatsoever to remain at night on any of the streets or sidewalks of the Town without having such obstruction protected by lights.

Sec. 25-22. - Basketball goals restricted

It shall be unlawful for anyone to erect a basketball goal, either permanent or portable, adjacent to or on a street right-of-way, or in any other manner, that would enable or require anyone using the basketball goal to go upon the public street right-of way.

Sec. 25-23. - Maintenance of poles

All telegraph and telephone companies who have, or may hereafter have, poles erected on the streets or sidewalks of the Town shall erect and maintain such poles in a perpendicular manner, and in a straight line with one another, and shall use such means as may be necessary to hold such poles perpendicular and in a straight line with one another. Any company that shall fail or refuse to make such poles perpendicular and in straight line, five days after being notified so to do, shall be guilty of a misdemeanor. Whenever any such poles shall break, crack or in any manner upset or damage sidewalk paving, street paving or curbing, the owner of such poles shall, at his own expense, repair such curbing or paving within five days after notice to do so.

Sec. 25-24. - Planting trees

There shall be no planting of trees within the street right-of-way without written permission of the Town Manager as well as in accordance with Chapter 16 of the Town's Codified Ordinance.

Sec. 25-25. - Cutting or trimming of trees

It shall be unlawful to cut, trim, prune or injure any tree located in any street or public place, without first obtaining written permission from the Town Manager which permission shall, in all cases, require such work to be done under the supervision and to the satisfaction of the Town Manager as well as in accordance with Chapter 16 and Chapter 16, Section 16 of the Town's Codified Ordinance.

Sec. 25-26. - Removing dirt from streets

It shall be unlawful for any person to remove any sand, dirt, loam, sod, clay, gravel or other material from any streets, alleys, or sidewalks; provided, that this shall not apply to lot owners who are repairing or constructing sidewalks under the specifications prescribed by the Town, nor to persons planting trees along the edge of sidewalks in accordance with Chapter 16 of the Town's Codified Ordinance.

Sec. 25-27. - Maintenance grass between sidewalk and street

It shall be the duty of every person owning or occupying property abutting upon any street that contains a sidewalk in the right-of-way to maintain, trim, and care for the grass between the sidewalk and the street.

Sec. 25-28. - Permitting water to flow in street

No person shall obstruct the free flow of water in any street.

Sec. 25-29. - Private Driveways and maintenance of right-of-way

It shall be the duty of every person owning or occupying property abutting upon any street to maintain their own private driveway that accesses their property, to include the entire private driveway from the edge of the Town street or alley way to the property line. Persons who cause or create holes, ruts, depressions, hazards, craters, or other destruction of the Town right-of-way alongside the private driveway by the continuous use or overuse of their private driveway shall be responsible for the re-grading, repair, and maintenance of such hole or depression. The Town is neither liable nor responsible for repairing, re-grading or maintaining any area within the Town right-of-way that has been damaged by a property owner or occupant due to excessive entry onto private property.

Sec. 25-30 – Sec. 25-35. Reserved

ARTICLE IV. – SIDEWALKS

Sec. 25-36. - Specifications for construction of sidewalks

It shall be unlawful to lay or construct any sidewalk on any street or public highway in the Town unless and until specifications therefore, including level and grade, shall have been issued by the Town Manager, which specifications shall be in accordance with a comprehensive plan designed to secure uniformity of sidewalks in the Town.

Sec. 25-37. - Permitting water to flow on sidewalk

It shall be unlawful for the owner of any building on any paved street to allow or permit the water from such building to be emptied by gutter pipe or otherwise upon the sidewalk or to flow thereupon from such building in any manner.

Sec. 25-38. - Merchants soliciting in front of their places of business

It shall be unlawful for any merchant or his agent or employee to accost or address any person, or to molest any person on the sidewalk in front of such merchant's place of business for the purpose of seeking to induce any person to enter such place of business.

Sec. 25-39. - Auctions prohibited on streets, sidewalks and public property

It shall be unlawful to conduct any auction of personal property on any streets, sidewalks, or public property except those enumerated in G.S. 85B-2(1)—(11).

Sec. 25-40 – Sec. 25-60. Reserved

Revised April 21, 2016; Ordinance No. 2016-01

CHAPTER 26 UTILITIES

Article I. In General

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Sec. 26-1.2 . Definitions

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Article II. Regulations

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ARTICLE I. IN GENERAL

Sec. 26-1. Purpose and policy

This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the Town of Maysville, Jones County, North Carolina and enables the Town's Board of Commissioners to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR Part 403).

The objectives of this article are to:

- (a) Prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- (b) Prevent the discharge of pollutants into the municipal wastewater disposal system which will pass through the system, inadequately treated, into receiving waters or otherwise be incompatible with the system;
- (c) To improve the opportunity to recycle and reclaim wastewater's and sludge from the system;
- (d) To provide for equitable distribution of the cost of the wastewater system.

This ordinance provides for the regulation of direct and indirect discharges to the Publicly Owned Treatment Works (POTW) through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This Ordinance shall apply to all the Town of Maysville, Jones County, North Carolina, and to persons outside the town limits who are, by contract or agreement with the town, user of the POTW. Except as otherwise provided herein, the town's designated representative shall administer, implement and enforce the provisions of this ordinance.

Sec. 26-1.2. Definitions

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Ordinance, shall have the meaning hereinafter designated:

Act shall mean the Federal Water Pollution Control Act of 1922, and its subsequent Amendment.

Approval authority means the State Environmental Director in a National Pollution Discharge Elimination System (NPDES) state with an approved state pretreatment program or the Administrator of the EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.

Authorized Representative of the Industrial User means: An authorized representative of an industrial user may be: (1) A principal executive officer or at least the level of a vice-president if the industrial user is a corporation; (2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; (3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

Board means the Town of Maysville's Board of Commissioners.

Billable Excess Biochemical Oxygen Demand (BOD) shall mean the user's loading in pounds of BOD calculated using the billable flow and concentration of BOD in the wastewater in excess of 250 mg/l.

Billable Excess Ammonia Nitrogen (NH₃-N) shall mean a user's loading in mg/l of NH₃-N calculated using the billable flow and concentration of NH₃-N in the wastewater in excess of 25 mg/l.

Billable Excess Total Suspended Solids (TSS) shall mean a user's loading in pounds of TSS calculated using the billable flow and concentration of TSS in the wastewater in excess of 250 mg/l.

Billable Excess Total Phosphorus shall mean a user's loading in pounds of P calculated using the billable flow and concentration of P in the wastewater in excess of 10 mg/l.

Billable Flow shall mean a user's recorded water usage as metered by the appropriate water utility, plus metered water from backup wells and other sources, and less any sewer-exempt metered data, times the Town Board's approved percentage factor for wastewater entering the wastewater disposal system out of the metered water. Residential users shall be on the metered central water system.

Biochemical Oxygen Demand (BOD) shall mean the quantity of oxygen, expressed in milligrams per liter (mg/l) utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at 20 degrees Centigrade.

Building Drain shall mean that part of the lowest horizontal piping of a drainage system which received sanitary or industrial wastewater only as is located inside the walls of a building and conveys the wastewater to the building sewer, which begins five (5) feet outside the building wall.

Building sewer shall mean the extension from the building drain to the public sewer and conveys only domestic sanitary wastewater.

Categorical standards mean National Categorical Pretreatment Standards or pretreatment standard as defined by EPA and published from time to time in the Federal Register.

Chemical Oxygen Demand (COD) shall be the total amount of oxygen required to oxidize all of the organic matter in a waste to carbon dioxide, water, and ammonia nitrogen by potassium dichromate under acid conditions as described in "Standard Methods".

Classes of Users means the division of POTW customers by waste characteristics and process discharge similarities or function, such as residential, commercial, institutional, industrial or governmental.

Collection Sewer shall mean a sewer whose primary purpose is to collect wastewater from individual point source discharge.

Commercial User shall mean a user engaged in the purchase or sale of goods or in a transaction or business or who otherwise renders a service.

Commercial Waste means wastewater discharge from a business (gas station, car lot, etc.) that is used to generate income, but is discharging waste strengths considered equivalent to domestic wastewater.

Compatible Pollutant means biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria; plus any additional pollutants identified in the POTW NPDES permit, where the POTW is designed to treat such pollutants and, in fact, does treat such pollutants to the degrees required by the NPDES Permit.

Control Authority shall refer to the Approval Authority, defined herein above; or the appointed representative of the Town with an approved Pretreatment Program under the provision of 40 CFR 403.11.

Cooling Water shall mean the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Division of Environmental Management (DEM) means the North Carolina Environmental review and compliance Agency (and any predecessor evolving thereof), or the term may also be used to designate the State DEM Director, or other duly authorized representatives of such Agency.

Direct Discharge shall mean the discharge of treated or untreated wastewater directly to the water of the State.

Domestic Waste means wastewater discharged from a house, mobile home, or apartment used solely for the purpose of a domicile.

Easement shall mean an acquired legal right for the specific use of land owned by others.

Environmental Protection Agency or EPA means the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of that agency.

Floatable Oil shall mean oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in a pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the wastewater disposal system.

Garbage shall mean the animal or vegetable wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the commercial handling, storage and sale of produce.

The County Health Department Officer shall mean any person designated by the County to be responsible for maintaining sanitary conditions and reporting violations.

Holding Tank Waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Incompatible Pollutant means all pollutants other than compatible pollutants as defined.

Indirect Discharge means the discharge or the introduction from any nondomestic pollutants from any source regulated under section 307(b), (c) of the Act (33 USC 1317), into the POTW, including holding tank waste.

Individual Systems means wastewater treatment systems that are privately owned. For purpose of this Ordinance, the term individual systems shall refer to the septic tank and connecting piping existing in the ground.

Industrial user means a manufacturing or processing facility, which is engaged in a production or profit making, venture. A source of Indirect Discharge, which does not constitute a “discharge or pollutants” under regulations, issued pursuant to Section 402, of the Act. (33 U.S.C. 1342).

Industrial Waste means wastewaters discharged from a business (rest home, restaurant, manufacturing plant, salon, etc.) that produces wastes with strengths normally (but not always) exceeding that of domestic wastewaters. Said industrial wastes may contain other parameters of waste concentrations not normally found in domestic wastewaters.

Infiltration shall mean the water unintentionally entering the public sewer system, including sanitary building drains and sewers, from the ground through such means, as but not limited to, defective pipes, pipe joints, connections, or manhole walls.

Infiltration/Inflow shall mean the total quantity of water from both infiltration and inflow without distinguishing the source.

Inflow shall mean the water discharge into the public sewer system, including building drains and sewers, from such sources, but not limited to; roof leaders; cellar, yard and area drains; foundation drains; unpolluted cooling water discharges; drains from springs and swampy areas; manhole covers; cross connections from storm sewers and/or combined sewers; catch basins; storm waters; surface runoff; street runoff; street wash waters, or drainage.

Interceptor Sewer shall mean a sewer whose primary purpose is to transport wastewater to a treatment facility.

Interference means the inhibition or disruption of the POTW treatment processes or operations, which contributes to a violation of any requirement of the POTW's NPDES Permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act (33 USC 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

Large Volume Flows shall mean any multi-unit developments for housing or a single unit discharge (commercial, institutional, industrial) exceeding the normal prescribed 5,000 gallon/month flow for a single house.

Multi-Unit Development shall mean developments planned for more than one unit, to be built on the entire platted property.

National Categorical Pretreatment Standard or *Pretreatment Standard* mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the act (33 USC 1317) which applies to a specific category of industrial users.

National Pollution Discharge Elimination System means a permit issued under the National Pollutant Discharge Elimination System (NPDES) for discharge of wastewater's to the navigable waters of the United States.

Natural Outlets shall mean any outlet into a watercourse, pond, ditch, lake or other surface water or groundwater.

New Source shall mean any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 U.S.C. 1317) Categorical Pretreatment Standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the Standard.

Operational and Maintenance Costs shall include all costs, direct and indirect, not including debt service and capital related expenditures, but inclusive of expenditures attributable to administration, monitoring, inspections, reviewing applications, maintenance of equipment, and treatment and collection of wastewater's, necessary to insure adequate wastewater collection and treatment on a continuing basis which conforms to applicable regulations and assures optimal long-term facility management.

Original Project shall mean the original installation of the sanitary sewer collection system in the areas defined in Town of Maysville. The original project also included the treatment facility. The original project was funded by FmHA.

Overloaded Sewer Line shall mean a sewer line whose capacity to receive and transport sewage has been used up, or is at or near capacity.

Person means any individual, partnership, co-partnership, firm, company, association, joint stock company, trust, estate, governmental entity or any other legal entity, or its legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

Phosphorus pH shall mean the term used to express the intensity of the acid or base condition of a solution as determined by "Standard Method".

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by prohibited by 40 CFR Section 403.6(d).

Pretreatment Requirements means any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

Private Sewer shall mean a sewer, which is not owned by the Town of Maysville. This shall also include the service lateral line from the street right-of-way to within 5 feet of the building plumbing connection.

Publicly Owned Treatment Works (POTW) means a treatment works as defined by section 212 of the act (33 USC 1292) which is owned by the Town of Maysville. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include, pipes, sewers, or other conveyances not connected to a facility providing treatment. For the purposes of this ordinance, POTW shall also include any sewers that convey wastewaters from persons outside the Town of Maysville, who are, by contract or agreement with the Town, users of the POTW.

Replacement Costs shall mean the capital expenditures for obtaining and installing equipment, accessories, or appurtenances necessary during the service life of the POTW to maintain the capacity and performance for which such works were designed and constructed.

Sanitary Sewer shall mean a sewer which carries sanitary and/or industrial wastewater from residences, commercial buildings, industrial plants, and institutions. Sanitary sewers are separate and distinct from storm sewers and are not intended to carry surface runoff or groundwater.

Shall is mandatory; *May* is permissive.

Significant Industrial User means any industrial user of the POTW who:

(1) Has a flow greater than 2,500 gallons per day of the flow in the POTW, or (2) has in his wastes toxic substances as defined pursuant to Section 307 of the Act or State Statutes and rules of (3) is found by the Town, Division of Environmental Management (DEM) or the US Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater disposal system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

Sludge shall mean any discharge of water or wastewater which in concentration of any given constituents or in quantity of flow exceeds for any period duration longer than fifteen (15) minutes or more than five (5) times the average twenty-four (24) hour concentration of flow during normal operation and shall adversely affect the wastewater disposal system so as to prevent attainment of effluent limitations or to substantially increase operations and maintenance requirements.

Standard Methods shall mean the laboratory procedures set forth in the following sources; Standard Method for Examination of Water and Wastewater, 14th Edition, as amended, prepared and published jointly by the American Public Health Association, American Water Works Association, and Water Pollution control Federation; Methods for Chemical Analysis of Water and Wastes, 1971, prepared and published by the Analytical Quality Control Laboratory. US Environmental Protection Agency; "Guidelines Establishing Test Procedures for the Analysis of Pollutants," enumerated in 40 CFR Part 136.1 et seq. (1975), as amended; and/or any other procedures recognized by the US Environmental Protection Agency and the North Carolina Division of Environmental Management.

State means the State of North Carolina.

Storm Sewer means a sewer that carries only storm waters, surface runoff, street wash, rainage, and to which sanitary and or industrial wastewater is not intentionally admitted.

Town's Designated Representative shall mean the Town of Maysville Board of Commissioners sitting as the Governing Body of the Town of Maysville, or their authorized deputy, agent or representative.

Total Suspended Solids (TSS) shall mean total suspended matter that either floats on the surface of, or is in suspension with, water, wastewater, or other liquids and is removable by laboratory filtration as prescribed by "Standard Methods".

Toxic Substances means any substances whether gaseous, liquid, or solid, which when discharged into the wastewater disposal system in sufficient quantities may tend to interfere with any wastewater treatment process, or to constitute a hazard to recreation in the receiving waters of the effluent from the POTW. These substances include but are not limited to those listed as toxic in regulations promulgated by the EPA under the provisions of Section 307 of the Clean Water Act (CWA) or other acts.

Town Limits shall mean the area covered by the Town of Maysville, Jones County, North Carolina.

Unpolluted Water means water of a quality equal to or better than the effluent criteria in effect, or water that is of sufficient quality that it would not be in violation of federal or state water quality standards if such water were discharged into navigable waters of the State.

Useful Life shall mean the anticipated term in years of physical and/or functional productivity of elements and/or the whole of the wastewater disposal system.

User shall mean any person who contributes, causes or permits contribution of wastewater into the POTW. Users are defined in the following classes; Residential, Commercial, Institutional, and Industrial.

Residential – A domicile which serves as the permanent address for a person(s) and from which only domestic waste is generated.

Commercial – A business established (i.e., store, restaurant)

Institutional – A building(s) where the principal activity is providing for multitudes of people (i.e., school, rest home, hospital, etc.).

Industrial – An establishment that discharges water used to produce a product.

User Charge System shall mean the system of charges levied on users for the cost of operation and maintenance, including replacement reserve requirements on new and old wastewater collection and treatment facilities as well as debt retirement of the POTW.

Wastewater shall mean the combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, including polluted cooling water and unintentionally admitted infiltration/inflow.

- (a) *Sanitary Wastewater* shall mean the combination of liquid and water carried wastes discharged from toilet and other sanitary plumbing faculties.

- (b) *Industrial Wastewater* shall mean a combination of liquid and water carried wastes discharged from any industrial establishment and resulting from any trade or process carried on in that establishment and shall include the wastes from pretreatment facilities and polluted cooling water.

Wastewater Discharge Permit shall refer to those provisions as set forth in Article 3 of this ordinance entitled "Discharge of Industrial Wastewater".

Wastewater Disposal System shall mean the structures, equipment and processes owned and controlled by the Town of Maysville (unless specified otherwise) required to collect, transport, and treat domestic and industrial waste and to dispose of the effluent and accumulated residual solids.

Waters of the State means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

Sec. 26-1.3. Abbreviations

BOD - Biochemical Oxygen Demand
CFR - Code of Federal Regulations
CWA – Clean Water Act
DEM - Division of Environmental Management
 - Development of Natural Resources and Community
 - Development of the State of North Carolina
EPA - Environmental Protection Agency
L - Liter
Mg - milligrams.
mg/l - Milligrams per Liter
NH₃-N – Ammonia Nitrogen
NPDES - National Pollution Discharge Elimination System
P – Phosphorus
pH – Hydrogen Ion Potential
POTW - Publicly Owned Treatment Works
SIC - Standard Industrial Classification
SWDA - Solid Waste Disposal Act
USC – United States Code
TSS - Total Suspended Solids

ARTICLE II. REGULATIONS

Sec. 26-2.1. Use of Public Sewers Required

It shall be the policy of the Town of Maysville that sewer connection to the central system shall also be coupled with connection to the central water system. Exceptions that will allow only a sewer connection may be granted only in the case of extenuating health circumstances resulting from failure in the existing sewer system. Once a user is connected to the sewer system he/she shall not be allowed to disconnect from the central system. Furthermore, requests to connect to the central sewer (if outside Town limits) shall be accomplished with a petition for annexation into the town.

The owner of all new houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, situated within the town limits, located and abutting on any street, alley, or right-of-way in which there is now located or may in the future be is hereby required to connect such facilities directly with the central public sewer. This includes plumbing all wastewater (grease traps, etc.) into the central sewer lateral.

The owner of all existing houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the Town limits and abutting on any street, alley or right-of-way in which there is now located or may in the future be located, and has a failing sewage treatment discharges (septic tanks, grease traps, etc.) shall be disconnected and plumbed to discharge into the single discharge lateral to the town.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Town of Maysville, Jones County, any wastewater or other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance and with regulations of the Division of Environmental Management, Department of Natural Resources and Community Development of the State and the EPA.

Sec. 26-2.2. Right of Access to Public Sewers on Private Property

Property owner(s) shall grant to the Town of Maysville or its designated representative, right of access at all reasonable hours to the premises of the owner(s) for the purpose of installing, maintaining and operating, inspecting, monitoring, rehabilitating, and replacing or removing the town's equipment and other purposes incident to performance under or termination of the town's agreement with the property owner(s) and in such performance shall not be liable for trespass.

Sec. 26-2.3. Private Wastewater Disposal

Where a public sanitary sewer is not available, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article. Before commencement of construction of a private (individual) wastewater disposal system, the owner(s) shall first obtain written approval by the Town's designated representative. The applicant shall provide any plans, specifications, and other information as are deemed necessary by the town's designated representative. A review fee may be charged to the applicant as may be set by the town. The private wastewater disposal system installation shall be completed to the satisfaction of the State. The town's designated representative shall be allowed to inspect the work at any stage of construction. The type, capacities, location, and layout of the private wastewater disposal system shall comply with all recommendations of the Division of Environmental Health/Division of Environmental Management of the State and the Town of Maysville. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facility where the area of the lot is less than 15,000 square feet. No septic tank shall be permitted to discharge to any natural outlet. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Town.

Sec. 26-2.4. Building Sewers and Connections

A. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining written approval from the town's designated representative. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the Town of Maysville for all existing users who made their application within the initial sign up period. The owner(s) shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer provided;

however, that such indemnification shall not extend to loss or damage due solely to willful misconduct or negligence on the part of the town. Excluding industrial plant sites or other sites which have written approval from the town for single discharge points, a separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the front building may be extended to the rear building and the whole considered as one building sewer; but the Town does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

B. Old building sewers may be used in connection with new building only when they are found, on examination and test by the town's designated representative, to meet all requirements of this ordinance. Existing building sewers may be kept in service if, in the opinion of the town's designated representative, they are in acceptable structural condition and operate satisfactorily. The town shall charge the property owner the actual cost of inspection services that may be rendered. All new building sewers including any necessary replacement of existing building sewers must comply with the North Carolina State Building Code, Volume II, Plumbing. No connection to the public sewer shall be made directly by the owner(s) without the prior approval of the town.

C. No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of infiltration/inflow to a building sewer or building drain, which in turn is connected directly or indirectly to a public sanitary sewer.

D. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the appropriate authority.

E. It shall be the responsibility of the property owner to keep and maintain the building sewer connected to the public sewer in good repair. Upon completion and acceptance of the FmHA funded sewer installation, a one-year warranty shall be provided for the service lateral's material and installation. The owner(s) shall be responsible for making necessary repairs, at his own expense, after the one-year warranty period, to the remainder of the building sewer when notified in writing by the town that repairs are necessary. Should the owner fail to repair the building sewer within 60 days after receiving written notification by the town that such repairs are necessary the town may make the necessary repairs to the building sewer and shall assess the owner(s) for the cost of the repairs.

F. Thus the entire cost of the building sewer (lateral) installed between the building and the central sewer tap shall be borne by the owner. The town shall bear maintenance responsibility for the sewer tap only between the sewer and the right-of-way easement (street, or private).

G. Existing multi-residential users (trailer courts, apartment buildings, duplex apartments, etc.) and small commercial establishments (shopping centers, etc.) being served with one water meter may, at the discretion of the town's designated representative, be served with a single or multiple connection(s) to the sewer system. All new sewer taps requested after initial FmHA funded installation shall only be to buildings on individual water meter service.

Sec. 26-2.4.1. Grease and Oil Traps for Commercial Buildings

A. Grease and Oil Traps. Grease, oil, and sand traps shall be provided when, in the opinion of the town's designated representative, they are necessary for the proper handling of liquid waste containing floatable oil/grease in excessive amounts, sand or other harmful ingredients; except that such

traps shall not be required for private living quarters or dwelling units. However all commercial (restaurant, etc.), institutional (schools, etc.) or industrial discharges having a kitchen/lunchroom shall have a minimum of at least a 1,000 gallon-type grease trap to prevent grease, oil, sand from inhibiting the performance of the pumping stations, collection lines and treatment system. All traps shall be of a type and capacity approved by the Town's designated representative, and shall be located as to be readily and easily accessible for cleaning and inspection.

1. The owner shall keep this trap in continuously efficient operation at all times at their expense. In the maintaining of these traps, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the town's designated representative. Any removal and hauling of the collected material not performed by the owner(s) personnel must be performed by currently licensed waste disposal firms.

2. The town's designated representative shall conduct inspections twice a year on all commercial buildings required to maintain a grease trap as provided herein to ensure compliance with the installation, maintenance, and disposal by appropriate means of the captured material. The owner(s) shall provide the required disposal records to the town's designated representative at these inspections.

3. All records of disposal maintained by the owner(s) shall be maintained for a period of three (3) years.

4. No new commercial buildings having a kitchen/lunchroom will be allowed to initiate operations until grease traps and disposal handling procedures are installed and approved by the town's designated representative.

5. Existing commercial buildings having a kitchen/lunchroom shall have a grease trap that meets the requirements of this ordinance. Upon inspection of the town's designated representative, those establishments that do not meet the requirements of this section regarding grease traps shall have six (6) months from the date of notification of non-compliance to have approved and installed grease handling equipment in compliance with this ordinance. Failure to do so will be considered a violation of the Town of Maysville's Grease Ordinance and may be subject to penalties and corrective actions or service discontinuance.

6. Existing commercial building having a kitchen/lunchroom with existing grease traps that are found, upon inspection of the town's designated representative, to be under-designed or substandard in accordance with the provisions of this section, the owner(s) will be notified in writing of the deficiencies, required improvements, and given a compliance deadline of six (6) months to conform to the policies in this section.

B. Exceptions. If an owner requests an exception to this policy, the owner must demonstrate that the size and location of the grease trap will not cause the facility any problems in meeting the discharge requirements of the Town of Maysville.

C. Intent. This policy is in no way intended to discourage development, but rather to protect the facilities and the Town of Maysville's infrastructure as it relates to the sanitary sewer system.

D. Enforcement.

1. The Town of Maysville's designated representative shall conduct a minimum of two (2) inspections a year.

2. Any owner(s) determined to be in non-compliance with this ordinance requirements that are linked to a collection line blockage will be required to reimburse the Town of Maysville for expenses associated with clean-up.

3. Any owner(s) determined to be in non-compliance with this ordinance requirements that are linked to a collection line blockage will be required to increase its grease cleaning and disposal frequency.

4. The Town of Maysville may assess penalties for failure to keep required records, failure to clean the grease traps as required in this ordinance, failure to properly dispose and remove captured materials, failure to allow for inspections by the town's designated representative, and other violations of this ordinance.

E. Penalties.

1. Owner(s) determined to be in non-compliance with the record keeping requirements of this ordinance will be issued a Notice of Violation (NOV). Owners will have thirty (30) days from the date of notification to bring all records into compliance. Owners determined to be in non-compliance twice in a twelve-month period for record keeping could be fined up to \$500.00.

2. Owner(s) determined to be in non-compliance for failure to clean the grease traps and properly dispose and remove capture materials will be issued a Notice of Violation (NOV). Owners will have thirty (30) days from the date of notification to come into compliance. Owners determined to be in non-compliance after thirty (30) days could be assessed civil penalties in an amount not exceeding \$500 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Owner(s) that do not install a grease trap when instructed to do so by the town's designated representative will be issued a Notice of Violation (NOV) and fined \$500 a month until a properly sized grease trap is installed. Continued non-compliance to install a proper grease trap will result in the service discontinuation.

F. Education.

1. The Town of Maysville shall provide, at a minimum of semi-annually, educational materials to the residents of Maysville regarding the dangers of disposing grease, oil, fats, and other harmful substances into the sanitary sewer system. Such educational materials shall identify the ordinance prohibiting such disposal, owner responsibilities in maintaining private lateral sewer lines, Town responsibilities, and consequences of excess grease, oil, and other harmful substances introduced into the sanitary sewer system.

2. The Town of Maysville shall post at the Town Hall a copy of the educational materials for examination by the public. The Town shall also make available a copy of the educational materials at the request of any individual.

Sec. 26-2.5. Installation, Ownership and Maintenance Responsibilities

Installation, right of ownership and maintenance responsibilities shall be delineated as follows:

- (a) The property owner(s) shall bear the responsibility for:
 - (1) The installation and maintenance of the building sewer after the initial construction period which may include a septic tank; holding tank where required; and grease, oil and/or sand trap where required.
 - (2) The ownership and maintenance of a holding tank where required; grease, oil and/or sand trap where required; all backflow preventers; and all incidental service lines and pretreatment units.
 - (3) Submit plans and specifications to the town for review and approval by the town's designated representative for unit(s) to receive sewer service prior to construction. All Plans and Specifications approved by the Town, for multi-unit systems, shall be submitted to the appropriate Division of the NC Department of Environmental Health, and Natural Resources Engineering Permit Section. Said submittal must be transmitted to DEM, with the required DEM Applications, for a permit to be issued in the name of property owner.
 - (4) Where a owner request a sewer tap be placed on a vacant lot/building, he shall pay the minimum monthly sewer charge (see Article 6-Revenue System) as established by the town.
- (b) The town shall bear the responsibility for:
 - (1) Any and all taps.
 - (3) The owner(s) shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the connection (installation), repair and/or rehabilitation of the public system to the owner's building sewer provided, however, that such indemnification shall not extend to loss or damage due solely to willful misconduct or negligence on the part of the town.

Sec. 26-2.6. Extensions to the Town of Maysville's Collection System

Extension to collection system may be allowed (upon application) subject to approval of the town. Collection system extensions shall meet the following criteria.

- (a) After approval of application, plans and specifications for all extension shall be submitted for review and approval to the town, and the North Carolina Department of Environmental, Health and Natural Resources, Division of Environmental Management.
- (b) All lines shall be installed in accordance with State approved plans and specifications and the Town's designated representatives shall be allowed to inspect the work at any and/or stages of construction.

(c) All rights-of-way, easements, permits, franchises and authorization or other instruments needed for the installation, operation and maintenance of the lines shall be deeded to the town prior to or upon completion of the sewer extension.

(d) Cost involved in the sewer main extension shall be paid by the person or persons requesting the extension and such person(s) shall not be reimbursed by the town for the cost of the extension.

(e) Upon completion of construction of the sewer extension and prior to sanitary sewer service commencing, the sewer main shall be dedicated in writing to the Town of Maysville for ownership and maintenance as described in Section 26-5(b)(1) and (2).

The submittal of a set of plans and specifications is deemed completed only after all of the following actions in their respective order:

(1) payment of tap fees when applicable, and required security deposits and inspection fees,

(2) tentative review and final submittal of plans and specifications to the town staff and their designated representative,

(3) acquisition of all required permits (DEM, DHS, DOT, Railroad, CAMA, etc.), and

(4) the final approval by the Board of Commissioners.

Said board is ultimately responsible for all decisions, but may delegate tentative approval of development to the town's designated representative. Multi-unit dwellings/large volume establishments shall only be approved by the board. Until final approval is granted by the board, no extension is deemed approved, except as may be delegated. The developer shall pay the cost of any and all permit review fees (DEM, Railroad easements, etc.) and the actual cost of the town in reviewing plans and specs/supporting information prior to transmittal to the Permitting Agency(s) and recommendation to the board. In cases involving the Attorney, his/her fees shall also be paid the developer.

Where existing lines may have to be replaced in the future resulting from the project, the developer shall post a "letter of credit"/bond for the full estimated cost of that future line with the town. Said "letter of credit"/bond shall remain valid and on deposit until such time as the line is installed or deemed not required by the Engineer, and the Board of Commissioners. If immediate expansion/enlargement of the existing sewerage system is required, the developer shall pay the town to perform a detailed study and cost estimation related to the impact of his/her planned development. The developer shall then pay all costs related to required sewer system expansion. Where it is determined that a sewer line expansion is required, at some time in the future, such expansion shall occur at 50% of developer's projected development, or within a period not to exceed 2 years, whichever comes first, or if the sewer line is determined, by the town's designated representative, to be at 75% of capacity.

If a sewer line becomes overloaded, as determined by the town's designated representative, the developer shall not be allowed to build another dwelling until the overloaded line is corrected. If the developer (within 60 days) refuses to correct the condition, the "letter of credit" on file with the Town shall become the property of the town to pay for actual cost (design, inspection, construction, permits, etc.) of line replacement measures required to correct the problem. The developer shall be allowed to build new dwellings after adequate sewer carrying capacity is restored to the town. Where a sewer extension occurs, the developer shall install all required service taps to existing and immediate development. (No sewer tap

fee will be required in this case although required sewer security deposits must still be mandated). In other areas (vacant lots), service taps shall be installed by the developer on an as-needed basis. Said cost shall be subject to change as may be set by the board.

NOTE: Sewer service is to be provided only with installation of a water service to the same address. Additionally, water and sewer taps must be a minimum of 10 feet apart horizontally.

Where multi-unit projects will be phased, sewer lines sizes shall be designed adequately to handle flows for the entire development regardless of the timetable for completing ("building out") a proposed development project. In new developments, taps and meter boxes shall be flush with the existing ground surface, not below grade or buried. Meter boxes also shall not be placed in depressions where water will tend to accumulate over the box and cause damage (freezing, filling box with water, etc) to the box and/or meter. If excessive time is required to locate a meter box by the town staff, the owner/security depositor shall be subject to an assessment of actual cost of manpower and equipment-prorated charges.

Sec. 26-2.6A. Procedure for the Installation of Sewer Mains by a Property Owner or Developer/Reimbursement Cost Criteria

(a) The town's designated representative shall determine the size of any proposed sewer mains, pumps and force main lines. The dept and locations, at which they shall be installed, shall be performed by the developer's Engineer and properly illustrated through required plans and specifications passing through prescribed review and approval activities.

(b) The following procedure shall be used for reimbursing the property owner(s) who obtained the original permit required above, for a portion of the cost incurred by him/her. This procedure shall be used only of multi-unit dwellings/establishments located along the road or roads in which the main or mains have been located. All others shall be handled on an individual, negotiated basis.

(1) Prior to the installation of the sewer mains, at the expense of the property owner as set out above, the town's designated representative shall compute the total sewer line capacity from which shall be determined the unit costs reimbursement fee which can be served from the main(s) which will be installed. In calculating the unit cost reimbursement factor, a capacity use will be assigned the proposed sewer line in terms of number of housing units (based on 5,000 gallon/month) the line could service. Said factors may be adjusted in equivalent housing units (see section 26-6.1 "Revenue System") for large volume dischargers connecting to the sewer. Commitments on the town's part shall be limited only to the phase, or number of units approved, for which capital reserve fees have been paid, provided however, in determining total project cost. The town may, at its discretion, deduct such portion of said cost attributable to excessive sizing for the good of the overall system (i.e., the town chooses to pay up sizing cost of installing a large sewer line that is required).

(2) Final approval of total project, and cost per unit reimbursement, in any such project shall be by the Board of Commissioners, and with receipt of all actual project installed cost.

(3) If, within a period of ten (10) years from the date of completion of such project, connections are made by the intervening property owners to the sewer system, constructed at the expense of the property owner who obtained the original permit required above, the intervening property owner shall pay to the town a one-time charge, determined (by the Town of Maysville) by his approved number of units to be build, multiplied by the unit reimbursement cost factor assigned to that original construction, as specified above. That portion of the charge to the

intervening property owner, which represents a portion of the original cost of the project, shall be immediately refunded by the town to the property owners who bore the original cost of the extension of the subject sewer mains. If said property owners shall be living, or in the case of a corporate owner, shall still be in existence; provided, however, if any portion of the cost of the extension of said sewer mains shall have been borne by the town, for any reason, the payment by the intervening property owner shall be prorated between the property owner and the town, in accordance with the initial investment each had.

(4) In the event such project shall have been constructed by the original property owners who requested the extension, the town may, in determining the unit cost of the project if, in its discretion, lower the cost thereof, if it shall appear to have been excessive.

(c) When said system or systems have been completed by the permittee, the same shall be immediately conveyed to the town, together with a permanent utility easement no less than twenty (20) feet in width, in form satisfactory to the town, the centerline of which shall be the sewer lines; for so long as it shall continue to furnish sewer service through said lines, and the town shall maintain them. The easement shall provide that the town shall have full access over and upon same for the purpose of repairing, maintaining and servicing said sewer lines and replacing the same, if necessary, and shall be in perpetuity.

(d) A sewer line extension project is considered for written acceptance by the town with the actual receipt of: appropriate legal dedications/easements (outlined above), two blue line copies and one reproducible "As Built" set of plans, all copies of sewer testing reports on lines, concrete tests, etc., required of contractors in construction the project as outlines in the specification by appropriate permitting Agency regulations. A written twelve-month warranty of the new utility shall also be provided to the town.

(e) Any sewer line (collection or house service lateral) that is to be covered by concrete or asphalt shall be protected by installing a casing pipe (around the existing sewer line) under the affected area. Dwellings/paving structures shall not be constructed/placed over sewer lines collection or house laterals.

Sec. 26-2.7. Prohibited Discharges

It shall be unlawful for any person to discharge or cause to be discharged any pollutant or wastewater, which will interfere with the operation and/or performance of the POTW. These general prohibitions apply to all such users of the POTW whether or not the user is subject to National Categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements. A user may not discharge the following substances to the POTW.

(a) Any unpolluted waters such as infiltration/inflow to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers or to a natural outlet approved by the town's designated representative and DEM. Unpolluted industrial cooling water or process waters may be discharged on approval of the town's designated representative and DEM to a storm sewer or natural outlet. No polluted waters such as sanitary wastewater shall be disposed of through any storm sewer system.

(b) Any liquids, solids or gasses which by reason of their nature or quantity are or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on system (or at any point in the system) be more than five percent (5%) nor

any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Materials specifically prohibited from discharge into the POTW include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substance which the town, the State or EPA has notified the user is a fire hazard or a hazard to the system.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to: floatable oil, garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes. (Oil and grease be limited to 100 mg/l discharge.)

(d) Any wastewater having a pH less than 6.0 or greater than 9.0, unless the POTW is specifically designed to accommodate such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW.

(e) Any wastewater containing toxic substance in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitations set forth in a Categorical Pretreatment Standard.

(f) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.

(g) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to fail to be in compliance with sludge use or disposal criteria, guidelines or regulations affecting sludge use or disposal development pursuant to the Solid Waste Disposal Act, the Clean Air Act, The Toxic Substances Control Act or State criteria applicable to the sludge management method being used.

(h) Any substance which will cause the POTW to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards.

(i) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to dye wastes and vegetable tanning solutions.

(j) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 deg.C (104 deg.F) unless the POTW treatment plant is designed to accommodate such temperature.

(k) Any pollutants, including oxygen-demanding pollutants (BOD) suspended solids, etc. in excess of 250 mg/l by weight. Excess pounds above prescribed limits shall be subject to

monthly surcharges. In certain cases, the town may require pretreatment in lieu of surcharges where the town cannot treat the excess organic waste strength. In no case shall a sludge load have a flow rate or contain concentration or qualities of pollutants, that exceed for any time period longer than fifteen (15) minutes, more than three (3) times the average twenty-four (24) hour concentration quantities, or flow during normal operation.

(l) Any wastewater containing any radioactive waste or isotopes of such half-life or concentration as may exceed limits established by the town in compliance with applicable state and/or Federal regulations.

(m) Any wastewater which causes a hazard to human life or creates a public nuisance.

(n) Any water or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the POTW.

(o) Any water or waste containing more than 200 mg/l of chlorides, provided that up to 350 mg/l may be discharged by the town via a permit authorization.

(p) Any water or waste having an ammonia concentration in excess of 25 mg/l by weight when expressed as nitrogen. Surcharge may be allowed up to 30 mg/l to be discharged if approved by the town via a permit authorization.

(q) Any water or wastes having a total phosphorus concentration in excess of 10 mg/l. Surcharge may be allowed up to 15 mg/l if approved by the town via a permit authorization.

The permit authorization to exceed the maximum limitation in items 11, 15, 16, and 17 will be issued by the town. Permit authorization may be denied or conditioned by the permitting authority if in the judgment of the permitting authority the issuance of a permit authorization would be detrimental to sewer collection or wastewater treatment facilities.

When the town determines that a user(s) is discharging any of the above-enumerated substances in such amounts as to interfere with the operation of POTW, the town shall:

- (1) Advise the user(s) of the impact of the discharge; and
- (2) Develop a specific timetable for such user to correct the discharge.

Sec. 26-2.8. Federal Categorical Pretreatment Standards

Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal Standard is more stringent than limitations imposed under this Ordinance for sources in that subcategory and shall immediately supersede the limitations imposed under this Ordinance. The town shall notify all affected users of the application reporting requirements under 40 CFR, Section 403.12.

Sec. 26-2.9. Modification of Federal Categorical Pretreatment Standards

Where the POTW achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the town may apply to the Approval Authority for modifications of specific limits in the Federal Pretreatment Standards. "Consistent Removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the POTW to a less toxic or harmless state in the effluent which

is achieved by the system in 95 percent of the samples taken when measured according to the procedures set forth in Section 403.7(c) (2) of (Title 40 of the Code of Federal Regulations, Part 403) – “General Pretreatment Regulations of Existing and New Sources of Pollution” promulgated pursuant to the Act. The town may then modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR Part 403, Section 403.7 are fulfilled and prior approval from the Approval Authority is obtained.

Sec. 26-2.10. Specific Pollutant Limitations

No discharge shall contain pollutant concentrations exceeding the following prohibitive limits (maximum for any day based on composite samples).

CONSTITUENT	MAXIMUM CONCENTRATION FOR AVERAGE DAY	AVG. OF DAILY VALUE OF 30 CONSECUTIVE DAYS SHALL NOT EXCEED
	(MG/L)	(MG/L)
Antimony	1.0	0.50
Arsenic	0.10	0.10
Boron	10.00	10.00
Barium	0.50	0.50
Cadmium	1.20	0.50
Chloroform	1.00	1.00
Chromium	7.00	2.50
Copper	2.00	0.80
Cyanide	0.80	0.23
Lead	0.50	0.25
Mercury	0.0005	0.0005
Nickel	4.0	1.80
Phenol	10.0	10.0
selenium	0.01	0.005
Silver	1.20	0.50
Vanadium	0.50	0.50
zinc	0.50	0.50

The town shall required a monthly surcharge payment to cover the cost of handling and treating the pollutants in excess of BOD – 250 mg/l; TSS – 250 mg/l; NH3-N – 25mg/l; P-10mg/l.

Sec. 26-2.11. State Requirements

State requirements and limitations on discharge shall apply in any case where they are more stringent than Federal requirements and limitations or those in this ordinance.

Sec. 26-2.12. Town of Maysville’s Right of Revision

The town reserves the right to establish by amendment more stringent limitations on requirements of discharge to the wastewater disposal system if deemed necessary to comply with the objective presented in Section 26-1 of this Ordinance.

Sec. 26-2.13. Dilution Prohibition

No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitations developed by the Town or State.

Sec. 26-2.14. Accidental Discharge

Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the town for review, and shall complete such a plan. No user who commences contribution to the POTW after the effective date of this ordinance shall be permitted to introduce pollutants until accidental discharge procedures have been approved by the town. Review and approval of such plans and operating procedures shall not relieve the responsibility to modify the facility as necessary to meet the responsibility of the user to immediately telephone and notify the town's designated representative of the accident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions. Within five (5) days following an accidental discharge, the user shall submit to the town's designated representative a detailed written report describing the cause of the discharge and the measures to be taken to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the wastewater disposal system, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause such a discharge to occur or suffer from the discharge are advised of the emergency notification procedure.

ARTICLE III. DISCHARGE OF INDUSTRIAL WASTEWATER

Sec. 26-3.1. Application Requirements (Industrial Wastewater)

Any person who is now discharging any industrial wastewater into the wastewater disposal system or who desires to discharge any industrial wastewater shall complete an official application and file it with the town. Approval shall be evidence by written notice from the town's designated representative. Any person desiring to commence discharging industrial wastewater shall complete and file an application in order to obtain discharge permission from the town prior to commencing the discharge of such wastes into the wastewater disposal system. Such permit shall be for twelve (12) months duration, and, at the end of the permit period, and application must be made to reissue the permit.

Sec. 26-3.2. Contents of Application

- (a) Name, address, and location (if different from the address)
- (b) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1942, as amended.

- (c) Wastewater constituents and characteristics including but not limited to those mentioned in Article 2, Sections 26-2.7 and 26-2.10 of this ordinance as determined by a qualified laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended.
- (d) Time and duration of discharge
- (e) Average daily and 3 minutes peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- (f) Site plans, floor plans, mechanical and plumbing plans and details to show all building drains, building sewers, and appurtenances by their sizes.
- (g) Description of activities, facilities and plant processes on the premises including all materials, which are or could be discharged.
- (h) Where known, the nature and concentration of any pollutants in the discharge which are limited by any local government, State, or Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required for the user to meet applicable Pretreatment Standards.
- (i) If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date of this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard:

The following conditions shall apply to this schedule:

- (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.)
- (2) No increment referred to in paragraph (a) shall exceed 9 months without prior approval of the Town.
- (3) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the town including, at a minimum, whether or not it complied with the increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the town.
- (h) Each product produced by type, amount, process or processed and rate of production;
- (i) Type and amount of raw materials processed (average and maximum per day);
- (j) Number of type of employees, and hours of operation of plant, and proposed or actual hours of operation of pretreatment.

- (k) Any other information as may be needed by the local government to be necessary to evaluate the application.

The town's designated representative will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data provided, the town will grant permission to discharge subject to the terms and conditions provided herein.

Significant industrial users, which through changes in the use of the premises or water usage, cause a significant change in wastewater volume, strength, or characteristics shall require a new application filed prior to making the change or alteration.

Sec. 26-3.3. Permit Modifications

Within 9 months of the promulgation of a National Categorical Pretreatment Standard, the Wastewater Discharge Permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a Wastewater Discharge Permit as required by Section 26-3.1, the user shall apply for a Wastewater Discharge Permit within 180 days after the promulgation of the Applicable National Categorical Pretreatment Standard. In addition, the user with an existing Wastewater Discharge Permit shall submit to the local government within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by paragraphs (h) and (i) of Section 26-3.2.

Sec. 26-3.4. Control Structure

The owner of any property served by a building sewer carrying nonresidential wastewater, including commercial and industrial users, shall build a control structure in the building sewer from his premises just prior to the entrance of the building sewer into the public sewer suitable for flow composite sampling. Instrumented flow measuring of wastewater shall be a part of this structure. Plans for this structure shall be approved by the town. There shall be ample room and pre-installed flow monitoring equipment in or near such sampling facility to allow accurate sampling and collection of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the owner.

Each sampling chamber shall contain a Parshall flume, weir, or similar device with a recording and totalizing register for measuring liquid quantity; discharged by the industrial plant. In order to equalize flows over a 24-hour period, each person discharging a waste into sanitary sewers having a volume in excess of 2,500 gallons in any one day shall construct and maintain at his own expense a suitable storage tank as determined by the town. Said tank shall have a capacity of at least 80 percent of the normal volume of one 24-hour production period of waste and an outlet to the sewer that is controlled by a water works type rate controller or other approvable devices. The setting of the rate controller shall be directed by the town's designated representative.

All commercial establishments serving food shall install a grease trap having a capacity of at least 80 percent of the normal volume of one 24-hour production period of waste prior to discharging to the Town of Maysville's sewer system. If such food establishments wish to use any existing grease trap, they must first have the tank pumped and the waste hauled and disposed at their expense in a manner acceptable to State and Federal regulations. The tank shall then be inspected by the town's authorized representative who will then determine if the tank requires any repair, needs replacement, or can be used as it exists in the ground.

Sec. 26-3.5. Authority of Town of Maysville to Furnish Technical Advice

The town is authorized to consult with, and furnish, technical assistance and advice to industrial users of the wastewater disposal system in order to assist them in devising procedures and constructing equipment to reduce or eliminate from industrial wastewater objectionable characteristics or properties which may not otherwise be discharged into the wastewater disposal system under this ordinance. However, it is the owner's sole responsibility to meet standards set by the town.

Sec. 26-3.6. Notice of Process Change/Interruption of Operation

Notice by the user shall be given to the town in advance or at the earliest possible time when normal operations of the industry will be interrupted for twenty-four hours or longer, when wastes will not be available for discharge, or prior to implementation of a process change which will alter demands on the POTW.

Sec. 26-3.7. User Records

Any user shall maintain and retain for three (3) years all plant records relating to wastewater discharges as specified by the town and afford the town access thereto. These records include but are not limited to production records, wastewater self-monitoring records, and State and EPA required records.

Sec. 26-3.8. Transfer of Discharge Permission

Wastewater discharge permission is issued to a specific industrial user for a specific operation. Wastewater discharge permission shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the town. Any succeeding owner or user shall also comply with the terms and conditions of the ordinance. Written requests to cease or to reapply for discharge permission shall be made to the town's designated representative.

Sec. 26-3.9. Confidentially

Information and data on a user obtained from reports, questionnaires, discharge applications and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the town, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public. It will, however, be made available upon written request to governmental agencies for uses related to this Ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal System Permit and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics shall not be recognized as confidential information.

Information accepted by the town as confidential shall not be given to any governmental agency or to the general public by the town until and unless a ten-day notification is given to the user.

Sec. 26-3.10. Pretreatment

Users shall provide necessary wastewater treatment as required to comply with this Ordinance and shall achieve compliance with a Federal Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations. Any facilities required to pretreat wastewater to a level acceptable to the town shall be constructed, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the town's designated representative for review, and shall be acceptable to the town before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the town prior to the user's initiation of the changes.

The town shall annually publish in the local newspaper a list of the users, which were not in compliance with any pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same 12 months.

All records relating to compliance with pretreatment standards shall be made available to officials to the EPA, the State, or other approval authority upon request.

Sec. 26-3.11. Special Industrial Discharges

No person shall be allowed to empty septic tank or grease trap sludge or wastes from chemical toilets or wastes from any containment such as ponds into the town's Wastewater Treatment Facility.

ARTICLE IV. SAMPLING AND MONITORING

Sec. 26-4.1. Right of Entry

Whenever it shall be necessary for the purpose of this ordinance and upon presentation of proper credentials and identification, town personnel shall be permitted to enter upon any property of wastewater disposal system users for the purpose of inspection, observation, measurement, sampling, or testing in the area of control and/or sampling facility. Any person completing and filing an application to discharge wastewater under Article 3 of this ordinance shall there by grant the town permission to enter his premises for said purposes. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, town personnel will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

Nothing in this ordinance shall be construed to relieve any person from liability in the event that such personnel is injured, involved in a mishap, etc., while performing such inspections, observations, measurement, sampling, and testing on the property.

Sec. 26-4.2. Compliance Determination

Compliance determinations with respect to Article 2 prohibitions and limitations shall be made on the basis of flow composite samples of wastewater. Time composite samples may be taken over a 24-hour period, or over a longer time span, as determined necessary by the town's designated representative.

The volume of flow used in computing sewer user charges and sewer surcharges shall be based upon metered water consumption as shown in the records of water meter readings.

In the event that an industrial sewer user discharging wastes into the sanitary sewer system, procedures evidencing to the town that more than 10 percent of the total annual volume of water used for all purposes does not reach the sanitary sewer, and estimated percentage of total water consumption to be used in computing charges may be agreed upon between the town and the industry discharging industrial wastes into said sewers. In the event that the town determines that the volume of industrial waste being discharged is more than 90 percent greater than the metered water consumption, the industrial waste charges shall be based upon the volume discharged as measured by a volume measuring device approved by the Town such as a flow meter installed within the control structure as provided in Section 26-3.4.

Sec. 26-4.3. Analysis of Industrial Wastewater

All measurements, tests and analyses of the characteristics of properties of waters and wastes to which reference is made in this ordinance shall be made in accordance with "Standard Methods", herein defined, and shall be performed by a qualified State certified laboratory.

The determination of the character and concentration of the industrial wastes by the Town shall be binding as a basis for charges.

Total costs incident to the supervision, inspection, sampling and analyzing of waste shall be included in the charge made to persons discharging wastes into the sanitary sewers.

Sec. 26-4.4. Sampling Frequency

Sampling of industrial wastewater for the purposes of compliance determination with respect to Article 2 prohibitions and limitations will be done at such intervals as the town's designated representative may designate. However, it is the intention of the town to conduct compliance sampling or to cause such sampling to be conducted for all significant industrial users at least twice in every one-year period.

ARTICLE V. ENFORCEMENT

Sec. 26-5.1. Penalties

- (a) Any person found to be violating any provision of this ordinance except Article 5, Section 26-5.1, Parts (c) and (d) shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, cease all violation.
- (b) Any person who shall continue any violation beyond the time limit provided for in the aforementioned notice of violation shall be guilty of a misdemeanor, and on correction thereof shall be fined in the amount not exceeding \$500 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
- (c) No authorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenances, or equipment which is a part of the wastewater disposal system. Any person violating this provision shall be subject to immediate arrest. In addition such persons shall be liable to reimburse the town for any damages resulting from such violations.

- (d) If a public sewer becomes obstructed or damaged because of any substances improperly discharged into it, the person(s) responsible for such discharge shall be billed and shall pay for the expenses incurred by the town in cleaning out, repairing or rebuilding the sewer as well as damages incurred by the town arising from claims of private property owners which are caused by such obstruction or damage.

Sec. 26-5.2. Revocation of Permission to Discharge

The town may order a permission to discharge be revoked upon finding that the discharger has violated a provision of this ordinance. A user whose permission to discharge has been revoked shall immediately stop all discharges of any liquid carried wastes. The town may disconnect or permanently block from the wastewater disposal system the private sewer of any discharger whose permission to discharge has been revoked if such action is necessary to ensure compliance with the order of revocation. Included in the town's options is the locking of the water meter to cease water into the facility and the sewer discharge. A user whose permission to discharge has been revoked shall apply for new permission to discharge and pay all delinquent fees, charges, penalties, and such other sums as may be due to the town. All costs incurred to revoke the prior permission to discharge and disconnecting the private sewer shall be paid for by the discharger before new permission to discharge shall be granted.

Sec. 26-5.3. Reasons for Revocation of Permission to Discharge

Any user who violates the following conditions of this ordinance or applicable State and Federal Regulations is subject to having his permission to discharge revoked in accordance with the procedures in Article 5, Section 26-5.2 of this Ordinance.

- (a) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
- (b) Failure of a user to report significant changes in operations, or wastewater constituents or characteristics;
- (c) Refusal of reasonable access to the user's premises for the purposes of inspection or monitoring; or
- (d) Violation of Article 2, Section 26-2.7, 26-2.10, 26-2.13, and 26-2.14 of this Ordinance; or
- (e) Failure to secure a permit for discharging into the Town's collection system.
- (f) In situations where an actual threatened discharge from any person may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or where such a discharge could cause interference with the sanitary sewers or the wastewater treatment plant receiving the sewage, the town may immediately disconnect such a person's connection with the sewer system, or water system, or take other measures sufficient to prevent the discharge from occurring or continuing to occur.

Sec. 26-5.4. Other Required Permits

The issuance of a permit to connect to the public sewer does not relieve the owner from the responsibility of obtaining all other required County, State, and Federal permits/approvals that may be required. Copies of other permits received by the owner shall be submitted to the town prior to the installation of the proposed sewer connection. These permits will be related to the specific activity with regards to the

property to receive sewer service (i.e., Town of Maysville Planning Approval, Building Permits, County Health Department, DOT, CAMA, etc.).

Sec. 26-5.5. Transfer of Discharge Permission

Wastewater discharge permission is issued to a specific domestic user, or applicant. Wastewater discharge permission shall not be reassigned, transferred or sold to a new owner, new user, difference premises, or a new changed operation without the written approval of the town. Any succeeding owner or user shall also comply with the terms and conditions of the ordinance. Written requests to cease and reissue the discharge permission shall be made to the town's designated representative identifying the proposed new owner. It shall be the responsibility of the existing owner to show the new owner (buyer) that sewer capacity has been committed by the town to the septic property.

ARTICLE VI. REVENUE SYSTEM

Sec. 26-6.1. Revenue System

Fees shall be assessed to users for wastewater discharges into the POTW and for executing or enforcing the provisions of this ordinance. These charges shall be developed by the town's designated representative in conjunction with the town's engineer; certified by the town's engineer as to appropriateness, adequacy and reasonableness; reviewed by the board and recommendations made by the board to the town; and approved by the town no less frequently than annually in accordance with the USER CHARGE SYSTEM and other ordinance and policies of the town and applicable statutes of the State. Charges may be developed for the following purposes:

- (a) Industrial monitoring, inspection, and surveillance procedures;
- (b) Reviewing accidental discharge procedures and construction;
- (c) Reviewing industrial discharge permit applications and for reviewing application, plans, specifications for collector force mains, etc.
- (d) Reviewing appeals;
- (e) Special industrial discharges;
- (f) Toxic substance discharges to the POTW;
- (g) Recovering capital-related expenditures;
- (h) Recovering cost of debt retirement;
- (i) Recovering cost of taps;
- (j) User charges based on billable flow and excessive pollutant discharges to the POTW, necessary to recover pollutant maintenance and replacement cost of the wastewater disposal system; (these shall apply to any sewer tap for an occupied dwelling, non-occupied dwelling or vacant lots);

- (k) Other charges incidental to executing or enforcing the provisions of this ordinance; or
- (l) Inspection costs.

It is the intent of users' charges to distribute the cost of operation and maintenance of publicly owned treatment works to the pollutant source and to promote self-sufficiency of treatment works with respect to operation and maintenance costs. The term "operation and maintenance" includes replacement costs.

Charges for items (a) through (f) shall be based on the actual cost to the town for each specific user or incident. However, a fixed rate may be proposed by the town's designated representative, subject to the town's approval, for those procedures that are repetitive and do not differ substantially within each class of user. The town may, under applicable State statutes and Utility District ordinances, levy ad valorem taxes for general obligation bond principle and interest payments, and any other purpose provided by law, not related to the operation and maintenance costs of the wastewater disposal system.

A Security Deposit shall be required of all applicants for sanitary sewer service. Such deposit shall be paid to the Utility District at the time the USER AGREEMENT is signed.

- (1) The minimum deposit shall be equal to the minimum monthly User Fee for at least one month or as set by the Board.
- (2) The individual in whose name the deposit is made shall be responsible for payment of all bills incurred in conjunction with the service furnished.
- (3) A security deposit receipt shall not be negotiable and shall be redeemed only at the Town or Maysville's office.
- (4) Where the Town finds that the request for deposit refund is questionable, the Town may require the applicant for refund to produce the Security Deposit receipt properly endorsed.

In the event that the Town shall for any reason refuse, or be unable to furnish the applicant with sewer service within twenty-four (24) months of the date that construction commences, the Town shall release and refund said deposit to the applicant without the applicant's request for said refund.

ARTICLE VII. METER READING, BILLING AND COLLECTING

Sec. 26-7.1. Meter Reading

Monthly billings shall be based on billable flow and excessive pollutant discharges to the POTW as taken from the customer's water meter readings. Meters shall be read and bills rendered as follows; Read from the 15th to the end of the month, billed from the first to the fifth of the month. The town reserves the right to vary the dates on length of period covered, temporarily or permanently if necessary or desirable.

Sec. 26-7.2. Billing

Bills for sewer service shall be figured in accordance with the town's published effective rate scheduled and shall be based on the amount consumed for the period covered by the meter readings.

Minimum bills for sewer service commences when the tap is made, completed and service is available, whether used or not. (Vacant building, occupied, vacant lot, etc.).

Each service shall be billed individually, irrespective to the fact that said service may be for the same users, or for the same services.

Sec. 26-7.3. Collection

Bills shall be due and payable upon receipt. Sewer bills shall have the same payment terms as the water bills. Failure to receive bills or notices shall not prevent such bills from becoming delinquent or relieve the user from payment.

ARTICLE VIII. WITHHOLDING SERVICE

Sec. 26-8.1. Reasons for Withholding Service

The town may withhold or discontinue service rendered under the AGREEMENT FOR SERVICES made by any member or agent of a household, organization or business unless all prior indebtedness to the town of such household organization or business for sewage services has been settled in full. Service may be discontinued for any violation by the user of any applicable provision of the ordinance.

As applicable, the town may refuse or discontinue service under the following conditions provided that, unless otherwise stated, the customer shall be given written notice and allowed a reasonable time to comply with provision and/or remedy any deficiency;

- (a) For non-payment of bills.
- (b) For neglect or refusal to provide reasonable access to the town for the purpose of installing, maintaining and operating, inspecting, monitoring, rehabilitating, and replacing or removing the town's equipment and other purposed incident to performance under or termination of the town's AGREEMENT FOR SERVICES with the user.
- (c) For failure or refusal to provide the town adequate space for the service equipment of the town.
- (d) For failure or refusal to provide the town with a deposit to ensure payment of bills in accordance with the ordinance.
- (e) For failure or refusal of the user to correct any deficiencies or defects in the building sewer which are reported to the user by the town.
- (f) For tampering with pumps, regulators, valves, piping, or other equipment furnished and owned by the town – without notice.
- (g) For a condition known to the town to be hazardous – without notice.
- (h) For unauthorized or fraudulent use of service – without notice.
- (i) For service not available beyond the town's control.
- (j) Strike, riot, fire, floods, accident or any unavoidable cause.
- (k) For emergency repairs.

Upon discontinuance of service for non-payment of bills, the user's deposit will be applied by the town towards settlement of the account. Any balance will be refunded to the user; but if the deposit is not sufficient to cover the bill, the town shall proceed to collect the balance as a debt to the full extent permitted by law.

When monthly sewer bills for sewer taps installed on vacant lots/buildings are subsequent to details for nonpayment, the owner, in addition to being held responsible for such delinquency shall lose the right to said tap and shall have to pay the then current sewer tap fee to restore the property to sewer service availability.

Service that is discontinued for non-payment of bills will be restored only after all bills are paid in full and a new deposit has been made if necessary.

Sec. 26-8.2. Penalties

- (a) When service is discontinued for fraudulent use of service, the town, before restoring service may require the user to make at the user's expense, all changes in piping or equipment necessary to eliminate illegal use and to pay an amount reasonably estimated as to the deficiency in revenue resulting from such fraudulent use.
- (b) Before service will be restored to any user found in violation of provisions of Section 26-7.1, a reconnection fee shall be paid by the user in an amount established by the town.
- (c) Any user found in violation of provisions of Section 26-8.1 subparagraphs b, c, e, f, g, or h, and who shall continue any violation beyond the time limit provided for in a written notice of violation shall be guilty of a misdemeanor punishable by a fine of \$500 for each violation.

Sec. 26-8.3. Complaints-Adjustments

- (a) If the user believes the bill to be in error, he shall present his claim, in person, at the town's office before the bill becomes delinquent. Such claim if made after the bill has become delinquent shall not prevent discontinuance of service as heretofore provided. The user may pay such bill under protest and said payment shall not prejudice his claim.
- (b) The town will make special meter readings at the request of the user.
- (c) Meters will be tested at the request of the user upon payment, by the user, of the actual cost to the town for making the test, provided, however, that if the meter is found to be over registered beyond five percent of the correct volume, no charge will be made.
- (d) If the seal on the meter is broken by other than the town's designated representative, or if the meter fails to register correctly or is stopped for any cause, the user shall pay the amount estimated by the town manager from the record the user's previous bill and/or from other appropriate data.

Sec. 26-8.4. Abridgment or Modification of Rules

(a) No promise, agreement or representation of any employees of the town shall be binding upon the town except as it shall have been agreed upon in writing, signed and accepted by the acknowledged Board of Commissioners.

(b) No modifications of rates or any of the rules and regulations shall be made by any agent of the town.

ARTICLE IX. AUTHORITY

Sec. 26-9.1. Authority

This ordinance is adopted under the authority granted by Chapter 160 A of North Carolina General Statutes.

ARTICLE X. SEVERABILITY

Sec. 26-10.1. Severability

If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

ARTICLE XI. SEWER CAPACITY ALLOCATION

Sec. 26-11.1. Determination of Sewer Capacity Available for Allocation

(a) Where the board reasonably expects requests for waste water allocating to exceed the prudent availability of wastewater for allocation, the board shall, before the 15th of January of each such calendar year or as soon thereafter as practicable, identify the amount of waste water capacity the town shall make available for commercial and residential use within or without the boundaries of the town. The amount of each annual allocation shall be determined by the following procedure:

(1) On or before the 15th of January of each calendar year, the town manager shall provide the Board the following information:

a. the total capacity of the town's waste water treatment facilities as of December 31st of the prior calendar year;

b. the average daily flow for the prior calendar year;

c. the total amount of waste water available for allocation based on the difference between such daily flow and 80% of capacity;

d. the total amount of waste water available for allocation based on the difference between such daily flow and 90% of capacity;

e. the amount of unused daily flows reserved for the use of third parties by prior action or agreement of the Board; and

f. any additional information that may have an effect on the amount of available waste water capacity for the calendar year.

(b) Based on the above information, the town manager shall provide the board a recommendation regarding:

(1) the amount of waste water capacity that should be made available for allocation for residential purposes for the calendar year;

(2) the amount of waste water capacity that should be made available for allocation for commercial, retail, or industrial purposes for the calendar year.

(c) The board shall accept, reject, or modify the town manager's recommendations regarding the amount and character of waste water allocations to be made for the following year.

Sec. 26-11.2. Procedure for Allocating Available Sewer Capacity

The following procedures shall be used to assign or reserve the waste water allocations adopted by the Board of Commissioner:

(a) Persons or corporations desiring a flow allocation for new construction or expansion of a residential or commercial project must submit a written application to the town identifying:

(1) the project for which the allocation is requested,

(2) the location of the project,

(3) the amount of waste water required for the project,

(4) the date upon which the waste water will be required, and

(5) whether the full allocation will be used within the calendar year, or whether a portion of the allocation should be reserved for the subsequent calendar year. Incomplete applications will not be considered by the Board of Commissioner.

(b) Applications will be considered by the Board of Commissioners on a first-come-first-serve basis.

(c) Allocations will be provided to applicants based on the order in which approved by the Board of Commissioners. The Town Manager reserves the right to determine the amount of availability of sewer capacity allocation and will allot availability to the applicants based on the order in which the applications have been approved by the Board of Commissioners.

(d) All allocations must utilize at least 50 percent of the allocation within twelve months of the date the allocation is approved. Failure to utilize at least 50 percent of the allocation within twelve months of the date the allocation is originally approved will require the applicant to submit a renewal application prior to the expiration of the twelve months. Renewal applications shall be submitted to the Town Manager for consideration and approval. Renewal of the original application is only valid for an additional twelve months, at which time all the allocation must be utilized. Failure to submit a renewal application within the twelve month time frame from the date the allocation is originally approved will

result in automatic expiration of the allocation and such previously approved allocation shall return to the Town. The applicant will lose their standing in the list of approved applicants and must submit another original allocation application for approval by the Board of Commissioners.

(f) Except where otherwise specifically approved by the Board either through a development agreement or other action by the Board, all allocations must be fully used within twenty-four months of the date of the original allocation application approval. Any applicant may apply to the Board prior to the expiration of the twenty-four month period for an extension of the original application. The Board reserves the right, in its sole discretion, to extend the original application of an applicant upon request of the applicant for a period of not more than six (6) additional months, based on evidence presented by the applicant of the necessity to extend time in which to complete a project and utilize the remaining portion of the original allocation.

(g) Absent any Board action to extend an allocation upon request of an applicant, any allocation not used within twenty-four months of the date of the original allocation application approval will automatically expire and return to the Town.

(h) Any applicant who fails to utilize the approved allocation within twenty-four months of the date of the original allocation application and the allocation has returned to the Town, such applicant must re-apply for allocation by completing another allocation application for approval by the Board of Commissioners. Such request, if approved, will go the bottom of the waiting list of applicants for allotted sewer capacity allocation.

(i) Any applicant who has been approved for allocation and desires not to utilized the amount of sewer capacity allocation allotted to them, may submit a revised allocation application to the Town Manager for consideration and approval. Applicants understand that once allocation is returned to the Town, they must re-apply for any further requests for sewer allocation and follow the procedures outlined in this Section. Applicants shall understand that new applications for additional sewer capacity allocation will be on first-come-first served and be added to the waiting list.

Revised August 2, 2012; Ordinance Number 2012-06

~~ARTICLE XII. CROSS CONNECTION POLICY FOR WATER QUALITY PROTECTION~~

~~Sec. 26-12.1. Purpose~~

~~—— (a) — The purpose of this Article is to protect the potable water supply of the Town of Maysville from possible contamination of pollution by isolating with the consumers internal distribution system(s), or the consumers private water system(s), such contaminants or pollutants which could backflow into the public water systems; and~~

~~—— (b) — To promote the elimination or control of existing cross connections, actual or potential, between the consumers in plant potable water system(s) and non potable water systems, plumbing fixtures and industrial piping systems; and~~

~~———— (c) ——— To provide for the maintenance of a continuing program of Cross Connection Control which will systematically and effectively prevent the contamination or pollution of all potable water systems.~~

Sec. 26-12.2. Responsibility

~~———— (a) ——— The Town of Maysville shall designate a Cross Connection Control Official who shall be responsible for the protection of the public potable water distribution system from the contamination or pollution due to the backflow of contaminants or pollutants through the water service connection.~~

~~———— (b) ——— If the designated Cross Connection Control Official determines that an approved backflow prevention device is required (at the consumer's water service connection or within the consumer's private water system) for the safety of the water system, the Cross Connection Control Official or his or her designated agent shall give written notice to said consumer to install such device at the specified locations on the consumer's premises.~~

~~———— (c) ——— The consumer shall immediately install such an approved backflow prevention device at the consumer's own expense; and failure, inability or refusal on the part of the consumer to install, have tested and maintained said device, shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.~~

Sec. 26-12.3. Definitions

~~———— As used in this Article, the following terms shall have the meanings provided in this section unless the context clearly indicates otherwise.~~

~~*Air Gap Separation.* — An unobstructed vertical distance through the atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. An approved air gap vertical separation shall be at least double the diameter of the supply pipe. In no case shall the air gap be less than one (1) inch.~~

~~*Approved.* — Certified in writing by the Cross Connection Control Officer as an acceptable device or methodology for the purpose of backflow prevention.~~

~~*Auxiliary Intake.* Any piping connection or other device whereby water may be secured from a source other than public water supply.~~

~~*Backflow.* Any flow of water into the public water supply from any other source due to a cross-connection, auxiliary intake, interconnection, backpressure, backsiphonage, any combination thereof, or other cause.~~

~~*Backpressure.* Any pressure on any source of water other than the public water supply that may be greater than the pressure on the public water supply and may result in a backflow.~~

~~*Backflow Prevention Device.* An approved effective device method used to prevent backflow from occurring in the potable water supply. The type of device required shall be based on degree of hazard, existing or potential.~~

~~*Back Siphonage.* Any circumstance in which the pressure on the public water supply may be reduced to the point that the elevation and atmospheric pressure on a source of water other than the public water supply may result in a pressure to be greater than the pressure on the public water supply and may result in a back flow.~~

~~*Certified Tester.* A person who has proven his/her competency to test, repair, overhaul and make reports on backflow prevention devices as evidenced by certification of successful completion of a training program approved by the Town Manager.~~

~~*Confinement Device.* A backflow prevention device, as approved and required, installed within a private plumbing or distribution system to isolate a localized hazard from the remainder of said system.~~

~~*Consumer.* Any person, firm, or corporation responsible for any property at which water from the Town of Maysville's public water supply is received. In the absence of other parties or the failure of other parties to accept the responsibilities herein set forth, the owner of record shall be ultimately responsible.~~

~~*Contamination.* The presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality as to constitute a hazard or impair the usefulness of the water.~~

~~*Containment Device.* A backflow prevention device, as approved and required, installed at the point of separation between the public water supply and a private service or private distribution system or at the point of metering.~~

~~*Cross-connection.* Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such a manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back pressure valves, or because of any other arrangement.~~

~~*Cross-Connection Control Officer.* The official position established and authorized by the Town of Maysville Board of Commissioners designated by the Town Manager to administer, interpret this section and who shall be a certified tester.~~

~~*Double Check Valve Backflow Prevention Device.* An approved assembly composed of two (2) single, spring loaded independently operating check valves, including tightly closing shut off valves located at each end of the assembly, and having suitable connections for testing the water tightness of each check valve.~~

~~*Dual Check Valve.* An approved device containing two (2) independently acting check valves in series.~~

~~*Fire Line.* A system of pipes and equipment used to supply water in an emergency for extinguishing fire.~~

~~*Interconnection.*—Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, heat exchanger, storage reservoir, or other device which does or may contain sewage or other waste or substance which would be capable of imparting contamination to the public water supply.~~

~~*Pressure Vacuum Breaker.* An approved assembly containing an independently operating spring loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly must be equipped with suitable connections for testing the proper operation of the device and tightly closing shut off valves located at each end of the assembly.~~

~~*Private Water Supply.* That part of a water service connection to the Town of Maysville's public water system which is located on the consumer's side of the Town's water meter. A private water system may be a water service line to a single premise or structure or it may be a privately owned and maintained water distribution system, which services more than one structure or premises. For the purposes of this article, once water from the Town's public water system passes through the meter to the consumer's side, that water is considered part of the private water system.~~

~~*Public Water Supply.* The water and waterworks system of the Town of Maysville and its customers outside the Town limits, for general use and which supply is recognized as the public water supply by the North Carolina Department of Environmental Health and Natural Resources.~~

~~*Reduced Pressure Zone Principle Backflow Prevention Device (RPZ).* An approved device containing within its structure, two (2) spring loaded independently operating check valves, together with an automatically operating pressure differential relief valve located between the two check valves. The first check valve reduces the supply pressure a predetermined amount so that during normal flow and at cessation of normal flow the pressure between the checks shall be less than the supply pressures. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves less than the supply pressure. This device shall have suitable connections for testing the proper operation of the device, including tightly closing shut off valves located at each end of the device.~~

Sec. 26-12.4. Compliance with Federal and State Law

~~The Town of Maysville will comply with the Federal Safe Drinking Water Act, the North Carolina Drinking Water Act, and North Carolina State Building Code, which pertain to cross-connections, auxiliary intakes and interconnections, and establish an effective ongoing program to control potential sources of contamination of the public water supply.~~

Sec. 26-12.5. Unlawful Connections

~~It shall be unlawful for any person to cause a cross connection, auxiliary intake or inter connection to be made; or allow one to exist for any purpose whatsoever.~~

Sec. 26-12.6. Inspection of Property

~~It shall be the duty, upon request of the Town Manager, of the Cross Connection Control Officer to cause inspections to be made of properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspections shall be set by the Cross Connection Control Officer.~~

~~Sec. 26-12.7. Right of Access~~

~~The Cross Connection Control Officer, or authorized representative, shall have the right to enter, at reasonable time, any nonresidential property served by a connection to the Town of Maysville public water supply for the purpose of performing the duties of this article. In those cases in which the property owner chooses not to provide such access, the Cross Connection Control Officer, or authorized representative, may designate the location as a high hazard in accordance with Section 26-12.9.~~

~~Sec. 26-12.8. Existing Conditions~~

~~Any consumer shall be allowed ninety (90) days to correct any cross connections, auxiliary intakes, interconnections or other hazard as defined by Section 26-12.9 of this code in violation of the provisions of this ordinance. The ninety (90) days will be from the date of receipt of the notification given by the Cross Connection Control Officer.~~

~~Sec. 26-12.9. Hazardous Uses~~

~~(a) The following uses shall be classified as hazardous uses:~~

- ~~1. Hazardous uses include, but are not limited to: pumps and tanks handling sewage, radioactive, lethal, or toxic substances, boiler and steam connections, sewer waste lines, low inlets to receptacles containing toxic substances, coils or jackets used as heat exchangers, flush valve toilets without vacuum breaks, bacterial and viral materials, private wells or other private water supply, irrigation systems, water systems or hose connections, with booster pumps, carbonation equipment, or similar hazard potential as determined by the cross connection coordinator.~~
- ~~2. Any location at which the nature or mode of operations within a premises are such that frequent alterations are made to the plumbing or at which there is a likelihood in the determination of the Cross Connection Control Officer that protective measures may be subverted, altered, or disconnected.~~
- ~~3. Any facility which contains, but is not limited to, a bottling plant, cannery, building have five (5) or more stories, battery manufacturer, exterminator, greenhouse, chemical processing plant, dairy, dye works, film laboratory, car wash, hospital, commercial laboratory, laundry, metal fabricating operations, mortuary, swimming pool, morgue, x ray equipment, medical office with laboratory, aspirator, medical washing equipment, packing house, plating plant, poultry house, power plant, nuclear reactor, those fire sprinkler systems equipped with facilities for introduction of freeze preventive chemicals or other substances other than water, dental office, any radioactive material, restaurant, shopping mall with tenant conducting any activity listed in this section and sewage pump or treatment facilities.~~

- ~~(b) All installations described in Section 26 12.9(a) of this code shall be deemed hazardous uses, and must have a containment device in the form of a reduced pressure zone backflow prevention device provided that, if the consumer demonstrates to the satisfaction of the Cross Connection Control Officer that sufficient internal confinement devices have been installed and tested. The Cross-Connection Control Officer may require that the consumer provide engineering drawings sealed by a professional engineer of installations within the premises, which provide complete internal protection against cross connection as approved by the Cross Connection Control Officer. Any such connection shall be considered an other connection for determining the type of containment device required. Each internal confinement device shall be one of the following, as approved by the Cross Connection Control Officer or his authorized representative: reduced pressure zone principle backflow prevention device, double check valve backflow prevention device, air gap, vacuum break pressure type, or dual check valve. Each reduced pressure zone principal backflow prevention device serving as an internal confinement device shall have a mesh strainer immediately upstream of the inlet gate valve.~~
- ~~(c) No person shall fill any tanks or tankers which include the following: those containing pesticides, fertilizers, other toxic chemicals or residues, flush trucks, street sweepers, and nonpotable water tankers from a public water system except with an approved air gap fill or an approved reduced pressure backflow preventer properly installed on the tank or tanker or on the public water supply fill pipeline or hose.~~

Sec. 26 12.10. Other Connections

- ~~(a) Services to single family residential units, not otherwise required by this code to have other containment devices, may have a containment device in the form of an approved dual check valve on all such services which meters are applied more than ninety (90) days following the date of adoption of this ordinance, said dual check valves or other containment devices as required shall be installed by the owner's representative prior to the installation of the meter by the Town of Maysville. On all such services for which meters have been applied prior to that date, said dual check valve shall be installed by the Town of Maysville provided that the Town reserves the right to charge the owner or occupant of any residence for the cost of said device and its installation. Maintenance of dual check valve containment devices installed in accordance with this section shall be conducted by the Town. Testable containment devices that are required on lawn irrigation water systems and must be tested every three (3) years by a contractor that has been approved by the Town.~~
- ~~(b) All other connections to the public water supply of the Town of Maysville shall have containment devices in the form of a double check valve backflow prevention device as set forth in Sec. 26-12.10(a) of this code. This shall include water mains installed to town of Maysville standards, and with Town supervision, but which are not maintained by the Town, including but not limited to manufactured home parks, apartments, group housing projects, and other private distribution systems, or similar hazard potential as determined by the Cross Connection Control Officer, or his authorized representative. Private distribution systems shall be configured so as to provide looped mains, with two (2) or more containment devices on each building water service connection and at dead end branch mains.~~

Sec. 26 12.11. Installation of Containment Devices

- ~~(a) The containment devices shall be located off street right of way on the water main side of any plumbing connections. When installed in a building, the device shall be located on the service line immediately after its entrance into the building. Each containment and confinement device shall be installed in a location that is physically accessible for inspection and testing as determined by the Cross Connection Control Officer. Containment devices, which have been buried in the ground, do not satisfy the provisions of this code. Each reduced pressure principle zone device shall be installed such that flooding of the device is unlikely as determined by the Cross Connection Control Officer.~~
- ~~(b) The Cross Connection Control Officer shall maintain a list of approved manufacturers and models of hazard containment devices and drawings of standard installation, copies to be made available through the Town Manager's office. All reduced pressure zone principle backflow prevention devices and double check valve backflow prevention devices shall be approved by the Foundation for Cross Connection Control and Hydraulic Research. All vacuum breaks and dual check valve devices shall be approved by the American Society for Sanitary Engineers. All installations and materials shall conform to Town of Maysville standards as set by the Cross Connection Control Officer.~~
- ~~(c) In those cases in which containment and/or confinement devices have been previously installed by prior owners, the Town of Maysville, or other parties, the responsibility for maintenance, testing, and replacement as applicable shall be with the consumer.~~
- ~~(d) The cost of said means of containment, and any other plumbing modifications necessary and convenient thereto, and the testing and maintenance thereof is to be paid for by the consumer.~~

Sec. 26-12.12. New Construction

~~All buildings, proposing to connect to the public water system of the Town of Maysville, receiving building permits, on or after the effective date of this ordinance, shall be equipped with an approved and tested as properly functioning backflow prevention device(s), as prescribed herein, prior to the issuance of a Certificate of Code Compliance for that building. If a building permit was issued for the building prior to the effective date of the Article, or a building permit was not required, the building shall be considered to be an existing building prior to the effective date, in accordance with Sec. 26-12.6 of this code.~~

Sec. 26-12.13. Notification of Consumer

~~Upon identification of a hazard, or hazard potential, as defined in Sec. 26-12.9 through 26-12.10 of this code, the Cross Connection Control Officer, shall notify the consumer, of record, of the property on which the hazard exists of the following:~~

- ~~(a) Location of Hazard~~
- ~~(b) Nature of Hazard Observed~~
- ~~(c) Date Hazard Observed~~
- ~~(d) Section of Code Applicable~~
- ~~(e) Requirements of Code~~

~~Such notification to be made by certified mail, with return receipt requested.~~

Sec. 26-12.14. Change in Nature of Use

~~The Cross Connection Control Officer shall be notified by the consumer the nature of use of the property changes so as to change the hazard classification of that property, as set forth in Sec. 26-12.9 through 26-12.10 of this code.~~

Sec. 26-12.15. Consumer Responsibilities

- ~~(a) The consumer shall, upon notification, as defined in Sec. 26-12.13 of this code, install the hazard containment device(s) as required within 90 days from the date of notification.~~
- ~~(b) If, after expiration of ninety (90) days, the containment device(s) has not been installed in conformance with standards set by the Cross Connection Control Officer, in a proper working condition, the Cross Connection Control Officer may discontinue the public water supply service at that premises, and service shall not be restored until such devices have been installed. The Cross Connection Control Officer may permit an extension of up to ninety (90) additional days if compliance efforts are underway and the existence of hardship can be demonstrated.~~
- ~~(c) The Town of Maysville shall bear no liability for direct or consequential damages proximately caused by the discontinuance of service pursuant to this section.~~

Sec. 26-12.16. Testing and Maintenance of Devices

~~The consumer at each property at which containment and/or confinement device(s) have been installed, except those with devices installed in accordance with Sec. 26-12.10(a) of this code, shall have each containment and/or confinement device(s) tested on an annual basis, and perform any routine maintenance to such device as recommended by the manufacturer, and provide the cross connection coordinator with a report of that inspection and work. The consumer shall cause such maintenance, or repairs to be made, rendering the device fully operational. Failure of the consumer to perform that testing and maintenance shall be cause for the premises to be deemed an immediate public health hazard. The Cross Connection Control Officer may immediately thereafter discontinue public water supply service to that premises and service shall not be restored until such devices have been rendered operational. Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicated containment or confinement devices shall be provided by the property owner to avoid the necessity of discontinuing water service to test or repair the device or devices.~~

Sec. 26-12.17. Enforcement by Civil Penalty

(a) Penalty

~~Violation of any provision of this article may subject the offender to a civil penalty to be recovered by the Town of Maysville in a civil action in the nature of debt if the offender does not pay the penalty within thirty (30) days after the assessment has become final by exhaustion of the appeal process established by this section, or by failure to appeal the assessment.~~

~~The civil penalty for violation of any provision of this cross connection control article shall not exceed five hundred dollars (\$500) per day for each day of continuous violation, or a cumulative or single civil penalty of ten thousand dollars (\$10,000). The civil penalty for willful violation of any provision of this article shall not exceed one thousand dollars (\$1,000) per day for each day of a continuous violation, or a cumulative or single civil penalty of twenty thousand dollars (\$20,000).~~

~~(b) Assessment~~

~~Any civil penalty shall be assessed by the Town Manager, upon the recommendation of the Cross-Connection Control Officer, and shall be based upon the reasonable estimated cost of correcting the cited violation, the magnitude of the potential risk posed to the public health, safety and welfare by the violation, and the cost of the public safety or other emergency response caused by the violation. The Town Manager shall serve written notice of the civil penalty assessment to the offender and set out with reasonable care the basis of the amount so assessed.~~

~~(c) Equitable Relief~~

~~An appropriate equitable remedy, including a mandatory or prohibitory injunction, issuing from a court of competent jurisdiction may endorse the provisions of this article.~~

~~(d) Enforcement option~~

~~The penalties and enforcement provisions established by this article may be applied in addition to or instead of the penalties established by other sections of this code.~~

Sec. 26-12.18. Limitation of Liability

~~The Town of Maysville shall not be held liable, for any cause, for failure to detect any unit failing to operate adequately, or failure to identify any specific hazard, which may result in contamination of its public water supply, nor shall this ordinance diminish the responsibility of any property owner from whose property a contamination of the public water supply may originate.~~

Article XII. Cross Connection Control Policy For Water Quality Protection

Sec. 26-12.1. Compliance with Federal, State, and Local Law

This article is in accordance with the minimum requirements of the Federal Safe Drinking Water Act, the North Carolina Department Quality, the North Carolina State Administrative Code (15A, Subchapter 18C), and the North Carolina State Plumbing Code that pertains to cross-connections, auxiliary intakes and interconnections with the public water supply. When there are conflicts between these or other applicable local, state, or federal regulations and this Ordinance, the most stringent shall govern.

This Article shall apply to all consumers connected to the Town of Maysville's public potable water supply system.

Sec. 26-12.2. Purpose and Objectives:

The purpose of this article is to prevent any waterborne disease, organism, contaminant(s), or pollutant(s) from entering the Town of Maysville water system through:

- (a) The installation of backflow prevention assemblies whenever new service connection(s) to a property are installed.
- (b) The elimination of cross connections whenever a hazard is found to exist through a site survey, a change in ownership or commercial account holder, the type of hazard has changed, the type of use has changed, or the plans for the modification of the water service connections are subject to review and approval by the Town of Maysville.

The specific objectives of the Town of Maysville's Backflow and Cross Connection Control Program are as follows:

- (a) To protect the public potable water supply of the Town of Maysville against actual or potential contamination by isolating with the consumer's internal distribution system(s), or the consumers private water system(s), contaminants or pollutants that could, under adverse conditions, backflow through uncontrolled cross-connections into the public water systems.
- (b) To eliminate or control of existing cross-connections, actual or potential, between the consumers potable water system(s) and non-potable water systems, plumbing fixtures and industrial piping systems.
- (c) To provide a continuing inspection and documentation program of Cross-Connection Control that will systematically and effectively control all actual or potential cross connections that may be installed, and prevent contamination or pollution within the Town of Maysville's public potable water supply.
- (d) There are no exemptions, grandfather clauses, or vested users which would prohibit the Town of Maysville from requiring the installation of backflow prevention device(s)/assemblies on existing water services when actual or potential hazards are found to exist on the consumer's property.

Sec. 26-12.3. Responsibilities

- (a) State of North Carolina – The North Carolina Department of Environmental Quality (NCDEQ) Public Water Supply Section (PWSS), has the responsibility of promulgating and enforcing laws, rules, regulations, and policies of all water purveyors in the State of North Carolina in carrying out an effective Backflow and Cross-Connection Control Program.
- (b) PWSS – The PWSS has the primary responsibility of ensuring the water purveyor operates the public potable water supply system free of actual or potential sanitary hazards, including unprotected cross-connections. They have the further responsibility of ensuring that the water purveyor provides an approved water supply at the service connection to the consumer's water system; and the water purveyor requires the installation, testing, and maintenance of an approved backflow prevention assembly on the service connection when required.

(c) The Town of Maysville – Except as otherwise provided herein, the Town of Maysville's responsibility is to ensure a safe water supply beginning at the source and continuing throughout all of the public water distribution system, including service connections and ending at the point of delivery to the water system(s) of consumers. In addition, the Town of Maysville shall exercise reasonable vigilance to ensure that the consumer has taken the proper steps to protect the public potable water system. To ensure proper precautions are taken, the Town of Maysville is required to identify, prevent, and eliminate potential hazards to the public potable water system; determine the degree of hazard or potential hazard to the public potable water system; determine the degree of protection required; and to ensure proper containment protection through an ongoing inspection program. The Town of Maysville shall designate a Cross-Connection Control O.R.C. who shall be responsible for protecting the public potable water supply system by adhering to the requirements of this Ordinance.

(d) Consumer – Each consumer has the primary responsibility of preventing pollutants and contaminants from entering their potable water system(s) and the Town of Maysville's public potable water system. The responsibility of each consumer starts at the point of delivery from the public potable water system and includes all of the consumer's water system(s). To accomplish this, the consumer at the consumer's own expense, shall coordinate the installation, testing, and maintenance of their approved backflow prevention assembly. Each consumer shall maintain accurate records of tests and repairs made to backflow prevention assemblies and shall maintain such records for a period of three (3) years. The records shall be on forms approved by the Town of Maysville and shall include the list of materials or replacement parts used, the dates of all tests and repairs, and the identity of the contractor(s).

Following any repair, overhaul, re-piping, or relocation of a consumer's backflow prevention assembly, the consumer shall have it tested to ensure that it is in good operating condition and will prevent backflow. Tests of backflow prevention assemblies shall be performed by a NC Certified Backflow Prevention Assembly Tester. Maintenance and repairs of backflow prevention assemblies shall be made by a NC licensed plumber.

(e) Certified Tester – All backflow prevention assembly testers must become certified or re-certified every two (2) years through a North Carolina AWWA/WEA approved backflow prevention certification program. When employed by the consumer to test backflow prevention assemblies, a certified tester shall not repair or change the design, material or operational characteristics of an assembly. The certified tester shall be responsible for:

- 1) Performing competent inspections of backflow prevention assemblies and making reports to the consumer and responsible authorities on forms approved by the Town of Maysville.
- 2) Be equipped with and be competent to use all the necessary tools, gauges, manometers and other equipment as required to properly test backflow prevention assemblies.
- 3) Provide a copy of all test reports to the consumer and to the Town of Maysville within seven (7) business days of any completed test. A certified tester shall maintain records for a minimum period of three (3) years.
- 4) Performing the work and ensuring the accuracy of all tests and reports.
- 5) Obtain and employ backflow prevention assembly test equipment that has been evaluated and/or approved by the Town of Maysville.

- (f) All test equipment shall be checked for accuracy annually (at a minimum) and calibrated, if necessary, employing an accuracy/calibration method dictated by the manufacturer of the equipment and acceptable to the Town of Maysville. Certification of the accuracy and calibration to the National Institute of Standards and Technology (NIST) standards shall be provided to the Town of Maysville annually.

Sec. 26-12.4. – Definitions

As used in this Article, the following terms shall have the following meanings provided in this section.

Aesthetically objectionable water – Water containing substances which, if introduced into the public water supply system, could be a nuisance to other water consumers but would not adversely affect human health. Examples of such substances are food grade dye, silica, iron and stagnant water from fire lines in which no chemical additives are used, etc.

Air-Gap Separation – An unobstructed vertical distance through the atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. An approved air-gap vertical separation shall be at least double the diameter of the supply pipe. In no case shall the air-gap be less than one (1) inch.

Approved – Means meets or exceeds the applicable specifications and standards set forth by the Authority, entities that establish industry standards including the University of Southern California Foundation for Cross-Connection and Hydraulic Research (USC), American Water Works Association (AWWA), and American Society of Sanitary Engineers (ASSE) and all regulatory agencies including North Carolina Departments of Environmental Quality (NCDEQ), Transportation (NCDOT), and Environmental Health (NCDEH)

Auxiliary Intake – Any piping connection or other device whereby water may be secured from a source other than public water supply.

Backflow – The reversal of flow of non-potable water, liquids, gases, or other substances into the public water supply due to a cross-connection, auxiliary intake, interconnection, backpressure, backsiphonage, any combination thereof, or other cause.

Backflow Prevention – The act of preventing any actual or potential waterborne disease, organism, contaminant, or pollutant through a direct or indirect cross-connection by isolating or containing it with the use of assemblies, devices, methods, and procedures.

Backflow Prevention Assembly Approved – An assembly used for containment and/or isolation purposes to prevent backflow into a consumer or public potable water system that has been investigated and approved by the Town of Maysville. The type of assembly used should be based on the degree of hazard, either existing or potential. The types are:

- (a) Double Check Valve Assembly (DCVA):

- (b) Double Check Detector Assembly (DCDA);
Pressure Vacuum Breaker (PVB);
- (c) Reduced Pressure Principle Assembly (RP);
and
- (d) Reduced Pressure Principle Detector
Assembly (Fire System) (RPDA)

Backflow Prevention Assembly Unapproved – An assembly that has been investigated by the Town of Maysville and has been determined to be unacceptable for installation on the potable water system. Consideration for disapproval and removal from the approved list shall be based on, but not limited to, the following criteria:

- (a) Poor performance standards
- (b) Lack of or unavailability of repair parts; or
- (c) Poor service or response from assembly's factory representative

Back-Pressure Backflow – An elevation in the consumer's water system pressure by a pump, elevated tank, boiler, or other means that could create a pressure greater than the supply pressure at the point of delivery which would cause – or tend to cause – a reversal of the normal direction of flow.

Back-Siphonage Backflow – A reversal of the normal direction of flow in the pipeline due to negative pressure (vacuum) being created in the supply line with the backflow source subject to atmospheric pressure.

Certified Tester – A person who has proven their competency to the Town of Maysville. Each person who is certified to make competent tests and make reports on backflow prevention assemblies shall be knowledgeable of applicable laws, rules, and regulations. Each person shall have qualifications acceptable to the Town of Maysville, and must hold a certificate of completion from a North Carolina approved training program in Backflow Cross-Connection Prevention.

Confinement Device – A backflow prevention device, as approved and required, installed within a private plumbing or distribution system to isolate a localized hazard from the remainder of said system.

Consumer – Any person, firm, owner, or corporation responsible for any property at which water from the Town of Maysville's public water supply is received. In the absence of other parties or the failure of other parties to accept the responsibilities herein set forth, the owner of record shall be ultimately responsible.

Consumer's Water System – Any water system commencing at the connection point and continuing throughout the consumer's plumbing system, located on the consumer's premises, whether supplied by public potable water or an auxiliary water supply. The system or systems may be either a potable water system or an industrial piping system.

Consumer's Potable Water System – The privately owned potable water system lying between the connection point and point of use and/ or isolation protection. This system will include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, store, or use potable water

Contamination – The presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality as to constitute a hazard or impair the usefulness of the water.

Containment Device – A backflow prevention device, as approved and required, installed at the point of separation between the public water supply and a private service or private distribution system or at the point of metering.

Cross-connection – Any unprotected actual or potential connection or structural arrangement between a public or a consumer's water system and any other source or system through which it is possible to introduce any contaminant or pollutant, into the potable water with which the system is supplied. By-pass arrangements, jumper connections, removable sections, swivels or change over devices, and other temporary or permanent devices through which, or because of which, "backflow" can or may occur are considered to be cross-connections.

Cross-Connection Control – The use of assemblies, devices, methods, and procedures to prevent contamination or pollution of a potable water supply through cross-connections.

Cross-Connection Control O.R.C. – The official position established and authorized by the Town of Maysville Board of Commissioners designated by the Town Manager to administer, interpret this section and who shall be a certified tester.

Direct Cross-Connection – A permanent connection with a physical link between the drinking water supply and a non-potable source.

Double Check Valve Assembly– An approved assembly composed of two (2) single, spring-loaded independently operating check valves, including tightly closing shut-off valves located at each end of the assembly, and having suitable connections for testing the water tightness of each check valve. This assembly shall be used to protect against a non-health hazard.

Double Check Detector Assembly – A specifically designed assembly composed of a line-size approved double check valve assembly with a specific bypass water meter and a meter-sized approved double check valve assembly. This assembly shall only be used to protect against a non-health hazard.

Dual Check Valve – An approved device containing two (2) independently acting check valves in series.

DWQ – The Division of Water Quality which is part of the North Carolina Department of Environmental Quality, or its successors.

Enclosure – A physical above ground apparatus used to help prevent a backflow preventer from freezing and is approved by the NC Plumbing Code.

Fire Line. A system of pipes and equipment used to supply water in an emergency for extinguishing fire.

Flex Space – Any Commercial facility or system which has the potential to change its use frequently without sufficient notice for inspection and poses a hazard; e.g., strip malls and shopping plazas.

Hazard, Health – An actual or potential threat of contamination or pollution of a physical, hazardous or toxic nature to the public or consumer's potable water system to such a degree or intensity that there would be a danger to health.

Hazard, Non-Health – An actual or potential threat to the quality of the public or the consumer's potable water system. A non-health hazard is one that, if introduced into the public water supply system could be a nuisance to water consumers, but would not adversely affect human health. Examples include taste, smell, aesthetics, etc.

Hazard, Pollution – An actual or potential threat to the quality or the potability of the public or the consumer's potable water system, but which would not constitute a health or a system hazard, as defined. The maximum degree or intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances. Examples include iron, calcium, silica, low level sulfur, etc.

Hazardous Facility – A facility in where substances may be present, which, if introduced into the public water system, would or may endanger or have an adverse effect on the health of other water consumers. Examples of such facilities are laboratories, sewage treatment plants, chemical plants, hospitals, mortuaries, irrigation systems, etc.

Health Agency – The North Carolina Department of Environmental Quality; Division of Environmental Health.

Industrial Fluids – Any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health or non-health hazard if introduced into a public or consumer potable water system. Such fluids may include, but are not limited to: process waters; chemicals in fluid form; acids and alkalis; oils, etc.

Industrial Piping System – Any system used by the consumer for transmission, confinement or storage of any fluid, solid or gaseous substance other than an approved water supply. Such a system would include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey or store substances, which are or may be polluted or contaminated.

Interconnection. Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, heat exchanger, storage reservoir, or other device which does or may contain sewage or other waste or substance which would be capable of imparting contamination to the public water supply.

Irrigation Service – A water service used for irrigation purposes only.

Isolation – The act of confining a localized hazard within a consumer's water system by installing approved backflow prevention assemblies. The Town of Maysville may make recommendations, upon facility inspection, as to the types of isolation devices/assemblies to be used, but does not assume or have any responsibility whatsoever for such installations.

NCDEQ – The North Carolina Department of Environmental Quality or its successors.

Non-Potable Water – Water that has not been examined, properly treated, and not approved by appropriate authorities as being safe for consumption.

Owner Service Facilities – (i) the water service facilities owned by an Owner and commencing at the connection on the Owner's side of the Town of Maysville's meter and servicing the premises of such Owner, including pipe, private cut-off valves, Backflow Prevention Assembly, pressure reducing valve and other components and (ii) the Building Sewer running from the Owner's premises to the sewer tap provided by the Town of Maysville to which an Owner connects private plumbing.

Point of Delivery – The point of delivery is the property line of the consumer or owner where the meter is situated, adjacent to the public street where the Town of Maysville's main is located. This shall be where the Town of Maysville loses jurisdiction and sanitary control over the water system infrastructure, and where the consumer or owner becomes responsible for all water piping, control devices, etc. located on their side of the point of delivery.

Pollutant – A substance that deteriorates the aesthetic quality of water or other materials but is not harmful to health. Pollutants are considered non-health hazards or low hazards.

Pollution – An impairment of the quality of water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect the aesthetic qualities of such waters for domestic use.

Potable Water - shall mean water from any source that meets the Safe Drinking Water Standards and, has been investigated by the North Carolina Department of Environmental Quality and the Town of Maysville, and which has been approved for human consumption.

Private Water Supply. That part of a water service connection to the Town of Maysville's public water system which is located on the consumer or owner's side of the Town's water meter. A private water system may be a water service line to a single premise or structure or it may be a privately owned and maintained water distribution system, which services more than one structure or premises. For the purposes of this article, once water from the Town's public water system passes through the meter to the consumer's side, that water is considered part of the private water system.

Public Water Supply. The water and waterworks system of the Town of Maysville and its consumers outside the Town limits, for general use and which supply is recognized as the public water supply by the North Carolina Department of Environmental Health and Natural Resources.

Reduced Pressure Principle Backflow Prevention Device (RP). An approved device containing within its structure, two (2) spring loaded independently operating check valves, together with an automatically operating pressure differential relief valve located between the two check valves. The first check valve reduces the supply pressure a predetermined amount so that during normal flow and at cessation of normal flow the pressure between the checks shall be less than the supply pressures. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves less than the supply pressure. This device shall have

suitable connections for testing the proper operation of the device, including tightly closing shut-off valves located at each end of the device. The assembly is designed to protect against a health hazard.

Temporary Cross-Connection – A link between the potable water supply and any other non-potable system created with removable sections, swivel or change-over devices, garden hoses, and other non-permanent methods.

Sec. 26-12.5 – Right of Entry

Authorized representatives from the Town of Maysville shall have the right to enter any building, structure, or premises during normal business hours, or at any time during the event of an emergency, to perform any duty imposed by this article. Those duties may include, but not be limited to, sampling and testing of water, inspections and observations of all piping system(s) connected to the public water supply. Where a consumer has security measures in force that require proper identification and clearance before entry onto their premises, the consumer shall make all necessary arrangements with the security personnel so that upon presentation of suitable identification, the Town of Maysville employee(s) shall be permitted to enter, without delay, for the purposes of performing his/her specific duties. Refusal to allow entry for these purposes may result in discontinuance of water service until a right of entry has been granted and, if necessary, a reduced pressure principle assembly (RP) has been installed.

Upon request, the consumer shall furnish the Town of Maysville any pertinent information regarding the water supply system on such property where cross-connections and backflow protection are deemed necessary.

Sec. 26-12.6 – Elimination of Cross-Connections Degree of Hazard

When it is determined that a backflow prevention assembly is required for the protection of the public water supply system, the Town of Maysville shall require the consumer, the owner, their agent, account holder, tenant, or occupant, at their own expense, to have an approved backflow prevention assembly installed at each service connection and to have it tested by a Certified Tester immediately upon installation.

When cross-connections are found to exist, the owner, their agent, account holder, tenant, or occupant shall be notified in writing to disconnect them within the time limit established by the Town of Maysville. Degree of protection required and maximum time allowed for compliance shall be based upon the potential degree of hazard to the public water supply system. The requirements are as follows:

- (a) Cross-connections with private wells or other auxiliary water supplies shall result in immediate disconnection.
- (b) All facilities that pose a health hazard to the potable water system must have a containment assembly in the form of a reduced pressure principle assembly (RP) installed within ninety (90) days.
- (c) All newly constructed industrial and commercial facilities not identified as a “health hazard” shall be considered non-health hazard facilities. All non-health hazard facilities must install, as a minimum containment assembly, a double check valve assembly (DCVA) within one hundred and twenty (120) days.

- (d) All facilities that change the intended use and/or the hazard level of the water supply shall install containment assemblies.
- (e) The consumer is responsible for installing sufficient internal isolation backflow prevention assemblies.
- (f) Water mains served by the Town of Maysville but not maintained by the Town of Maysville are considered cross-connections. The type of protection shall be based upon the degree of hazard, as determined by the Town of Maysville. In the event that a Town of Maysville employee does not have sufficient access to every portion of a private water system to completely evaluate the degree of hazard, an approved reduced pressure principle assembly (RP) shall be required as a minimum for protection.
- (g) No person shall fill tanks, containers, buckets, etc. containing pesticides, fertilizers, other toxins, etc. or their residues from the public water system except at a location equipped with an air gap or an approved reduced pressure principle backflow prevention assembly (RP) properly installed.
- (h) All backflow assemblies that are not installed in accordance with the requirements set forth by this Ordinance shall be brought up to code upon notification within the timeframe specified by the Town of Maysville.
- (i) All services outlined by this regulation that do not have containment assemblies shall install assemblies per the specifications set forth herein.
- (j) All current and/or potential air gap consumers, (not to include new construction); shall be inspected at a frequency determined by the Town of Maysville to ensure the safety of the system.

Note: If the degree of hazard determined by Town of Maysville, or his/her designee, has changed, then based upon the hazard, the consumer is responsible for installing the appropriate backflow prevention assemblies.

Sec. 26-12.7 – Approved Backflow Prevention Assemblies

The following requirements shall be followed prior to the installation of any backflow prevention device/assembly, State plumbing laws and regulations shall be adhered to.

- (a) Backflow prevention assemblies to be installed by the consumer must be included on the “List of Approved Backflow Prevention Devices” (List) published by the University of Southern California (USC), shall meet American Society of Sanitary Engineers (ASSE) standards and carry the ASSE seal.
- (b) The Town of Maysville reserves the right to add or remove from the List any reduced pressure principle assembly (RP) or double check valve assembly (DCVA).
- (c) It is a requirement that all backflow prevention assemblies be tested within seven (7) business days of the installation and at least once per year, or every three hundred and sixty-five (365) days thereafter by a Certified Backflow Tester authorized by the Town of Maysville.
- (d) The Town of Maysville shall conduct random testing of backflow prevention assemblies to ensure that assemblies are operating properly. The consumer or owner shall be given adequate notice prior to the test date.

Sec. 26-12.8 – Installation of Assemblies

The installation of backflow assemblies shall be performed in accordance with the following:

- (a) All backflow prevention assemblies shall be installed in accordance with the requirements set forth by the MSSD and the manufacturer's installation instructions and/or in the latest edition of the North Carolina Plumbing Code, whichever is most stringent.
- (b) All backflow installations shall require a plumbing permit within the inspections and/or code enforcement jurisdiction of the work that is being performed.
- (c) All new construction plans and specifications, when required by the North Carolina Building Code and the NCDEQ, shall be made available to the Town of Maysville for review and approval, and to determine the degree of hazard.
- (d) Ownership and coordination of testing, maintenance and repairs of the assembly shall be the sole responsibility of the consumer.
- (e) Unless otherwise approved by the Town of Maysville, the backflow preventer must be installed on the consumer's property at a maximum distance of five (5) feet from the meter service and before any wyes, tees, or bypasses. Installation of backflow preventers within the DOT right-of-way shall not be accepted.
- (f) Bypass piping is not permitted unless it is equipped with an approved backflow prevention assembly of the same type and brand as the main line assembly. It shall be necessary to install two approved backflow prevention assemblies to ensure continuous water service.
- (g) All backflow preventers must be installed above ground unless approved by the Town of Maysville for an inside installation. Backflow preventers must be a minimum of 12" from the valve vent to finished grade (RP) or 12" from the bottom of the valve to finished grade (DCVA), and no higher than 30" above the finished grade. Consumer must maintain adequate clearance around the assembly for testing and/or repair of the assembly. Wherever a reduced pressure principle backflow preventer (RP) is approved for installation inside of a building, an air gap drain of adequate size must be installed.
- (h) All reduced pressure principle assemblies (RP) must be installed in a horizontal position and in a location in which no portion of the assembly can become submerged in any substance under any circumstances. Double check valve assemblies (DCVA) may be installed in a vertical position with prior approval from the Town of Maysville provided the flow of water is in an upward direction or the assembly has been USC approved.
- (i) In areas subject to flooding, alternate locations are required for installation to ensure the assemblies are not subject to submersion. These alternate locations shall be proposed by the plumber and approved by the Town of Maysville on a case-by-case basis prior to commencement of the installation.
- (j) Landscaping is allowed around any assembly provided it does not interfere with the testing and/or repairing of the assembly. Surface or subsurface obstacles that prohibit the installation of the assembly in accordance with the specifications shall be subject to the review and approval of the Cross-Connection Control O.R.C. for alternative locations.
- (k) Protective enclosures must be used to help prevent freezing or vandalism of backflow prevention assemblies installed outside and above ground. Freeze-proof enclosures that meet or exceed North Carolina Plumbing Code Standards are acceptable. Adequate drainage shall be provided by hinged door drain or ports along the bottom walls of the protective enclosure. The enclosure is

required to be mounted to a concrete pad or the ground. If the structure is not removable, it must be accessible by doors large enough for entrance and repair.

- (l) In order to prevent obstruction during the testing or repair of the assembly, additional piping and/or valves shall not be located within or under the enclosure.
- (m) Backflow prevention assemblies 2 ½" or larger must be supported to allow for the weight of the backflow prevention assembly. Supports shall be approved pipe stands, no blocks or bricks, and must have proper footing to rest on. Supports shall be spaced so they do not cause interference with the testing and/or repair of the assemblies.
- (n) All backflow prevention assembly installations shall be inspected and approved by the Town of Maysville prior to initial connection to the potable water system.
- (o) All existing commercial or high hazard commercial water services shall have containment backflow assemblies installed at the service connection and raised above ground in an approved enclosure in accordance with the North Carolina State Plumbing Code and this Ordinance.
- (p) Assembly owners are responsible for the installation of measure(s) to address the environmental conditions where backflow preventers are installed. Assembly owners are responsible for supplemental heat when assemblies are in danger of freezing.
- (q) Assemblies installed below ground that do not have working gravity drains that discharge to daylight, or have drains that are not two times the supply size of the water service supplying the assemblies, shall be raised and placed in an approved freeze-proof enclosure in accordance with the North Carolina State Plumbing Code.
- (r) The plumber is responsible to ensure that a backflow prevention assembly is working properly upon installation and is required to furnish the following information to the Town of Maysville within seven (7) business days after a reduced pressure principle backflow preventer (RP), double check valve assembly (DCVA), double check detector assembly (DCDA), or reduced pressure principle detector assembly (RPDA) is installed:

- 1) Service address where assembly is located
- 2) Owner and mailing address
- 3) Description of assembly's location
- 4) Date of installation
- 5) Installer (including name, company, license number, and project permit number)
- 6) Type and size of assembly
- 7) Manufacturer, model number and serial number
- 8) Test results/report

- (s) When it is not possible to interrupt water service, provisions shall be made for a parallel installation of backflow prevention assemblies. The Town of Maysville shall not accept an unapproved bypass around a backflow prevention assembly.

Sec. 26-12.9 – Testing and Repair of Assemblies

The testing and repair of backflow assemblies shall be performed in accordance with the following:

- (a) Testing of backflow prevention assemblies shall be made by a Certified Tester at the consumer's expense. Such tests are to be conducted upon installation and annually thereafter or at a frequency established by the Town of Maysville's regulations. A record of all testing and repairs is to be retained by the consumer. Copies of the records must be provided to the Town of Maysville within seven (7) business days after the completion of any testing, repair work, or the activation of water service.
- (b) The Certified Tester shall notify the Town of Maysville within one (1) business day any time that repairs to backflow prevention assemblies are deemed necessary. These repairs must be completed by a North Carolina Licensed Plumber within ten (10) business days of the failed test.
- (c) Testing requires water shut down usually lasting five (5) to twenty (20) minutes. For facilities that require an uninterrupted supply of water or when it is not possible to provide water service from two separate meters, provisions shall be made for a parallel installation of backflow prevention assemblies.

Note: The submission of any record to the Town of Maysville by any consumer or Certified Tester that is false or incomplete is prohibited. Failure to submit any record required by this Ordinance is also prohibited.

Sec. 26-12.10 - Facilities Requiring Protection

In accordance with NCAC Title 15A Subchapter 18C Appendix B, the types of facilities or services listed below have been identified by the Town of Maysville and the State of North Carolina, as having a potential for backflow of non-potable water into the public water supply system. An approved backflow prevention assembly shall be required on all such services according to the degree of hazard present.

Other types of facilities or services not listed below may also be required to install approved backflow prevention assemblies if deemed necessary by the Town of Maysville. Unless indicated below, commercial establishments are required, at a minimum, to install a double check valve assembly (DCVA) on their services. When a site survey is conducted at existing facilities due to account or ownership changes, when a cross-connection is found or known to exist, or when it is necessary to repair an existing backflow assembly that is not in conformance with this Ordinance, the hazard designation of the facility may be increased to require the installation of the appropriate backflow prevention assembly specified below.

DCVA – Double Check Valve Assembly

RP – Reduced Pressure Principle Assembly

DCDA – Double Check Detector Assembly

RPDA – Reduced Pressure Detector Assembly

- (a) Automotive service stations and dealerships: RP
- (b) Automotive plants: RP
- (c) Auxiliary water systems:
 - 1) Approved Public/Private Water Supply: DCVA
 - 2) Used Water and Industrial Fluids: RP

- (d) Bakeries: RP¹
- (e) Beauty shops and barber shops: RP²
- (f) Beverage bottling plants: RP
- (g) Breweries: RP
- (h) Buildings-hotels, apartment houses, public and private buildings, or other structures having unprotected cross-connections:
 - 1) Under five stories - NO Health Hazards: DCVA
 - 2) Under five stories- Health Hazards: RP
 - 3) Over five stories- All: RP
 - 4) Buildings with booster pumps-RP
 - (i) Canneries, packing houses, and rendering plants: RP
 - (j) Chemical plants-manufacturing, processing, compounding or treatment: RP
 - (k) Chemically contaminated water systems: RP
 - (l) Commercial car wash facilities: RP
 - (m) Commercial greenhouses and farms: RP
 - (n) Commercial sales establishments-department stores, malls: RP³
 - (o) Concrete and asphalt plants: RP
 - (p) Dairies and cold storage plants: RP
 - (q) Docks, piers or other like facilities or structures with water service: RP
 - (r) Dye works: RP
 - (s) Film laboratories: RP
 - (t) Fire systems:
 - 1) Systems ¾" to 2": RP
 - 2) Systems 2 ½" to 10": RPDA
 - (u) Flex spaces and strip mall: RP⁵
 - (v) Grocery Stores: RP¹
 - (w) Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes, medical clinics, and veterinary hospitals: RP
 - (x) Industrial facilities: RP⁴
 - (y) Laundry and dry cleaning facilities: RP
 - (z) Lawn irrigation systems: RP
 - (aa) Metal manufacturing, cleaning, processing, and fabricating plants: RP
 - (bb) Mobile home parks (master metered): RP⁶
 - (cc) Oil and gas production, storage, or transmission properties: RP
 - (dd) Paper and paper product facilities: RP
 - (ee) Pest control facilities: RP
 - (ff) Plating plants: RP
 - (gg) Power plants: RP
 - (hh) Radioactive materials or substances on site: RP
 - (ii) Restaurants: RP⁷
 - (jj) Restricted, classified, or other inaccessible facilities: RP
 - (kk) Rubber plants: RP

- (ll) Sand and gravel plants: RP
- (mm) Schools, daycare facilities, colleges, and learning institutions: RP
- (nn) Sewage and storm drain facilities: RP
- (oo) Swimming pools: RP
- (pp) Tattoo parlors: RP
- (qq) Any water service with a fixture located below the flood plain elevation: RP
- (rr) Waterfront facilities and industries: RP⁸

¹A RP is required when known health hazards are present on the site that include, but are not limited to, the following: wall-mounted or any other connection of chemical or soap dispensers attached to mop/utility sink and/or if the property is waterfront.

²A RP is required when known health hazards are present on the site that include, but are not limited to, the following: chemicals used for hair dyeing or other processes, nail salons, body piercings and spa use, and/or if the property is waterfront.

³A RP is required when known health hazards are present on the site that include, but are not limited to, the following: where the building is sub-divided into spaces that can change ownership/use frequently(flex space), the presence of a wall-mounted or any other connection of chemical or soap dispensers attached to a mop/utility sink, carbonated drink machines, stored chemicals on site, where access is very limited and/or security does not allow for easy entry or exit, if the property is waterfront, or the site includes boilers and steam cleaning equipment.

⁴A RP is required when known health hazards are present on the site that include, but are not limited to, the following: the manufacturing or processing of any known product that is a health hazard (chemical or biological), addition of wall-mounted or any other connection of chemical or soap dispensers to a mop/utility sink, the use of degreasers to clean equipment, any power washing/spraying equipment hooked up to water supply, boilers or steam cleaning equipment, chemicals on site, or if the property is waterfront.

⁵It is highly recommended that owners of flex spaces install RP assemblies initially to accommodate potential usage and increased hazard changes that will require them.

⁶A RP is required when known health hazards are present on the site that include, but are not limited to, the following: storage areas on site with chemicals, or common areas with dock/water access.

⁷A RP is required when known health hazards are present on the site that include, but are not limited to, the following: addition of wall-mounted or any other type of connection of chemical or soap dispensers to a mop/utility sink, commercial kitchen equipment, ice makers and dish washing machinery attached to the potable water supply, carbonated drink machines, or if the property is waterfront.

⁸Defined as properties adjacent to coastal waters, intracoastal waterways, rivers, ponds, and lakes where identified secondary hazards exist that include, but are not limited to, the following: docks, piers,

waterfront spigots or hose extensions, irrigation systems, fixtures in a floodplain, swimming pools, hot tubs, etc.

ALL ASSEMBLIES AND INSTALLATIONS SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE TOWN OF MAYSVILLE.

Sec. 26-12.11 - Connections with Unapproved Sources of Supply

No person shall connect or cause to be connected any supply of water not approved by the State of North Carolina to the Town of Maysville's public water system. Any connections allowed by the Town of Maysville must comply with the backflow prevention requirements of this Ordinance.

In the event of contamination or pollution of the public or consumer potable water system, the consumer shall notify the Town of Maysville immediately in order to ensure that appropriate measures are taken to overcome and eliminate the contamination or pollution.

Sec. 26-12.12 – Fire Protection Systems

All existing backflow assemblies installed on fire protection systems in operation at the time these regulations are approved shall be allowed to remain on the premises as long as they are being properly maintained as required. If the existing assembly must be replaced, or in the event of proven water theft through an un-metered service, the consumer shall be required to install an approved reduced pressure principle detector assembly (RPDA). All backflow preventers for fire protection shall also meet the requirements of applicable building and fire codes.

Sec. 26-12.13 - Other Connections

Services to single family residential units, not otherwise required by this code to have other containment devices, may have a containment device in the form of an approved dual check valve on all such services which meters are applied more than ninety (90) days following the date of adoption of this ordinance, said dual check valves or other containment devices as required shall be installed by the owner's representative prior to the installation of the meter by the Town of Maysville. On all such services for which meters have been applied prior to that date, said dual check valve shall be installed by the Town of Maysville provided that the Town reserves the right to charge the owner or occupant of any residence for the cost of said device and its installation. Maintenance of dual check valve containment devices installed in accordance with this section shall be conducted by the Town.

Sec. 26-12.14. Enforcement

(a) Notices of Violation

- (1) The consumer and/or owner of any installation found to be in violation(s) of the provisions of this Ordinance shall receive, in writing, an explanation of the violation, the remedial action(s) to be taken, and the time period within which the violation(s) must be corrected.
- (2) The notice shall be served by personal delivery, registered mail, or certified mail to the consumer and/or owner.

- (3) Failure by the consumer and/or owner to correct the violation within the time specified, or to pay any civil penalty or expense assessed under this section upon the Town of Maysville's written demand of payment, shall be grounds for immediate termination of water service. Water service shall be re-established when the violation is corrected and any applicable civil penalties and other fees are paid.

(b) Civil Penalty

- (1) Violation of any provision of this article may subject the offender to a civil penalty to be recovered by the Town of Maysville in a civil action in the nature of debt if the offender does not pay the penalty within thirty (30) days after the assessment has become final by exhaustion of the appeal process established by this section, or by failure to appeal the assessment.
- (2) The civil penalty for violation of any provision of this cross connection control article shall not exceed five hundred dollars (\$500) per day for each day of continuous violation, or a cumulative or single civil penalty of ten thousand dollars (\$10,000). The civil penalty for willful violation of any provision of this article shall not exceed one thousand dollars (\$1,000) per day for each day of a continuous violation, or a cumulative or single civil penalty of twenty thousand dollars (\$20,000).

(c) Assessment

Any civil penalty shall be assessed by the Town Manager, upon the recommendation of the Cross-Connection Control O.R.C., and shall be based upon the reasonable estimated cost of correcting the cited violation, the magnitude of the potential risk posed to the public health, safety and welfare by the violation, and the cost of the public safety or other emergency response caused by the violation. The Town Manager shall serve written notice of the civil penalty assessment to the offender and set out with reasonable care the basis of the amount so assessed.

(d) Equitable Relief

An appropriate equitable remedy, including a mandatory or prohibitory injunction, issuing from a court of competent jurisdiction may endorse the provisions of this article.

(e) Enforcement option

The penalties and enforcement provisions established by this article may be applied in addition to or instead of the penalties established by other sections of this code.

Sec. 26-12.15. Limitation of Liability

- (a) The Town of Maysville shall bear no liability for direct or consequential damages proximately caused by the discontinuance of service pursuant to this Ordinance.
- (b) The Town of Maysville shall not be held liable, for any cause, for failure to detect any unit failing to operate adequately, or failure to identify any specific hazard, which may result in contamination of its public water supply, nor shall this ordinance diminish the responsibility of any property owner from whose property a contamination of the public water supply may originate.

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