

COPY

ORDINANCE NUMBER 3

Ordinance # 3 Amendments
Designated in **BOLD** Adopted
By the Town Board on Sept. 11, 2012

A N O R D I N A N C E
REGULATING MUNICIPAL UTILITIES
WITHIN THE TOWN LIMITS

WHEREAS, NC General Statutes give the town authority to establish and regulate municipal utilities inside and outside the corporate limits (GS 160A-312); and,

WHEREAS, the Town Of Rhodhiss [**hereinafter referred to as the Town**] operates and maintains its own water and sewer systems and collects a usage fee from its users;

NOW, THEREFORE, BE IT ORDAINED by the **Town Board** of the Town Of Rhodhiss, North Carolina, that:

Section 1. Pertinent provisions of chapter part of contract of service.

All pertinent provisions of this chapter are hereby made a part of the terms and conditions whereby **the Town** furnishes water and sewer services to any person, or whereby **the Town** makes any water and sewer connections or performs any work of any kind in connection with the furnishing of such services.

Section 2. Connections generally - When required.

Every inhabited structure **in the Town** shall be connected to a water and sewer service approved by the Town. Structures located where no water service is currently, may utilize an approved well water supply and structures annexed into the corporate limits that currently use well water supply may continue to use same. Structures located where no sewer service is currently, may utilize an approved septic tank and structures annexed into the corporate limits that currently use septic tanks may continue to use same.

Section 3. Separate connections required; exceptions.

Every house or building abutting any water or sewer main and requiring a water or sewer connection shall be separately and independently connected. If such house or building is on an improved street where laterals have not been laid, the connection may be made to any convenient lateral. When two or more houses or units are connected with the same water lateral, a separate meter shall be provided for each house or unit.

Section 4. Meters, etc., to remain property of town.

All water meters, meter boxes, pipes and other equipment furnished and used by **the Town** in installing any water or sewer connection shall be and remain the property of **the Town**. A meter installation fee may be charged by the Town at rates set by the **Town Board**.

Section 5. Right of entry.

The **Supervisor of Public Works**, as far as his duties are concerned, shall have the right to enter any building that has a sewer connection to the main sewer or outfall lines or connection with the **Town** water supply system, without interference or hindrance.

WATER SUPPLY

Section 6. Control of waterworks system.

The waterworks system, owned by the Town, shall be under the control of the **Supervisor of Public Works** and his authorized agents, subject to the supervision of the **Town Board**.

Section 7. Deposit for water supply.

All persons making application for water **and/or sewer service** to be furnished their premises shall make such deposit as may be required by the board. Such deposit will be held by **the Town** as a guarantee of payment for water and sewer used. Should the depositor vacate the house without paying his water and sewer bills, such bills shall be charged against the deposit. This deposit is refundable after final payment has been made for water and sewer use, or within a period of 30 days, **whichever occurs last**. If water/sewer service has not been in a **state of delinquency more than three (3) times** or disconnected for **the two-year period immediately prior to the making of a request for such deposit**, the deposit shall be returned to the person making the deposit **upon the making of a specific request to do so**.

Section 8. Maintaining water system, etc. for purpose of selling water.

No person, firm, business or corporation shall maintain or operate within the corporate limits of **the Town**, an enterprise listed in North Carolina General Statutes 160A-311 without first obtaining a franchise to operate such enterprise from **the Town**.

Section 9. Tapping mains; extending service pipes, etc.

The **Town** reserves the exclusive right of tapping the water main **and sewer lines** for any and all connections and of extending all service pipes to the nearest curbing. A curb box **for water service** shall be placed over a cut-off valve at the meter, which shall be under the exclusive control of **the Town**. No person shall turn the water on or off except the **Supervisor of Public Works** or employee of **the Town** acting under the express orders of the **Supervisor of Public Works**.

Section 10. Connection rates.

Any person desiring water connection shall pay for such connection such rates as are established by the **Town Board**.

Section 11. Trespassing upon, damaging, etc. town water works, equipment, etc.

It shall be unlawful for any person, except officials and employees of **the Town** and persons specifically authorized by **the Town**, to enter upon or into the premises, property, machinery, pumps, pipelines, hydrants or other equipment of the **Town's** waterworks and filter plants, or trespass, damage or in any way tamper with any of such property.

Section 12. Maintenance of meters.

All meters except such as are required to be furnished by particular users of water, shall be kept in good repair and working order by and at the expense of **the Town**. Meters furnished by particular users of water shall be kept in good repair and working order by **the Town** but the expense thereof shall be borne by such users.

Section 13. Water rates generally.

The rate of supplying water shall be as follows: As established by the **Town Board**.

Section 14. When meters read and bills payable.

Meters shall be read monthly and bills payable as established by the **Town Board**.

Section 15. Cutoff for non-payment.

The **Town** reserves the right to cut off water to any meter when the bill for that meter remains unpaid beyond the length of time set by the **Town Board** for cutoff for non-payment, without further notice to the user. After water has been cut off as provided in this section, it shall not be cut on again until all sums due for water for the owner or tenant affected are paid together with a cut-on fee as established by the **Town Board**.

Section 16. Right to shut off water reserved.

The **Town** reserves the right at any time to shut off water in the mains in case of an act of God, an accident, or for the purpose of making connections, alterations or repairs. The Town also reserves the right to shut off water during a state of emergency or to individual users that violate a water conservation order during a water shortage.

Section 17. Drawing water from hydrants.

No person except the **Supervisor of Public Works**, or the chief of the fire department or someone authorized by one or more of them, shall take water from any public hydrant, pipe or fountains, plug, or hose, except for fire fighting purposes or for the use of the fire department.

SEWER SYSTEM

Section 18. Control of sewer supply system.

The sewer supply system, owned **and/or operated** by the **Town**, shall be under the control of the **Supervisor of Public Works** and his authorized agents, subject to the supervision of the **Town Board**.

Section 19. Where sewer connection made.

Every sewer connection made directly to a main shall be made at the "Y" provided for the lot to be served; but if no "Y" has been provided for the lot, then such connection may be made directly to the main at any convenient point.

Section 20. Where connection with sewer line or septic tank required.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes situated within the corporate limits of the **Town** and abutting on any street, alley, or right-of-way on which there is now located or may in the future be located a public sanitary sewer and water system of the **Town** is hereby required at his own expense to install suitable toilet and water facilities therein, and to connect such facilities directly with the proper public sewer and water systems or septic tank approved by the State Board of Health in accordance with these provisions of this Ordinance within 120 days after the date of official notice to do so.

Upon completion of any extensions of the public sanitary and water systems of the **Town**, the **Town Manager** shall send official notice to owners of property located on such extensions that the service is available.

The charges made for the costs of the connection to the public sanitary sewer and water systems shall be paid to **the Town** prior to the time such connections are made, and in any event no later than 120 days from the date of the official notice.

Section 21. Building Or Maintaining Privy Or Toilet.

No outdoor privies may be hereafter constructed in **the Town**, and **the Town Board** may require and enforce immediate abandonment of all privies.

No person shall, after having an outdoor privy condemned, rebuild said outdoor privy, but must connect to **the Town's** sewage system where such connection is available. If such connection is not available, such person must build and maintain a septic tank according to the requirements of the **State Board of Health**.

Section 22. Discharge restricted.

The system of sanitary sewers is for collecting, carrying and disposing of the house sewage. It shall be unlawful to use the house sewers for any other purpose, or place in any house sewer any foreign matter that may not be promptly dissolved or that may cause obstruction in the sewers; nor shall the exhaust, the blowoff, drip pipe or sediment from any boiler or the discharge of large volumes of hot water from any source be discharged into the sewer; such pipe must first discharge into a basin, properly tapped and vented, which, after being relieved of sediment, pressure or high temperature, may discharge into **the Town's** sewer. Water over 120 degrees **Fahrenheit** shall not be admitted to such sewer.

Section 23. Application for connection and rights-of-way.

Every person requesting water and sewer service connection must apply to the **Town Manager**. Applications shall state the name and address of the owner of the lot, the name of the street on which such lot is situated, the number of the house, the number and kind of connections desired. A fee for such connections will be charged as established by the **Town Board**.

Within 15 days of receipt of the application for a connection, the **Supervisor of Public Works** shall advise the applicant as to whether sewer service will be available. If sewer service is not available, the applicant or owner may proceed with the construction of the building sewer in accordance with procedures and specifications herein defined.

The applicant for the building sewer connection shall notify the **Supervisor of Public Works** when the building sewer is ready for inspection and connection to the public sewer lateral. The connection shall be made under the supervision of the **Supervisor** or his representative.

When trenches are open for the laying of building sewers, the plumber performing such work shall notify the **Supervisor of Public Works** when sewer lines

are complete and such lines shall be inspected by **the Supervisor** before the trenches are filled. Any line covered before inspection shall be uncovered for inspection at the owner's expense.

All costs and expenses incident to the installation of the building sewer to the lateral sewer shall be borne by the owner. The owner shall indemnify **the Town** for any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Section 24. Use of town water and sewer.

Every person using water and sewer from **the Town's** water and sewer systems shall have a separate and individual water and sewer service connection and water meter for each house or building. However, any multi-family dwelling units may utilize a single water service connection and a single water meter if so desired by the owner of the unit. The owner shall be responsible for payments of the total amount of service fees and water and sewer bills incurred. The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on water meter readings or if no public water supply is used, a sewer user shall be required to install other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer or, if it is possible to install water flow meter at an outside location at the owner's water supply that is accessible to employees of the Town, a water flow meter may be installed. Until said flow monitoring device is installed, if specifically authorized by the Town Board, an owner shall pay a specified sewer user fee approved by the Town Board. All flow metering devices shall be accessible employees of the Town and safely located and shall be installed and maintained at the user's expense according to specifications set by the Town using a flow meter device approved by the Town. An owner shall have a maximum of six (6) months to install a flow meter upon being notified to do so by the Town Manager.

Section 25. Payment of water and sewer accounts.

Each water and sewer consumer shall be notified in writing of the date in which his bill will be due and delinquent. If the bill is not paid on or before the date specified in such notice, services will be turned off by **the Town**, and shall not be turned on again until such bill is paid, along with a reconnection fee set by **the Town Board**. It shall be unlawful for anyone to turn on a meter that has been turned off due to delinquency of payment. If a meter is turned on by anyone other than **the Town**, after service is disconnected due to delinquency of payment, **the Town** shall remove the meter until the payment and reconnection fee is made in full.

Section 26. Water and sewer rates.

The charges set for water and sewer as set from time to time by **the Town Board** shall be the rates for consumers of Town water and sewer inside **the**

Town. The water and sewer rates shall be reviewed annually by the **Town Board** and are subject to change without notice. The rate schedule shall be kept on file in the office of the **Town Manager** and shall be available for reviewing by the public upon request.

All rates outside of the **Town's** limits shall be double the charge of inside rates.

Section 27. Tampering with or obstructing lines prohibited.

No unauthorized person shall touch, tamper or in any manner manipulate or turn the cut-offs on the water mains forming a part of the water system of **the Town**, nor shall any person tamper with or harm in any manner whatsoever any water or sewer line, main or any appurtenance thereto. No person shall throw or deposit any material or substance in any water or sewer line that will in any manner obstruct such line.

• Section 28. Work on water and sewer systems.

All work on the water and sewer systems and all connections or disconnections thereto shall be performed by the authorized employees of **the Town** or its representatives or plumbers approved by **the Town**. All work shall be performed in accordance with the **State Building Codes**.

Section 29. Developments.

Developers requesting water and sewer extensions in areas that are determined to be developments - either homes, apartments, mobile home parks, recreation, business or commercial - shall bear the expense thereof.

When application is made for water and sewer extensions to serve an area or development project that is planned as part of a larger project or subdivision, all of which is not to be developed at the time application is made, the owner shall submit plans in sufficient detail in order to determine the size and type facilities which will be necessary to serve the entire development or subdivision when completed.

Section 30. Building sewers.

The building sewer shall be cast iron pipe, or other suitable material approved by the **Supervisor of Public Works**. Joints shall be tight and waterproof. Cast iron pipe with leaded joints may be required by the **Supervisor** where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of cast iron soil pipe, except that other approved material may be accepted if laid on a suitable concrete bed or cradle as approved by the **Supervisor**.

The size and slope of the building sewer shall be subject to the approval of the **Supervisor**, but in no event shall the diameter be less than four inches. The slope of such 4-inch pipe shall not be less than 1/8 inch per foot.

Wherever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from freeze. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the **Supervisor**.

Cast iron pipe joints shall be firmly packed with oakum or hemp and filled with molten lead not less than one inch deep. Lead shall be run in one pouring and caulked tight. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved.

Material for joints shall not soften sufficiently to destroy the effectiveness of the joint when subjected to a temperature of 160 degrees **Fahrenheit** and not be soluble in any of the wastes carried by the drainage system.

Other jointing materials and methods may be used by approval of the **Supervisor**.

The connection of the building sewer into an existing public sewer shall be made at the property line when possible.

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 **Supervisor**.

Section 31. Use of public sewers.

No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, or unpolluted cooling or industrial process waters to any sanitary sewer.

Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer.

(a) Any liquid or vapor having a temperature higher than 150 deg. **Fahrenheit**, 65 deg. centigrade.

(b) Any water or wastes which contain grease or oil or other substance that will **solidify** or become discernibly viscous at a temperature between 32 and 50 degrees

Fahrenheit.

(c) **Any** waters or wastes containing emulsified oil and grease exceeding an average of 50 milligrams per liter (417 per million gallons).

(d) **Any** gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(e) **Any** noxious or malodorous gas such as hydrogen sulfide, sulfur dioxide or nitrous oxide or other substance, which either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or preventing entry into sewers for their maintenance or repair.

(f) **Any** garbage that has not been properly shredded, comminuted, or triturated.

(g) **Any** ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, paunch manure, hair and **fleshings**, entrails, lime slurry, lime residues, beer or distillery slops, chemical residues, paint residues, cannery waste bulk solids, or any other solid or viscous substance capable of causing obstruction to the flow of the sewers, or other interference with the proper operation of the sewage system.

(h) **Any** waters or wastes, acid or alkaline in reaction, having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the sewage system. Free acids and **alkalis** must be neutralized, at all times, within a permissible pH range of 6.0 to 10.0.

(i) **Any** materials of radioactive nature either by natural condition or through induced **irradiation which has** a half-life greater than 200 days. Any discharge of radioactive materials or isotopes will require a special permit issued by the superintendent.

(j) **Any** storm water, cistern or tank overflow, cellar drain, discharge from any vehicle wash rack or water motor, or the contents of any privy vault, septic tank or cesspool.

(k) **Any** waters or wastes containing a toxic or poisonous substance, a high chlorine demand or suspended solids in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters or the effluent of the sewage treatment plant. Such toxic substances shall be limited to the average daily concentration listed hereinafter in the **sewage** at the point of connection to the public sewer and at no time shall the hourly concentration at that point exceed three times the average daily concentration.

Limits of toxic substances in sewage:

Iron (Fe)	5.0 mg/l
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Chromium (Cr) [hexavalent]	0.025 mg/l
Copper (Cu) 0.061 mg/l Zinc (Zn)	0.1 mg/l
Phenol 10.0 mg/l	
Cyanide (CN) 0.01 mg/l	
Mercury (HG) 0.0003 mg/l Oil & Grease	100.0 mg/l

Inflow sources shall be prohibited in new connections into the sanitary sewer portion of the sewer system as reference EPA 40 CFR Section 35.927-4.

Section 32. Control of discharge.

Grease, oil and sand interceptors shall be provided when, in the opinion of the **engineer designated by the Town**, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients. All interceptors shall be of a type and capacity approved by the **engineer designated by the Town**, and shall be located as to be readily and easily accessible for cleaning and inspection.

Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which when bolted in place shall be gastight and watertight.

Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times and shall be readily accessible and open to inspection by the **Supervisor of Public Works** at any time.

The admission into the public sewers of any sewage having (1) a 5-day Biochemical Oxygen Demand greater than 250 milligrams per liter, or (2) containing more than 350 milligrams per liter of suspended solids or (3) containing more than 25 milligrams per liter of chlorine demand, or (4) containing any quantity of substances having the characteristics above the previously described limits, or (5) having an average daily flow greater than 2 percent of the average daily flow of **the Town**, or (6) having a residual color of over 200 milligrams per liter according to the Platinum Cobalt Standards shall be subject to the review and approval of the **engineer designated by the Town**.

When necessary in the opinion of the **engineer designated by the Town**, the owner shall provide, at his expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 250 mg/l, (2) reduce the suspended solids to 350 mg/l, (3) reduce the chlorine demand to 25 mg/l, or (4) reduce **objectionable** characteristics to within the maximum limits provided for in Section 5-

2013, or (5) control the quantities and rates of discharge such that the maximum rate of discharge does not exceed the average daily sewage flow rate by greater than 200 percent or (6) reduce the residual color to 200 mg/l.

Plans, specifications and any other pertinent information relating to preliminary treatment facilities shall be submitted for the approval of **the engineer approved by the Town**. No construction of such facilities shall be commenced until said approvals are obtained in writing.

Where preliminary treatment facilities are provided for any waters or waste, they shall be maintained continuously in satisfactory and effective operation, by the owner at his expense.

Pretreatment requirements for major contributing industry shall be in accordance with **applicable Federal Regulations** and the National Pollutant Discharge Eliminator System (NPDES).

When required by the **Engineer designated by the Town**, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be constructed in accordance with plans approved by the **engineer designated by the Town**. The manhole shall be installed by the owner at his expense and shall be maintained by the owner so as to be safe and accessible at all times.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in Sections 30 and 31 above shall be determined in accordance with the latest edition of "Standard Methods of Examination of Water and Sewage" published by the American Public Health Association **or other alternative reference approved by the Town**, upon suitable samples taken at the control manhole provided for above. In the event that no special manhole has been required, the control manhole shall be considered to the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

Section 33. Power and Authority of the Inspectors.

The **Supervisor of Public Works** and other duly authorized employees of the **Town** bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this Ordinance.

Section 34. Penalties.

Any person found to be violating any provision of this Ordinance shall be served by the **Town** with written notice stating the nature of the violation and providing a time limit **set by the Town Manager** for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Any person who shall continue any violation beyond the above time limit shall be guilty of a misdemeanor.

Any person violating any of the provisions of this ordinance shall become liable to **the Town** for any expense, loss or damage occasioned by **the Town** by reason of such violation.

AMENDMENTS DESIGNATED IN BOLD ADOPTED BY THE TOWN BOARD, THIS
THE 11th DAY OF September, 2012.

Rick Hestie

MAYOR

Barbara Hamm

TOWN MANAGER



COPY

ORDINANCE NUMBER 7

AN ORDINANCE
REGULATING MASSAGE PARLORS
WITHIN THE TOWN LIMITS

WHEREAS, NC General Statutes give the town authority to regulate massage parlors and sexually oriented businesses within the corporate limits (GS 160A-181.1); and,

WHEREAS, the Town Of Rhodhiss desires to protect the general health, safety, welfare and morals of the town;

NOW, THEREFORE, BE IT ORDAINED by the town council of the Town Of Rhodhiss, North Carolina, that:

Section 1. Purpose of section.

The purpose of this section is to protect the general health, safety, welfare and morals of the town. The following licensing provisions are ordained for the privilege of carrying on the business, trade or profession of masseur or masseuse and for the operation or carrying on the business, trade or professions commonly known as massage parlors, health salons, physical culture studios, clubs, or establishments, or similar establishments by whatever name designated wherein physical culture, massage, hydrotherapy or other physical treatment of the human body is carried on or practiced. The provisions of this article shall not apply to a regularly established and licensed hospital, sanitarium, nursing home or medical clinic; nor to the office or clinic operated by a duly qualified and licensed medical practitioner, osteopath or chiropractor in connection with his practice of medicine, chiropractic or osteopathy; provided, however, that such office or clinic is regularly used by such medical practitioner, chiropractor or osteopath as his principal location for his practice of medicine, chiropractic or osteopathy.

Section 2. Definitions.

The following terms shall have the meanings herein prescribed:

- (1) A male person who applies manual or mechanical massage or similar treatment to the human body, trunk or limbs shall be deemed, within the terms of this section, a "masseur"; and a female person so engaged, a "masseuse."
- (2) Massage means the manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.

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

(4) Business or profession of massage includes the massage or treatment of any person for a fee or in expectation of a gratuity from the person massaged or treated.

Section 3. Licensing of massage businesses.

(a) No person, partnership, corporation or association shall operate a massage business as herein defined unless that person, partnership, corporation or association shall have first applied for and received the privilege license provided by this section.

(b) Every application for the privilege license prescribed herein shall be upon a form approved by the town council and shall be filed with the town clerk. Every such application shall be made under oath and shall contain the following information:

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

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

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

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

(5) A complete statement of any conviction of any person whose name is required to be given in paragraph (b) (1) above, for violation of any statute, law, ordinance or regulation of any government concerning the operation of a massage business or the business or profession of massage;

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

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

(c) The town clerk shall transmit a copy of the application to the police department for an investigative report; to the inspections division to determine compliance with all zoning and building regulations and ordinances; and to the fire department to determine compliance with any law relating to fire protection. The police and fire departments and the inspections division shall, within a reasonable time, not to exceed 45 days, report the results of their examinations to the town clerk.

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

(1) The application contains no misstatement of fact;

(2) The applicant, or any person having any legal or beneficial ownership interest in the applicant, has not been convicted of any crime involving sexual misconduct,

including but not limited to N. C. G. S. 14-177 through N. C. G. S. 14-202.1, Article 26 (offenses against public morality and decency) and N. C. G. S. 14-203 through 14-208, Article 27 (Prostitution), Rhodhiss Town Code, or of any federal statute relating to prostitution, or of any violation of any law or ordinance of any governmental unit concerning or related to the business or profession of massage;

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

(4) The applicant or any person having a legal or beneficial ownership interest in the applicant has not, for the three (3) year period preceding the application, had a previously issued license for engaging in the business or profession of massage revoked.

(e) Upon approval of the application by the town council, and upon receipt of a \$250 license fee, the collector of revenue shall issue a privilege license to the applicant.

Section 4. Licensing of masseurs and masseuses.

(a) No person shall engage in the business or profession of massage unless that person shall have first applied for and received the privilege license provided by this section.

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

(1) The name, age and residence address of the applicant; and list of each residence address of the applicant for the two (2) years immediately preceding the date of application.

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

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

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

(5) The date and place of applicant's birth, the name of applicant's parents as of the date of application for license.

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

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

(2) Two (2) recent photographs of the applicant's head and shoulders of a size and quality commonly used with passport applications.

(3) A medical certificate signed by a physician, licensed to practice in North Carolina, within seven (7) days of the date of the application. The certificate shall state that the applicant was examined by the certifying physician and that the applicant is free of communicable disease. The additional information required by this section shall be provided at the applicant's expense.

(d) The town clerk shall transmit a copy of the application to the police department for an investigative report. The police department shall, within a

reasonable time, not to exceed 45 days, report the results of its investigation to the town clerk.

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

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

(2) The application contains no misstatements of fact;

(3) The applicant has not been convicted of any crime involving sexual misconduct, including, but not limited to N. C. G. S. 14-177 through N. C. G. S. 14-202.1, article 26 (offenses against public morality and decency) and N. C. G. S. 14-203 through 14-208, article 27 (prostitution), Rhodhiss Town Code or of any federal statute relating to prostitution, or for violation of any law or ordinance of any governmental unit concerning or related to the business or profession of massage;

(4) The applicant has not, for the three (3) year period preceding the application, had a previously issued license for engaging in the business or profession of massage revoked;

(5) The applicant is free from communicable disease as evidenced by the medical certificate required herein;

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

(f) Upon approval of the application by the town council, and upon receipt of a \$100 license fee, the collector of revenue shall issue a privilege license to the applicant.

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

Section 5. Employer must use only licensed employees.

No person, corporation, partnership or association licensed under this article hereof shall allow or permit any person to massage or treat any person upon the premises operated by the licensee unless the person giving the massage or treatment has complied with all requirements of licensing under section 4, including periodic medical examinations by a licensed physician. Violation of this section shall be grounds for revocation of the license issued to such violator pursuant to this article.

Section 6. Names of employees to be filed with chief of police.

It shall be the duty of all licensees holding a license hereunder to file with the chief of police of the town the names of all employees, their home addresses, home telephone numbers and places of employment. Changes in the list of employees with

the names of new employees must be filed with the chief of police within seven (7) days from the date of any such change.

Section 7. Records to be kept by licensee.

It shall be the duty of any licensee granted a license hereunder to maintain correct and accurate records of the names and addresses of the persons receiving treatment at the establishment, the type of treatment administered, and the name of the person of the establishment administering the treatment. The records shall be subject to inspection at any reasonable time by any member of the police department of the town.

Section 8. Treatment of persons of opposite sex restricted.

It shall be unlawful for any person holding a license under this article to treat a person of the opposite sex, except upon the signed order of a licensed physician, osteopath, chiropractor or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed 10. The date and hour of each treatment given and the name of the operator shall be entered on the order by the establishment where the treatments are given and shall be subject to inspection by the police at any reasonable time. The requirements of this section shall not apply to treatments given in the office of a licensed physician, osteopath or registered physical therapist, chiropractor, or in a regularly established and licensed hospital or sanitarium.

Section 9. Patronage of massage parlors by minors.

(a) Restricted. It shall be unlawful for any person under the age of 18 to patronize any massage parlor or similar establishment licensed hereunder unless that person carries with him at the time of the patronage, a written order directing the treatment to be given signed by a regularly licensed physician.

(b) Duty of operator. It shall be the duty of the operator of the massage parlor or similar establishment licensed hereunder to determine and have verification of the age of the person patronizing the establishment, and violation of this section shall be grounds for the revocation of the license of the establishment.

(c) It shall be unlawful for any person licensed under this section to treat or massage any person under the age of 18 upon the premises except upon written order by a licensed physician, osteopath, chiropractor, or registered physician therapist, such order being dated and in the possession of the masseur or masseuse giving the massage or treatment. A violation of this section shall be grounds for revocation of any license issued to such violator pursuant to this article.

Section 10. Hours of operation.

(a) It shall be unlawful for any person licensed under this article to massage or treat any person, or engage in the business or profession of massage, before 8:00 a.m. or after 10:00 p.m., prevailing time.

(b) It shall be unlawful for any person, corporation, partnership or association licensed under this article to admit customers or prospective customers or remain open for business, or allow, permit or condone any massage or treatment of any person upon the premises before 8:00 a.m. or after 10:00 p.m., prevailing time.

(c) It shall be unlawful for any person in charge of managing a massage business upon the premises to allow, permit, or condone any massage or treatment of any person before 8:00 a.m. or after 10:00 p.m., prevailing time.

Section 11. Posting of license.

(a) Every licensee shall post the license required by this article in his work area, in a prominent place.

(b) Every person, corporation, partnership or association licensed under this article shall display the license in a prominent place on the licensed premises.

Section 12. Moving or ceasing operation voids license.

A license issued pursuant to this article shall be revoked by action of the town council if the town council determines:

- (1) The licensee has violated any provision of this article;
- (2) The licensee is afflicted with a communicable disease;
- (3) The licensee has failed to be examined by a licensed physician when required by the town council pursuant to section 6-1044, or has failed to file any medical certificate required by section 6-1044; or
- (4) The licensee has been convicted of a felony, or any crime involving sexual misconduct, including, but not limited to N. C. G. S. 14-177 through N. C. G. S. 12-201-1, article 26 (offenses against public morality and decency) and N. C. G. S. 14-203 through 14-208, article 27 (prostitution), Rhodhiss Town Code, or under any federal statute relating to prostitution, or for violation of any law or ordinance of any governmental unit related to the business or profession of massage.

Section 13. Notice and hearing.

Before the town council revokes a license issued pursuant to this article, or if the town council determines reasonable grounds exist to deny an application for a license pursuant to this article, the town council shall cause a written notice to be sent by certified mail to the licensee affected or applicant affected, at the address stated in the license or application. The notice shall advise the affected party of a right to appear before the town council, with or without legal counsel, at a stated time and place, for the purpose of presenting any evidence relevant to such revocation or denial, and for the purpose of hearing all evidence submitted and examining or cross-examining any person providing the evidence. At the hearing any oral testimony shall be given under oath and any other evidence shall be in conformance with the rules governing admissibility of evidence in the general courts of justice of this state.

Section 14. Privilege license annual.

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

Section 15. Massaging of private parts for hire.

It shall be unlawful for any person to massage or to offer to massage the private parts of another for hire or in expectation of a gratuity. "Massage" means the manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand, or any part of the body, or mechanical or other device. "Private parts" means the penis, scrotum, mons veneris, vulva or vaginal area.

Provided, however, the provisions of this section shall not apply to licensed medical practitioners, osteopaths or chiropractors, or other persons operating at their directions, in connection with the practice of medicine, chiropractic, or osteopathy within the confines of the principal location of such practice of medicine, chiropractic or osteopathy.

Section 16. Penalties.

Any person convicted of violating any provisions of this article shall be punished by fine or imprisoned as provided by N. C. G. 5. 14-4.

Section 17. Separability.

If any section, subsection, sentence, clause, phrase or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 18. Licensing provisions; effect.

This article shall be in full force and effect from and after its passage; provided, however, any person, partnership, corporation or association engaged in the operation of a massage business and every person engaged in the business or profession of massage, at the time of the enactment of this article shall have 60 days in which to comply with the licensing provisions of this article.

Adopted this 12 day of June, 2000.

Signed:

Douglas H. Cowich
Mayor

Attest:

David Heller
Town Clerk

Approved as to form:

[Signature]
Town Attorney

COPY

ORDINANCE NUMBER 9

AN ORDINANCE
REGULATING SMOKING
WITHIN THE TOWN LIMITS

Section 1 - Authority To Regulate.

Municipalities are granted the authority to protect the health, safety and welfare of municipal employees and the general public pursuant to NC General Statute 160A-174 and municipalities are authorized to regulate smoking pursuant to NC General Statute 143- 601.

Section 2 - Purpose.

The Town of Rhodhiss seeks to protect the health and well-being of its employees and the general public. Since environmental tobacco smoke has been identified as potentially carcinogenic by the National Institute of Occupational Safety and Health and the U.S. Environmental Protection Agency, the Town of Rhodhiss hereby adopts an ordinance to regulate smoking.

Section 3 - Definitions.

The following words and phrases, whenever used in this ordinance shall be construed as defined in this section:

Employee - means any person who is employed by an employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a non-profit entity.

Place Of Employment- means any enclosed area under the control of a public employer which employees normally frequent during the course of employment, including, but not limited to work areas, employee lounges and restrooms, conference and class rooms and hallways.

Public Place - means any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, reception areas, restaurants, retail stores, or waiting rooms. A private residence is not a public place.

Smoking - means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, weed, plant or other combustible substance in any manner or in any form.

Section 4 - Prohibition Of Smoking In Public Places.

Smoking shall be prohibited in the following public places within the Town of Rhodhiss:

- A. Buildings owned, leased or occupied by the Town of Rhodhiss.
- B. Public meeting areas held indoors.

Section 5 - Smoking Areas For Employees.

The following areas are designated smoking areas for employees and volunteers of the Town of Rhodhiss:

- A. Kitchen of Fire Department (while food preparation is not in progress).
- B. Bathrooms in Municipal Building.
- C. Police Department while not occupied by any non-smoker.
- D. Town Garage lounge (where no combustibles are stored).

Section 6 - Signs.

Signs shall be appropriately displayed in all town buildings and all areas that hold public meetings indoors informing the general public that "No Smoking" is permitted.

Section 7 - Municipal Vehicles.

Smoking is prohibited in municipal vehicles whenever a non-smoker is present.

Section 8 - Exemptions.

All of the following places shall be exempt from the provisions of this ordinance:

- A. Private homes and apartments.
- B. Church facilities.
- C. Private gatherings not open to the public.
- D. Businesses and retail establishments.

Section 9 - Enforcement.

Violation of this ordinance by any person shall subject the offender to an infraction and punished by a fine of not more than \$25.00 per violation. If payment is not made to the Town within 10 days following receipt of ticket, the Town may recover such penalty and all subsequently accruing penalties in a civil action. The violator shall be responsible for all court costs and attorney's fees incurred by the Town. Violation of this ordinance by any Town employee may also result in disciplinary action being taken pursuant to the Town's personnel policy. Each violation of this ordinance shall constitute a separate and distinct offense. This ordinance may also be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

Section 10 - Conflict Of Laws.

If any portion of this ordinance is found to be invalid, or to be preempted by State or Federal law, such invalidation or preemption shall not invalidate the rest of the ordinance which shall remain in full force and effect.

Section 11 - Effective Date.

This ordinance shall become effective upon its adoption. Adopted this the 11th day of October, 1993 by unanimous vote of the Town Council and codified on the date below.

Adopted this 12 day of June, 2000.

Signed:

Douglas H. Cowick
Mayor

Attest:

David Kellum
Town Clerk

Approved as to form:

DH
Town Attorney

COPY

ORDINANCE NUMBER 10

AN ORDINANCE
REGULATING NOISE
WITHIN THE TOWN LIMITS

*Ordinance #10 Rescinded on
August 10, 2010
New Ordinance #45 Replaced
Ordinance #10 on August 10, 2010
Barbara Harman
Town Manager*

WHEREAS, NC General Statutes give the town authority to regulate noise in the corporate limits (GS 160A-184); and,

WHEREAS, various noises are deemed to be annoying and disturbing;

NOW, THEREFORE, BE IT ORDAINED by the town council of the Town Of Rhodhiss, North Carolina, that:

Section 1 - Authority To Regulate.

Municipalities are granted the authority to regulate, restrict or prohibit the production or emission of noises or amplified speech, music or other sounds that tend to annoy, disturb, or frighten its citizens pursuant to NC General Statute 160A-184.

Section 2 - Unnecessary Noise Prohibited Generally.

It shall be unlawful for any person to create or assist in creating any unreasonably loud, disturbing and unnecessary noise in the Town of Rhodhiss. Noise of such character, intensity and duration as to be detrimental to the public health, welfare and peace is hereby prohibited. The following acts, among others, are hereby declared to create loud, disturbing and unnecessary noises in violation of this Code, but such enumeration shall not be deemed to be exclusive:

(1) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, except as a danger signal, so as to create any unreasonably loud or harsh sound, or the sounding of such device for an unnecessary and unreasonable period of time.

(2) The playing of any radio or television or phonograph or other musical instrument from any stationary or mobile area in such manner or with such volume as to annoy or disturb the quiet, comfort, or repose of any person in any dwelling or business.

(3) 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.

(4) The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded, or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise.

(5) The shouting, yelling or crying of peddlers, barkers, hawkers and vendors which disturbs the quiet and peace of the neighborhood.

(6) The operation of any sports vehicle such as a trailbike or four-wheeler between the hours of 6 PM and 10 AM.

Section 3 - Tests And Standards.

Factors to consider: The standards which shall be considered in determining whether a violation of this Code exists, shall include but shall not be limited to the following:

- (1) The volume of the noise.
- (2) The intensity of the noise.
- (3) Whether the nature of the noise is usual or unusual.
- (4) Whether the origin of the noise is natural or unnatural.
- (5) The volume and intensity of the background noise, if any.
- (6) The proximity of the noise to any residence.
- (7) The area within which the noise emanates.
- (8) The density of inhabitation of the area within which the noise emanates.
- (9) The time of day or night the noise occurs.
- (10) The duration of the noise.
- (11) Whether the noise is recurrent, intermittent or constant.
- (12) Whether the noise is produced by a commercial or non- commercial activity.
- (13) Operating a motor vehicle from which creates a noise or sound which exceeds the noise level limits set out in Table II below.

TABLE I - LIMITING NOISE LEVELS FOR USE DISTRICTS

Octave Band
Maximum Permissible Sound Pressure
Center Frequency
(Levels In Decibels re 0.0002 Microbars) Cycles Per Second

TABLE II - LIMITING NOISE LEVELS FROM VEHICLES

Trucks & Buses:

Over 10,000 pounds - 93 dB(A) measured at 50 feet - 97 dB(A) measured at 25 feet
Under 10,000 pounds - 80 dB(A) measured at 50 feet - 86 dB(A) measured at 25 feet

Passenger Cars:

78 dB(A) measured at 50 feet - Maximum allowable limit
84 dB(A) measured at 25 feet - Maximum allowable limit

Motorcycles & All Other Vehicles:

87 dB(A) measured at 50 feet - Maximum allowable limit
93 dB(A) measured at 25 feet - Maximum allowable limit

Section 4 - Exemptions.

Noise made by emergency vehicles, aircraft flying over the corporate limits, fire department siren warning system or Duke Power flood warning siren are hereby exempt from this Ordinance. Noise made from any parade or public event may also be exempt from this Ordinance by special permit from the Town Council.

Section 5 - Enforcement.

Violation of this ordinance by any person shall subject the offender to an infraction and punished by a fine of \$50.00 per violation. If payment is not made to the Town within 10 days following receipt of ticket, the Town may recover such penalty and all subsequently accruing penalties in a civil action. The violator shall be responsible for all court costs.

Violation of this ordinance by any Town employee may also result in disciplinary action being taken pursuant to the Town's personnel policy. Each violation of this ordinance shall constitute a separate and distinct offense.

This ordinance may also be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

Section 6 - Conflict Of Laws.

If any portion of this ordinance is found to be invalid, or to be preempted by State or Federal law, such invalidation or preemption shall not invalidate the rest of the ordinance which shall remain in full force and effect.

This ordinance was adopted by the Rhodhiss Town Council on February 14, 1994 by unanimous vote and amended February 14, 2000 and amended on the date below.

Adopted this 12 day of June, 2000.

Signed:

Douglas H. Cowick
Mayor

Attest:

David Heller
Town Clerk

Approved as to form:

Daz
Town Attorney

COPY

ORDINANCE NUMBER 11

AN ORDINANCE
REGULATING TRAFFIC
WITHIN THE TOWN LIMITS

WHEREAS, NC General Statutes give the town authority to regulate, restrict or prohibit traffic use on local streets within the corporate limits (GS 160A-296 and GS 160A-300); and,

WHEREAS, the Town Of Rhodhiss desires to maintain safety for the general public;

NOW, THEREFORE, BE IT ORDAINED by the town council of the Town Of Rhodhiss, North Carolina, that:

Section 1. Yield signs.

Whenever yield right-of-way signs are used they shall require vehicular traffic to yield the right-of-way to other intersecting traffic from any other road or street. Yield right-of-way signs shall be located at the streets designated [below].

Section 2. Sign locations.

Yield right-of-way signs shall be posted at the following locations:

Park Avenue	at the intersection of	Church Street
Park Loop	at the intersection of	Mimosa Avenue
Mimosa Avenue	at the intersection of	Park Avenue
Mimosa Avenue	at the intersection of	Magnolia Street
Maple Avenue	at the intersection of	Park Loop
Maple Avenue	at the intersection of	Magnolia Street
Oak Street	at the intersection of	Magnolia Street
River Road	at the intersection of	Magnolia Street
Magnolia Way	at the intersection of	Magnolia Street
Walnut Avenue	at the intersection of	Magnolia Street
Walnut Avenue	at the east side of	Church Street
Baptist Church Dr.	at the north end to	Church Street
Baptist Church Dr.	at the south end to	Church Street
Ashe Street	at the intersection of	Walnut Avenue
Ashe Street	at the intersection of	Burch Street
Davis Drive	at the intersection of	Park Avenue
Stilwell Drive	at the intersection of	Hickory Street
Fleming Crossing	at the intersection of	Hickory Street
Fleming Crossing	at the intersection of	Cedar Street

Cedar Street	at the north end to	Hickory Street
Cedar Street	at the south end to	Hickory Street
Spruce Street	at the intersection of	Hickory Street
Pine Street	at the intersection of	Power House Road
Munday Drive	at the intersection of	Hickory Street
Scout Cabin Road	at the intersection of	Carolina Avenue
Gardner Street	at the south end to	Shelby Street
Hillcrest Avenue	at the intersection of	Hillcrest Avenue
Hillcrest Avenue	at the intersection of	Dogwood Drive
Howell Street	at the intersection of	Dogwood Drive
Jones Drive	at the north end to	Dogwood Drive
Jones Drive	at the south end to	Dogwood Drive
Marion Avenue	at the intersection of	Catawba Avenue
Hamby Drive	at the intersection of	Catawba Avenue
Hamby Drive	at the intersection of	Marion Avenue
Poarch Place	at the intersection of	Catawba Avenue
Whisnant Street	at the intersection of	Hillcrest Street
Sycamore Drive	at the intersection of	Marion Avenue
River Ridge Drive	at the intersection of	Dogwood Drive
R & S Circle	at the north end to	Jones Drive
R & S Circle	at the south end to	Jones Drive
Braswell Street	at the intersection of	Catawba Avenue
Unnamed Street	at the intersection of	Sycamore Drive

Section 3. Stop Signs.

Whenever stop signs are used they shall require vehiclular traffic to stop and yield the right-of-way to other intersecting traffic from any other road or street. Stop signs shall be located at the streets designated [below].

Section 4. Sign Locations.

Stop signs shall be posted at the following locations:

Hickory Street	at the intersection of	Power House Road
Walnut Avenue	at the west side of	Church Street
Magnolia Street	at the intersection of	Park Avenue
Shelby Street	at the intersection of	Carolina Avenue
Gardner Street	at the intersection of	Carolina Avenue
Dogwood Drive	at the intersection of	Burke Street
Dogwood Drive	at the intersection of	Airport-Rhodhiss Road
Power House Road	at the intersection of	Caldwell Street
Hickory Street	at the intersection of	Caldwell Street
Church Street	at the intersection of	Caldwell Street
Walnut Avenue	at the intersection of	Caldwell Street
Magnolia Street	at the intersection of	Caldwell Street

Burch Street	at the intersection of	Caldwell Street
Ferguson Street	at the intersection of	Duke Power Road
Catawba Avenue	at the intersection of	Burke Street
Marion Avenue	at the intersection of	Burke Street
Carolina Avenue	at the intersection of	Burke Street
Henry Smith Street	at the intersection of	Airport-Rhodhiss Road

Section 5. No Parking and Tow Away Zone Signs.

Whenever "No Parking" and "Tow Away Zone" signs are used they shall be located at the streets and areas designated [below]. The owner of any vehicle parked in violation of this ordinance shall be deemed to have appointed any appropriate law enforcement officer as his agent for the purpose of arranging for the transportation and safe storage of such vehicle.

Section 6. No Parking and Tow Away Zone Sign Locations.

Magnolia Street	Lake Drive	Park Avenue
Oak Street	Church Street	Gardner Street
Dogwood Drive	Power House Road	Caldwell Street
Carolina Avenue	Fire Department	Scout Cabin Road

Section 7. Speed Limit signs And Locations.

The following speed limits shall be posted at the following locations:

Thirty-five (35) per hour speed limit on the following state highway system streets:

Burke Street
Caldwell Street
Carolina Avenue

Forty-five (45) miles per hour speed limit on the following state highway system streets:

Airport-Rhodhiss Road
Icard-Rhodhiss Road
Cape Hickory Road

Twenty (20) miles per hour speed limit on the following town streets:

Burch Street	Shelby Street	Walnut Avenue
Catawba Avenue	Spruce Street	River Road
Cedar Street	Church Street	Gardner Street

Hickory Street	Highland Place	Hillcrest Avenue
Howell Street	Jones Drive	Lake Drive
Magnolia Street	Magnolia Way	Maple Avenue
Marion Avenue	Mimosa Avenue	Oak Street
Park Avenue	Park Loop	Pine Street
Power House Road	Stilwell Drive	Laney Drive
Davis Drive	Fleming Crossing	Hamby Drive

Twenty-five (25) miles per hour speed limit on the following town streets:

Dogwood Drive
Henry Smith Street
Duke Power Road

Section 8. Obedience To Signs, Other Signals, Generally.

Any person failing or refusing to comply with the directions indicated on any sign, marker or device for the control or direction of traffic erected or placed in accordance with the provisions of this chapter when so placed or erected shall be guilty of a misdemeanor. This section shall not be construed to apply when the driver of a vehicle is otherwise directed by a police officer or when an exception is granted to the driver of an authorized emergency vehicle.

Adopted this 12 day of June, 2000.

Signed:

Douglas H. Cowick
Mayor

Attest:

David Holler
Town Clerk

Approved as to form:

DH
Town Attorney

COPY

AN ORDINANCE
REGULATING ANIMALS
WITHIN THE TOWN LIMITS

WHEREAS, NC General Statutes give the town authority to regulate, restrict or prohibit ownership of certain animals within the corporate limits (GS 160A-186); and,

WHEREAS, the Town of Rhodhiss desires to maintain safety for the general public;

NOW, THEREFORE, BE IT ORDAINED by the town council of the Town of Rhodhiss, North Carolina, that:

Section 1. Definitions and terms

The definitions and terms used in this Section, unless the context otherwise indicates, are herewith defined as follows:

1) *Animal Owner*: Every person in possession of or who harbors any animal or who shall suffer any animal to remain about his premises for a period of five (5) days.

2) *Animal*: Shall include the male and female, neutered or sterilized. Animal, as used in this Article, shall include all warm-blooded domesticated mammals.

3) *Vicious Animal*: Any animal that inflicts unprovoked bites or attacks human beings or other animals either on public or private property, or in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks or any public grounds or places.

4) *Running At Large*: Means to be off the premises of the owner and not under the reasonable control of the owner or of an authorized person, either by leash or otherwise, but an animal within the automobile or other vehicle of its owner shall be deemed to be upon the owner's premises.

5) *Harboring*: The occupant of any premises on which an animal is kept or to which it customarily returns daily for food and care for a period of five (5) days is presumed to be harboring or keeping the animal within the meaning of this Article.

6) *Rabies Vaccination*: Shall mean the inoculation of a dog, cat or other animal with a rabies vaccine approved by the County Department of Health.

7) *Reasonable Control*: Shall mean when said animal is accompanied by and under the supervision of its owner or by some member of the family or by some employee or agent of the owner.

Section 2. Certain dogs a public nuisance

No person owning any dog, shall suffer or permit such dog to disturb the peace and quiet of the neighborhood by barking, howling or making other loud noises or by running through or across cultivated gardens and flower beds. Any person owning any dog shall keep the dog lot or run where the dog is confined in a clean and sanitary condition at all times and the failure to keep such premises clean and sanitary is hereby declared a public nuisance and a health hazard.

Section 3. Permitting dogs to run at large

It shall be unlawful for any person to permit or allow or suffer any dog, male or female, to run at large in the town. All persons who, owning, keeping or having charge, possession or control of any dog shall suffer, permit or allow such dog to run at large contrary to the provision of this section shall be guilty of a misdemeanor.

Section 4. Impounding Generally

All dogs found running at large contrary to the provisions of this ordinance shall be impounded. Impounding shall be in the County Animal Shelter.

Section 5. Killing of Vicious Dogs At Large

The town police may kill any vicious dog at large within the town which cannot safely be taken up and impounded.

Section 6. Rabies Control

(a) *Vaccinations.* Every person owning or harboring a dog or cat four (4) months of age or older, for five (5) or more days shall have such dog or cat vaccinated against rabies with vaccine approved by the County Health Department. If other species of animals are vaccinated, such vaccination shall be with a vaccine approved by the County Health Department.

(b) *Certificate of Vaccination.* Upon vaccination, the veterinarian or clinic administering the vaccine shall execute and furnish to the owner of the animal a certificate as evidence of the vaccination.

Section 7. Rabies Tags

The owner of the animal shall provide the Town Clerk with a copy of the certificate of vaccination referred to in Section 6. When possible, the metal rabies tag shall be attached to a collar, harness or other device and worn by the animal.

Section 8. Proof

It shall be unlawful for any person who owns or harbors any dog, cat or other animal to fail or refuse to exhibit their copy of the certificate of vaccination upon demand to any person charged with the enforcement of this Article.

Section 9. Duty to Report

Any person having knowledge of an animal bite shall immediately report the incident to the Rhodhiss Police, County Animal Control Officer or to the County Department of Health in their county of residence.

Section 10. Animal License Required

Any person having custody of any dog or cat four (4) months of age or older for five (5) or more days shall procure a license. License fees shall be paid annually to the Town Clerk. License fees shall be two dollars (\$2.00) for each animal that is spayed or neutered and four dollars (\$4.00) if the animal has not been spayed or neutered (documentation required). All animal licenses issued hereunder shall expire June 30 of each year and the full amount shall be paid for any fraction of the licensing year. Upon collection of the animal license fee by the Town Clerk, a copy of the application will be provided to the owner.

Section 11. License Displayed

The license tag should be attached to a collar, harness or other device and should be worn with the rabies tag by the licensed animal at all times or the license tag, rabies tag and copy of application for license for the animal shall be retained by the owner or harbinger for inspection by any person charged with the enforcement of this Article.

Section 12. Rabies Vaccination

No animal shall be licensed without proof of rabies vaccination as provided in this Article.

Section 13. False and Stolen License Documents

It shall be unlawful for any person to make use of or have in his possession or under his control a stolen, counterfeit or forged animal license receipt, animal license tag, rabies vaccination certificate or other form issued in accordance with this Article.

Section 14. Duplicate Tags

In the event of loss or destruction of the original tag provided in Section 10, the owner of the animal shall obtain another tag from the Town Clerk and the price of such tag shall be two dollars (\$ 2.00).

Section 15. Transferability

License are not transferable and it shall be unlawful for any person to attach any license or rabies tag to any animal other than the animal for which such tag was originally issued.

Section 16. Running on Owner's Premises

The provisions of this Article do not prohibit animals from running at large on the premises of the owner or person having charge of such animal.

Section 17. Control and Penalty

It shall be unlawful for any person owning or having charge of any animal to permit such animal to run at large. For the purpose of this Article, an animal shall be deemed running at large when:

(1) Such animal inflicts damage or injury (by biting, jumping upon, pollution of vegetation or by any other means whatsoever) to the person or property of anyone other than the owner, except in the defense of the owner, his family or property.

(2) In the case of any unsprayed female animal not securely confined in the owner's yard, pen or other enclosure.

(3) Any animal found running at large in the Town of Rhodhiss shall be impounded. It shall be the duty of the Police Chief or the Superintendent of Public Works to capture and impound such animal(s) in the County Animal Shelter.

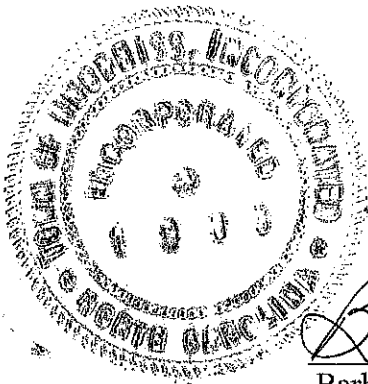
Such impounded animal may be reclaimed after proof of ownership or custody, at the expense of the owner.

Any animal not reclaimed shall be disposed of, in a humane manner, by the County Animal Control Officer.

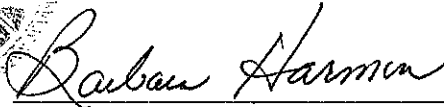
Any person owning, keeping, having charge or control of any animal and allowing such animal to run at large in violation of the provisions of this ordinance shall be guilty of a misdemeanor and punished in accordance with provisions of the General Statutes.

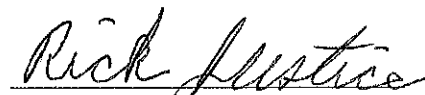
(4) In addition to the preceding punishment, any person, firm or corporation who violates any provision of this ordinance shall be subject to a civil penalty for each day of violation in the amount of SEVENTY-FIVE (\$75.00) DOLLARS. The penalty must be paid within one week (7 days) after the person, firm or corporation has been cited for the violation of this article by a representative of the Town of Rhodhiss or an officer of the respective counties Sheriff's Department or both. If the offender does not pay the penalty within said one week (7 days) period the town may recover said penalty plus court costs and attorney fees in a civil action in the nature of a debt.

Adopted this tenth day of June, 2008 and to become effective July 1, 2008.



(ATTEST)


Barbara Harmon, Town Clerk


Mayor Rick Justice

COPY

ORDINANCE NUMBER 15

AN ORDINANCE
REGULATING OTHER ANIMALS
WITHIN THE TOWN LIMITS

WHEREAS, NC General Statutes give the town authority to regulate, restrict or prohibit the ownership of certain animals in the corporate limits (GS 160A-186); and,

WHEREAS, the Town Of Rhodhiss desires to maintain safety for the general public;

NOW, THEREFORE, BE IT ORDAINED by the town council of the Town Of Rhodhiss, North Carolina, that:

Section 1. Stables and coops; dead animals.

It shall be unlawful for any person, firm or corporation to keep any privy, stable, chicken coop, or to permit the dead body of any animal or fowl which has died while in his charge to remain within the corporate limits unburied for five (5) hours after such death.

Section 2. Pigs, hogs, horses and cattle.

It shall be unlawful for any person to maintain or keep pigs, hogs, horses or cattle within the limits of the town.

Section 3. Chickens.

It shall be unlawful for any person to maintain or keep chickens within the limits of the town.

Section 4. Goats, etc.

No goat or other animals shall be permitted to run at large within the town limits. All animals caught running at large shall be impounded by the police and unless claimed within four (4) days shall be disposed of as the Town deems best.

Section 5. Bird Sanctuary.

The entire area embraced within the corporate limits of the Town of Rhodhiss be, and the same is hereby designated as a bird sanctuary. It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests. Provided, however, if starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance

or menace to health or property in the opinion of the proper health authorities of the Town of Rhodhiss, then in such event said health authorities shall meet with representatives of any local club, having given clubs at least three days actual notice of the time and place of said meeting. If as a result of said meeting no satisfactory alternative is found to abate such nuisance, then said birds may be destroyed in such numbers and in such manner as is deemed advisable by said health authorities under supervision of the Chief of Police of the Town of Rhodhiss. Anyone violating the provisions of the Section shall be punished by a fine of not more than two hundred dollars (\$200.00) or imprisoned for a period not to exceed thirty days.

Adopted this 12 day of June, 2000.

Signed:

Douglas H. Cowick
Mayor

Attest:

David Haller
Town Clerk

Approved as to form:

DM
Town Attorney

Note: This ordinance was amended Monday, March 11, 2002 by unanimous vote of the Town Council.

ORDINANCE NO. 15

AN ORDINANCE
REGULATING OTHER ANIMALS
WITHIN THE TOWN LIMITS

WHERE AS, BE IT ORDAINED by the Town Council of the Town of Rhodhiss, North Carolina, that the following changes be made to the ordinance as stated:

Section 3. Chickens.

It shall be unlawful for any person to maintain or keep over 15 chickens within the limits of the town. Anyone who willfully neglects care for chicken or chicken pens shall be ask to remove animals and pen immediately. Report of odor or constant noise of chickens can constitute the permanent removal of said animal by the town.

Approved _____AYES _____NAYS

Date:

Respectfully submitted,

Rose H. Waldroup
Town Clerk

Mayor Jimmy Wilson

ATTEST:

Rose H. Waldroup, Town Clerk

COPY

ORDINANCE NUMBER 17

AN ORDINANCE
REGULATING JUNK YARDS & REPAIR SHOPS
WITHIN THE TOWN LIMITS

WHEREAS, NC General Statutes give the town authority to regulate, restrict or prohibit conditions that are detrimental to the health, safety and welfare of the residents in the corporate limits (GS 160A-174); and,

WHEREAS, the Town Of Rhodhiss desires to protect its residential community from undue noise and safety concerns;

NOW, THEREFORE, BE IT ORDAINED by the town council of the Town Of Rhodhiss, North Carolina, that:

Section 1. Graveyards, junkyards defined.

Automobile graveyards. Anything which is maintained, used or operated for storing, keeping, buying and selling (two or more) wrecked, scrapped, ruined, dismantled or inoperable motor vehicles and which are not being restored to operation, regardless of the length of time which individual motor vehicles are stored, or kept at said establishment.

Automobile repair shops (licensed). An establishment which is maintained and operated for the sole purpose of making body repairs to wrecked motor vehicles and which receives half of its gross income from charges made for such repairs and shall not be required to comply with the 125 foot set-back.

Building. Any structure having a roof supported by columns or walls, and designated or intended for the shelter, support, enclosure or protection of persons, animals or chattels.

Establishment. Any place, land building or structure on which or in which there is operated or maintained a business or going concern for profit.

Fence. A continuous, opaque, unperforated barrier extending from the surface of the ground to be uniform height of not less than six feet from the ground at any given point, constructed of wood, stone, or steel wire or any other material approved by the Board of Commissioners, with no stacking of automobiles, or parts thereof, to be used for or intended as a fence or fencing materials.

Gate. A door or other device attached to a fence, which when opened, provides a means of ingress or egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier as a part of the fence to which it is attached.

Junk. Old or scrapped copper, brass, rope, rags, paper, batteries, trash, rubber, debris, waste, dismantled or wrecked automobiles or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous materials.

Junkyard. Any place which is maintained, operated, or used for storing, keeping, buying or selling junk regardless of the length of time that junk is stored or kept, or for maintenance or operation of an automobile graveyard, but shall not include garbage dumps or sanitary landfills.

Substantial. Ample to satisfy the purpose for which an object is intended.

Vegetation. Evergreen trees, including, but not limited to white pine and/or hemlock, evergreen shrubs or plants with a minimum height of six inches when planted, which reach a height of at least six feet at maturity.

Visible. Capable of being seen without visual aid by a person of normal visual acuity.

Wire Fence A continuous, translucent, perforated barrier extending from the surface of the ground to a uniform height of not less than six feet from the ground at any given point, constructed of wire, steel or nylon mesh, or any substance of a similar nature and strength, but which perforations or openings are no longer than sixteen square inches.

Section 2. Prohibitions and standards.

Except as hereinafter provided, it shall be unlawful for any person, firm or corporation, or other legal entity to establish in the Town of Rhodhiss, a new junkyard, automobile graveyard or automobile repair shop within 125 feet of the centerline of any public road or within any residential area. For the purpose of this ordinance, a junkyard, automobile graveyard or automobile repair shop shall not be within a residential area if there are 25 or more housing units within a geographical area comprised of a one-fourth mile wide strip contiguous and parallel to the external boundary lines of the tract of real property on which said automobile graveyard is located. Stacking of junked automobiles or junk may be allowed within the fenced compound area and at no time shall be stacked higher than the fencing which surrounds said compound area. Junkyards, automobile graveyards or automobile repair shops existing at the effective date of this ordinance shall be set back sixty feet from the centerline of any public road. Licensed automobile repair shops may be operated and/or maintained and not required to be set back 125 feet from the street centerline where they have automobiles that are in the process of being repaired for a legally recognized customer of said repair shop. However, junked, abandoned or stored automobiles must comply with the requirements set forth in this ordinance.

All junkyards, automobile graveyards and automobile repair shops shall be fenced and at all points be screened from the view of the public from public roads or residential areas, and where such screening is not already substantially provided by natural vegetation, or other natural barriers, a wire fence shall be used in conjunction with vegetation as described above.

If a wire fence with vegetation is used, the plants shall be planted on at least one side of the wire fence and as close as practical to said fence. Vegetation shall be of a type that will reach a minimum height of six feet at maturity, and shall be planted at intervals evenly spaced and in close proximity to each other so that a continuous, unbroken hedge row will exist to a height of at least six feet along the links of the wire fence surrounding the junkyard, automobile graveyard, or automobile repair shop when

the vegetation reaches maturity. The height of any plants used must be at least six inches at the time of planting. Each owner, operator or maintainer of a junkyard, automobile graveyard or automobile repair shop to which this ordinance applies, and who chooses to use vegetation with wire fence, shall utilize good husbandry techniques with respect to said vegetation, including but not limited to, proper pruning, proper fertilizer and proper mulching, so that the vegetation will reach maturity as soon as practical and will have a maximum density in foliage. Dead or diseased vegetation shall be replaced at the next appropriate planting time, and the fence or wire fence, shall have at least one gate for the purpose of ingress and egress. Stacking of automobiles inside the compound area shall be no higher than the fencing which surrounds said compound.

Section 3. Nonconformance, grace period.

Automobile graveyards, junkyards, or automobile repair shops existing at the effective date of this ordinance which would be in violation of this ordinance but for this section shall be granted a grace period of six months to conform to the provisions of this ordinance thereafter same shall be in violation of this ordinance.

Section 4. Criminal and civil penalties.

Any person, firm or corporation violating any of the provisions of this ordinance shall be guilty of a misdemeanor and shall be fined not more than \$50.00 or imprisoned not more than 30 days at the discretion of the Court in accordance with NC General Statute 14-4. Any person, firm or corporation violating any of the provisions of this ordinance shall further be subject to the imposition by citation of a civil penalty for each such violation in the amount of \$100.00 which shall be paid in full within 72 hours of the service of the citation in accordance with NC General Statute 160A-175.

Any person, firm or corporation violating any of the provisions of this ordinance shall further be subject to the Town enforcing the provisions of this ordinance by applying to a court of competent jurisdiction in the General Court of Justice for equitable relief including, but not limited to mandatory or prohibitory injunctions and/or orders of abatement in accordance with NC General Statute 160A-175 (d) (e). Each day of violation shall be considered a separate and distinct offense for the purpose of the enforcement of this ordinance.

This ordinance was approved September 20, 1993 by unanimous vote of the Town Council and codified on the date below.

Adopted this 12 day of JUNE, 2000.

Signed:

Douglas H. Cowick
Mayor

Attest:

David Haller
Town Clerk

Approved as to form:

DH
Town Attorney

COPY

AMENDED ORDINANCE NUMBER 19

AN ORDINANCE
REGULATING FIREARMS
WITHIN THE TOWN LIMITS

WHEREAS, NC General Statutes 160A-174 and GS 160A-189 give the Town authority to regulate the display of firearms on public property. Further, NC General Statute 14-415.23 specifically permits units of local government to adopt ordinances prohibiting the carrying of a concealed handgun in and around government buildings and public parks. Further, as the owner of municipal lands including buildings, recreational facilities and parks, the Town has the inherent authority to control activities thereon as an incidence of its ownership of such property. Finally, the Town has general police power to regulate conduct and promote public safety. This Ordinance is therefore adopted pursuant to the authority stated above.

WHEREAS, the Town of Rhodhiss desires to protect its citizens from stray bullets and undue fright;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Rhodhiss, North Carolina; that

Definitions. The following definitions shall apply to this ordinance.

Carry a concealed handgun. The term includes possession of a concealed handgun.

Handgun. A firearm that has a short stock and is designed to be held to [be] fired by the use of a single hand.

Deadly Weapon. Any handgun, shotgun, rifle, pistol, firearm, stun gun, loaded cane or any Bowie knife, dirk, dagger, metallic knuckles, razor, shurikin, or arm grenade, bomb, explosive device, or other dangerous weapon of like kind except that an ordinary pocketknife designed for carrying in a pocket or a purse, which has its cutting edge and point entirely enclosed in its handle and may not be opened by throwing, explosive or spring action.

Prohibited. It shall be unlawful for any person to:

- (1) Carry a concealed handgun in any government building, or its appurtenant premises (including all parking areas, sidewalks, driveways and yards), whether owned by the town, in the legal possession of or under the control of the Town; or
- (2) To carry, possess, or to display any dangerous weapon in any municipal building, or on the yards and parking areas adjacent thereto; or, at any official meeting of the Town council or any commission, committee or board thereof; or
- (3) To discharge any firearm including any handgun, shotgun, rifle, pistol, stun gun or any other weapon of like kind within the municipal limits of the Town.

Posting required. The prohibitions set forth in subsection (1) and (2) above, shall apply only to those premises that have been posted with a notice or a statement to the effect that the carrying of a concealed handgun or the possession and display of a dangerous weapon is prohibited.

Exemption. This section does not apply to:

(1) Officers and enlisted personnel of the armed forces of the United State when in the discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;

(2) Civil officers of the United State while in the discharge of their official duties;

(3) Officers and soldiers of the United States Armed Forces, National Guard and Army Reserve when called into actual service;

(4) Sworn law enforcement officers including local, state and federal officials; or

(5) Gun shows, antique gun collection displays, the raffle or auction of a gun for charitable purposes or other similar events held on public property available for such use provided the chief of police issues a permit for such event. An application for such permit shall be made on the form provided by the chief of police and may include the payment of a processing fee as approved by the Board of Alderman from time to time. The permit shall specify the purpose for which it is issued and any applicable time limit or type of firearms permitted to be on display. In the event of the raffle or auction of a single gun, the chief of police may waive the requirement of any permit.

(6) The Town Manager and Town Clerk to ensure the safety of the Town office.

(7) Animal Control Officers.

Violation and Fine. The violation of any provisions of this section shall constitute a misdemeanor and shall be punishable as provided in N.C.G.S. 14-4, as amended. The fine for a violation of this section shall not exceed five hundred dollars (\$500.00).

Contraband. Dangerous weapons carried, possessed or displayed in violation of this chapter are hereby declared to be contraband and may be summarily seized by any police officer or other law enforcement official. The chief of police or his designee shall hold such weapon for disposal pursuant to court order. In the absence of any court order, such weapons shall be destroyed as by law provided.

Effective Date. This Ordinance shall become effective at the date of adoption by the Rhodhiss Town Council.

Adopted the 11th day of October, 2016.

Signed:

Ricky E. Austin
Mayor

Attest:

Barbara Harmon
Town Clerk

Approved as to form:

[Signature]
Town Attorney

ORDINANCE NUMBER 19

AN ORDINANCE
REGULATING FIREARMS
WITHIN THE TOWN LIMITS

WHEREAS, NC General Statutes give the town authority to regulate conditions that are a safety hazard to the general public in the corporate limits (GS 160A-174); and,

WHEREAS, the Town Of Rhodhiss desires to protect its citizens from stray bullets and undue fright;

NOW, THEREFORE, BE IT ORDAINED by the town council of the Town Of Rhodhiss, North Carolina, that:

Section 1. Discharge of Firearms.

It shall be unlawful for any person, firm or corporation to discharge firearms, firing or popping fire crackers, discharging fireworks or using or shooting sling shots within the corporate limits of the town.

Section 2. Discharge Of Firearms And Air Rifles.

(a) Subject to subsection (b), no person may discharge any firearm within the town.

(b) Subsection (a) shall not apply to private citizens acting in justifiable self defense or pursuant to the lawful directions of a police officer nor to police officers acting in a lawful performance of their duties.

(c) No person may discharge or shoot within the town any air rifle, air pistol, B-B gun, pellet gun, pump gun or similar weapon within 100 yards of any building or house or gathering of people.

Section 3. Authority To Prohibit Weapons.

The North Carolina General Assembly, in 1995, passed House Bill 90, which requires the issuance of concealed handgun permits to persons meeting certain qualifications and allows local governments to prohibit persons from carrying concealed handguns on local government property.

Section 4. Prohibition Of Carrying Concealed Weapons.

The Rhodhiss Town Council hereby prohibits the carrying of concealed weapons on municipal property, with the following exceptions:

(a) Officers and enlisted personnel of the United States armed forces when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;

(b) Civil officers of the U.S. Government while in the discharge of their official duties;

(c) Officers and soldiers of the militia and the national guard when called into actual service;

(d) Sworn law enforcement officers;

(e) Animal Control officers.

Section 5. Notice Posted.

A conspicuous notice shall be posted at each entrance to any property owned by the municipality stating "Carrying A Concealed Handgun Is Prohibited On This Property."

Section 6. Violations And Fines.

Any person in violation of this ordinance shall have their weapon seized by the Chief Of Police or his designee and such weapon shall be declared contraband. Such weapon shall be held for disposal pursuant to court order. In the absence of any court order, the weapon shall be destroyed. Any person convicted of violating this section shall be guilty of a misdemeanor and shall be fined \$500.00 or imprisoned for six months or both.

Section 7. Effective Date.

This ordinance shall become effective at the date of adoption by the Rhodhiss Town Council. This ordinance adopted the 11th day of September, 1995 by unanimous vote and codified on the date below.

Adopted this 12 day of June, 2000.

Signed:

Douglas H. Cowick
Mayor

Attest:

David Wells
Town Clerk

Approved as to form:

DW
Town Attorney

COPY

ORDINANCE NUMBER 21

A N O R D I N A N C E
REGULATING SOLID WASTE
WITHIN THE TOWN LIMITS

WHEREAS, NC General Statutes give the town authority to establish local laws to Protect the general welfare of its citizens (GS 160A-174); and

WHEREAS, the Town Of Rhodhiss desires to protect its citizens from Accumulations of trash and debris and destruction of the environment;

NOW, THEREFORE, BE IT ORDAINED by the town council of the Town Of Rhodhiss, North Carolina, that:

Section 1. Definitions and Terms.

The definitions and terms used in this Section, unless the context otherwise indicates, are herewith defined as follows:

(1) Ashes: Means refuse resulting from the burning of wood, coal, coke, or other combustible material.

(2) Building Materials: Means materials such as lumber, bricks, plaster, loam and other substance accumulated as a result of repairs to existing buildings or construction of a new building, and demolition wastes of old buildings or structures.

(3) Bulk Containers or Dumpster Means a metal container of not less than one-half (1/2) cubic yard. Said container is to be of tight construction and constructed so it may be hauled and emptied by a special truck.

(4) Cell: Means compacted refuse completely enveloped by a compacted cover material.

(5) Commercial And Institutional Establishment: Means any office; retail store; wholesale store; bottling plant; printing establishment; religious, charitable, or government office; private club, hospital; group of mobile homes; apartments; group of apartments; or similar establishment; (provided however that such establishment shall not be constructed to refer to the residents of individual mobile homes or individual apartments).

(6) Dead Animals: Means any dead animal except one which has been slaughtered in the ordinary course of food production and is being processed in accordance with all applicable Federal, State, and County laws, rules and regulations.

(7) Demolition Landfill: Means a sanitary landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid waste as approved by the County's solid waste officers.

(8) Garbage: Means all putrescible wastes, including animal and vegetable matter, animal offal and carcasses, and recognizable industrial by-products, exclusive of

sewage and human waste.

(9) Garbage Receptacles: Means receptacles for garbage constructed of metal or plastic, of substantial construction, water tight, with tight-fitting lids, provided with handles sufficient for safe and convenient handling and shall be kept in serviceable condition and covered at all times. Such receptacles shall have a capacity of not less than ten (10) gallons nor more than thirty-two (32) gallons.

(10) Hazardous Solid Wastes: Includes but is not limited to explosives, pathological wastes, pesticides, chemicals highly combustible and other toxic materials which are harmful to public health.

(11) Industrial Establishments: Means factories, processing plants, and other manufacturing enterprises.

(12) Miscellaneous Refuse: Means all rubbish and refuse (other than garbage, ashes or dead animals) incident to the ordinary conduct of the household.

(13) Open Burning: Means any fire wherein the products of combustion are emitted directly into the atmosphere and are not directed thereto through a stack or chimney, incinerator, or other similar devices.

(14) Open Dump: Means consolidation of solid waste from one or more sources at a disposal site which has unsanitary conditions, little or no cover.

(15) Person: Means any individual, firm, governmental unit organization, partnership, corporation, or company.

(16) Putrescible Waste: Means solid waste capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal or carcasses.

(17) Radioactive Solid Waste: Means radioactive material.

(18) Refuse: Means non-putrescible wastes.

(19) Residential Unit-Single: Means any dwelling place occupied by one family.

(20) Residential Unit-Multiple: Means any duplex, apartment, group of apartments, or group of mobile homes.

(21) Rubbish: Means combustible and non-combustible waste materials, except garbage; and the term shall include paper, rags, cartons, boxes, wood, excelsior, tires, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust, the residue from the burning of wood, coal, coke, and other combustible materials or similar materials.

(22) Sanitary Landfill: Means a method of disposing of solid waste on land in a sanitary manner without creating nuisances or hazards to public health or safety by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume and to cover it with a layer of compacted earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary.

(23) Sawdust: Means any residue remaining from the processing or manufacturing from wood, plastic or chipboard by sawing, cutting or planing including shavings.

(24) Solid Waste: Means ashes, building materials, dead animals, garbage, hazardous solid waste, miscellaneous refuse, putrescible waste, radioactive solid waste, refuse, rubbish, sawdust, spoiled food, tires, trash, waste, and other discarded solid materials, including solid waste materials resulting from industrial, commercial,

agricultural, residential and community operations and activities, including but not limited to bicycles, motorcycles, mopeds, tractors, lawn mowers, automobiles, trailers, trucks, farm machinery, mobile homes, boats, campers, and motor homes.

(25) Solid Waste Collector: Means any person who collects or transports solid waste.

(26) Solid Waste Disposal: Means collection, storage, treatment, utilization, processing, or final disposal of solid waste.

(27) Solid Waste Disposal Facility: Means land, personnel, equipment, or other resources used in the disposal of solid wastes.

(28) Solid Waste Disposal Site: Means any place at which solid wastes are disposed of by incineration, sanitary landfill or any other methods.

(29) Spoiled Food: Means any food which has been removed from sale by the United States Department of Agriculture, North Carolina Department of Agriculture, Food and Drug Administration or any other regulatory agency having jurisdiction in judging food unfit for consumption.

(30) Vector: Means insect or other animal which transmits infectious diseases from one person to another.

(31) Waste: Means litter, rubbish, refuse and miscellaneous, unusable or unwanted materials.

(32) Water Supply Watershed: Means an area from which water drains to a point of impoundment, which water is then used as a source for a public water supply.

Section 2. Solid Waste on Property; Prohibitions.

(a) It shall be unlawful for any person to maintain, allow, cause, or permit the accumulation of excessive, unsightly, improperly contained solid waste upon premises owned, occupied, or controlled by him; or in any manner to place or allow to remain upon such property solid waste in such quantity and manner as to constitute a nuisance; to cause, or create the likelihood of injury to the health or welfare to other persons; or cause, or create the likelihood of, injury to adjoining property.

(b) Notwithstanding any provision of subsection (a) of this Section 2, no person shall be deemed to have violated the provisions of is Section who within three (3) days after notice to remove in writing to him from the Town Manager or his/her authorized representative, shall have removed such solid waste from such property as has been accumulated, placed, or allowed to remain on such property in the manner prohibited.

(c) The owner, operator, or other person responsible for the operation of drive-in restaurants and other food establishments shall maintain, or cause to be maintained, at all times on the premises sufficient receptacles or other devices for the disposal of solid waste as will permit adequate depositories for use by the customers and patrons of such restaurants and other food establishments. The owner, or other person responsible for the operation of the food establishment shall be responsible for keeping the grounds surrounding the business free of solid waste (including, but not limited to papers and debris) and shall be responsible for policing up the solid waste that has been allowed to transfer onto surrounding properties.

Section 3. Littering; Prohibitions.

It shall be unlawful for any person to litter the ground by throwing, dumping, allowing to blow from vehicle or trailer or dropping thereon any solid waste as defined herein.

Section 4. Permits.

No person, partnership, firm or corporation shall engage in the collection of and/or disposal of solid waste in Rhodhiss, North Carolina without having first obtained a permit from the County's Solid Waste Enforcement Officer in accordance with the County procedure. Upon the receipt of a permit the permittee shall at all times display same at a prominent place of business.

Section 5. General.

Such solid waste as shall be accumulated and/or stored prior to being disposed of shall be handled in the manner provided in this Section.

(a) All residential waste, refuse, rubbish or trash placed in the cart shall be bagged and closed for health and safety purposes. This will greatly assist in preventing flies, insects, rodents and other animals gaining access to the container and will assist in preventing littering. Lids or covers shall only be opened while containers are being filled. Lids shall be closed when the carts are being moved to the street for collection.

(b) The Town shall charge such fees for the collection of garbage, refuse, and recycling as may be established from time to time by the Town Commission.

Section 6. Containers.

Containers or receptacles shall be used for the collection and/or storage of solid wastes, and shall be of construction that will accommodate and properly control wastes prior to disposal. Such containers and receptacles shall be maintained in serviceable condition at all times and located so that no unsightly condition, health hazards, or nuisances are created, and pilferage by persons or animals is minimized. Under no conditions shall liquid or putrescible wastes be stored in open containers or receptacles.

(a) The Town will provide each customer with a 96 gallon cart. These carts must be used for garbage pickup. Additional carts can be retained at an added cost to the customer, call Town Hall for details.

(b) Every owner, occupant, tenant, lessee or person with the care, custody or control of the property required to utilize carts, has the obligation to maintain supervision over the carts servicing the premises. It shall be the duty of customer to notify the Town of Rhodhiss, or its duly authorized collector of solid waste, of any damage to the carts, or the failure to collect on the designed collection date, unless previously notified of a change in schedule, and of any complaints associated with the collection of solid waste.

(c) Every owner, occupant, tenant, lessee or person with the care, custody or control of the garbage cart is responsible for replacement cost if said cart is damaged.

Section 7. Residential.

(a) Solid waste from single residential units shall be placed in garbage receptacles.

(b) Solid waste from multiple residential units shall be placed in garbage receptacles, bulk containers or dumpsters.

Section 8. Commercial, Institutional, and Industrial.

Solid waste from commercial, institutional, and industrial establishments shall be placed in garbage receptacles, bulk containers, or other containers. Liquid or putrescible wastes shall be placed in containers which are constructed of durable metal or plastic, which are water tight, and which have tight-fitting lids, with handles sufficient for convenient handling.

Section 9. Specific Types of Solid Waste; Requirement.

(1) All boxes, leaves, tree trimmings, shrubbery trimmings or other yard trimmings, or similar refuse shall be prepared for conveyance to the Sanitary Landfill site as follows:

(a) Leaves: Leaves shall be placed in plastic bags, heavy paper bags, or other enclosed containers or vehicles in such manner as to prevent blowing or otherwise escaping from such container or vehicle. Leaves may be placed at curb side (not in roadway) for pick-up.

(b) Tree Trimmings and Shrubby Trimmings: Tree trimmings, limbs, shrubbery trimmings, or other similar materials shall be cut in four (4) to five (5) foot lengths with protruding branches trimmed. Tree and shrubbery limbs and trimmings shall be bundled or shall be placed in containers or heavy bags.

(c) Cardboard Boxes, Wooded Crates, Etc.: Cardboard boxes, wooden crates, etc. handled for Rhodhiss collection shall be flattened and tied in bundles of such size as can be handled by one (1) man, or a maximum of fifty (50) pounds and placed in heavy bags or refuse receptacles. Such weight and size requirements shall not apply to solid waste collected and delivered to the landfill by commercial, institutional and industrial establishments.

(d) Household Furniture and Appliances: Tables, stoves, washers, dryers, and similar items shall be disposed of at approved Sanitary Landfill sites by owner.

(2) Disposal into streams, drainage ditches, etc.; no person shall throw, sweep or dispose from any household, yard, or business, any solid waste into drainage ditches, roadway medians, manholes or other places detrimental to the general environment, but shall dispose of such waste by means as specified herein.

Section 10. General.

(1) Vehicles used for the collection and transportation of solid waste shall be loaded and moved in such a manner that the contents will not fall, or spill onto roadways, or adjoining properties. All waste transported by commercial, industrial, institutional and private vehicles must be covered by a tarpaulin, plastic or similar cover to prevent blowing of materials. If spillage should occur, all solid waste spilled shall be picked up immediately by the operator of the vehicle and returned to the vehicle or container immediately.

(2) Every person shall dispose of all solid waste which accumulates on his premises in a clean and sanitary manner approved by the Solid Waste Enforcement Officer of his county of residence. Such disposal shall be duly authorized collection agencies, or by private conveyance to the landfill site.

(3) If any object of solid waste is discovered on any lands or water in the Town of Rhodhiss, bearing a person's name, address or any other means of identification of a person or persons, it shall be prima facie evidence of ownership, and after an attempt has been made to contact the person or persons so identified and advise said individuals to clean up the objects of solid waste by taking it to a designated county landfill, with such individuals being advised to return to the County Solid Waste Enforcement Officer within three (3) days with a receipt from the County landfill indicating the deposit of said objects. If said person or persons fail to comply with the specific directions of the Solid Waste Enforcement Officer, such failure to comply shall be considered to be a violation of this Ordinance.

(4) Commercial, industrial, and institutional establishments shall be totally responsible for proper collection and transportation of any and all of their solid waste. All commercial industrial, and institutional establishments failing to comply with the terms, conditions and provisions of this Ordinance shall be subject to all fines, penalties and punishment contained herein.

Section 11. Residential.

All residential solid wastes shall be conveyed to approved sanitary landfill sites by approved and licensed agencies or by individuals. Individuals shall not use bulk containers for disposal of tree trimmings, shrubbery trimmings, leaves or other yard trimmings, auto parts, lumber or household furniture and appliances. Such solid wastes shall be delivered to the approved sanitary landfill sites.

Section 12. Commercial, Industrial, and Institutional.

Commercial, industrial, and institutional establishments shall provide for disposal of solid waste by authorized collection agencies, or shall be individually responsible for disposal of waste in accordance with the provisions of this Ordinance. No commercial, industrial, or institutional wastes shall be placed in bulk containers. Commercial, industrial, and institutional establishments shall be subjected to any fees as may be provided herein.

Section 13. Hazardous Solid Waste and Liquid Waste.

No hazardous solid waste or liquid waste shall be placed in any receptacle used for collection of waste by the Town. Hazardous or highly combustible waste shall not be disposed of in the sanitary landfill sites.

Section 14. Small Dead Animals.

Small dead animals may be disposed of at a sanitary landfill without cost between 8:00 a.m. and 4:30 p.m., Mondays through Fridays.

Section 15. Lot Clearing or Construction.

No materials such as trees, shrubbery or underbrush resulting from land being cleared will be picked up by Town forces. Building materials shall be collected, removed, and disposed of by the contractor or builder, or in the event of his failure to do so, by the owner of the property. No such materials shall be disposed in bulk containers.

Section 16. Abandoned Iceboxes.

It shall be unlawful for any person to put, cause to be put, leave, or cause to be left in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator, or any other container or device of any kind or description which has an air-tight snap lock door or other similar device thereon without having first removed its door and hinges or other similar device from such icebox, refrigerator, or other container; provided however, that this section shall not apply to such icebox, refrigerator, or other container which is crated, strapped, or locked in such fashion, or to such extent, that it is impossible for a child to obtain access to any air-tight compartment thereof.

Section 17. Dirt and Debris on Private Roads During Construction.

If dirt, mud, construction materials, or other debris shall be deposited upon a private road as a result or consequence of a construction project in progress, the contractor in charge of the project shall remove said debris; provided, however, that this Section shall have no application to such deposit upon a private road, or upon any portion of a private road, as shall be owned by the owner of the property upon which such construction project is in progress.

Section 18. Tires.

All tires shall be taken to the counties landfill for proper disposal or shall be disposed of through a recognized recycling agency.

Section 19. Conformance Practices.

Any person who maintains or operates a demolition land fill site shall maintain and operate the site in conformance with the following practices.

- (a) Operation plans shall be approved and followed as specified for the site;
- (b) A site shall only accept those solid wastes which are allowed;
- (c) Solid waste shall be restricted to the smallest area feasible and compacted as densely as practical;
- (d) Solid waste shall be covered with at least two (2) feet of approved dirt;
- (e) Within six months after final termination of disposal operations at the site, the area shall be covered with at least two (2) feet of approved dirt, adequately sloped to allow surface water to runoff in a controlled manner without excessive on-site erosion and off-site siltation, and seeded with native grasses or other suitable vegetation. The County's Solid Waste Officer may require further action to be taken in order to correct any condition which is or may become injurious to the public health;
- (f) If necessary, to prevent erosion, seeded slopes shall be covered with straw or similar material;
- (g) Temporary seeding will be utilized as necessary to control erosion;
- (h) Adequate erosion control measures shall be practiced to prevent silt from leaving the site;
- (i) The site shall be adequately secured, by means of gates, chains, berms fences, etc., to prevent unauthorized entry;
- (j) Surface water shall be diverted from the operational area and not allowed to be impounded over waste;
- (k) Solid waste shall not be disposed of within 100 feet of water, creeks, or streams and may be more where deemed necessary by the County's Solid Waste Officer;
- (l) Open burning of solid waste is prohibited; and
- (m) Equipment shall be provided to control accidental fires or arrangements shall

be made with the local fire protection.

Section 20. Bulky Trash.

Bulky trash consists of items inappropriate to place in the garbage truck for compacting. Examples include furniture, gas grills, wheel barrows, bicycles, mattresses and box springs. You may schedule a bulky trash pick-up (*fee applies*) by calling Town Hall. The fee for bulky trash pick-up is \$15 for the first item picked up curbside and \$5 for each additional item collected during the same trip. (For example, the costs are \$20 for two items or \$25 for three items). You may also dispose of these items at the appropriate Convenience Center at no charge.

Section 21. Criminal and Civil Penalties and Injunctive Relief.

CRIMINAL PENALTIES: Any person, firm or corporation violating any of the provisions of this Ordinance shall be guilty of a Class III misdemeanor and shall be fined not more than \$100 or imprisoned not more than allowed by Chapter 15A of the General Statutes of North Carolina for such misdemeanor class and the record level of the violator. Every day of violation shall be considered a separate and distinct offense for the purpose of this misdemeanor.

CIVIL PENALTIES: Any person, firm or corporation violating any of the provisions of this Ordinance shall also be subject to the imposition by citation of the Town of a Civil Penalty for each such violation in the amount of fifty dollars (\$50) which shall be paid in full within 72 hours of the service of the citation in accordance with North Carolina General Statutes section 160A-175. Failure to make payment of such Civil Penalty within the time prescribed will result in an additional penalty of ten dollars (\$10) per day for a maximum of fifteen (15) days. Every day of violation shall be considered a separate and distinct offense for the purpose of this Civil Penalty.

INJUNCTIVE RELIEF: Any person, firm or corporation violating any of the provisions of this Ordinance shall be further subject to the Town enforcing the provisions of this Ordinance by applying to a Court of competent jurisdiction in the General Court of Justice for equitable relief including, but not limited to, mandatory or prohibitory Injunctions and/or Orders of abatement in accordance with North Carolina General Statutes section 160A-175. provisions of this Ordinance shall be further subject to the Town enforcing the provisions of this Ordinance by applying to a Court of competent jurisdiction in the General Court of Justice for equitable relief including, but not limited to, mandatory or prohibitory Injunctions and/or Orders of abatement in accordance with

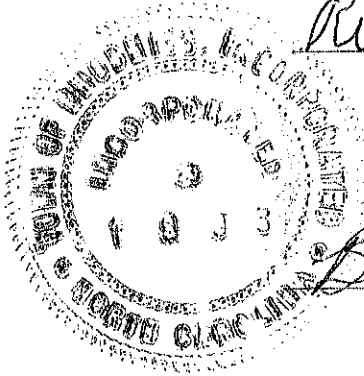
North Carolina General Statutes section 160A-175.

ADOPTED BY THE TOWN BOARD, THIS THE 9th DAY OF May,
2017.

Rich Justice (MAYOR)

ATTESTED TO:

Ben Turner (TOWN MANAGER)



COPY

ORDINANCE NUMBER 23

AN ORDINANCE
REGULATING SUBDIVISIONS
WITHIN THE TOWN LIMITS

WHEREAS, NC General Statutes give the town authority to establish local laws for orderly growth of the community (GS 160A-371); and,

WHEREAS, the Town Of Rhodhiss desires to have established procedures and standards for the development and subdivision of real estate in Rhodhiss;

NOW, THEREFORE, BE IT ORDAINED by the town council of the Town Of Rhodhiss, North Carolina, that:

Section 1. Short title

This chapter shall be known and may be cited as the *Subdivision Regulations of the Town of Rhodhiss, North Carolina*.

Section 2. Authority

The Town Council of the Town of Rhodhiss, pursuant to the authority conferred by an Act of the General Assembly of the State of North Carolina, (General Statutes 160A-371 et seq) does hereby ordain and enact into law these Articles and Sections.

Section 3. Jurisdiction

The provisions of this chapter shall apply within the corporate limits of Rhodhiss.

Section 4. Purpose

The purpose of this ordinance is to establish procedures and standards for the development and subdivision of real estate within the corporate limits of the Town of Rhodhiss in an effort to, among other things, insure proper legal description, identification, monumentation, and recordation of real estate boundaries; further the orderly layout and appropriate use of the land; provide safe, convenient and economic circulation of vehicular traffic; provide adequate building sites which are readily accessible to emergency vehicles; assure the proper

installation of streets and utilities; promote the eventual elimination of unsafe or unsanitary conditions because of undue concentration of population; and help conserve and protect the physical and economic resources of the Town of Rhodhiss and its environs.

Section 5. Subdivision defined

For the purpose of this ordinance, a subdivision shall include all divisions of a tract or parcel of land into three (3) or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development, and shall include all divisions involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within the definition nor subject to the regulations prescribed by this ordinance:

a. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as required by this chapter.

b. The division of land into parcels greater than five (5) acres where no street right-of-way dedication is involved.

c. The public acquisition by purchase of strips of land for the widening or opening of streets.

d. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town of Rhodhiss Subdivision Regulations, as amended.

Section 6. Other Definitions

For the purpose of this ordinance, certain words or terms used herein shall be defined as follows:

(1) Block. A piece of land bounded on one or more sides by streets or roads.

(2) Building Setback Line. A line establishing the minimum allowable distance between the nearest portion of the building foundation and the nearest right-of way line or property line when measured perpendicular thereto.

(3) Dedication. A gift, by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument and is completed with an acceptance.

(4) Easement. A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.

(5) Half Street. A street whose centerline coincides with a subdivision plat boundary, with one-half (1/2) the street right-of-way being contained within the subdivision plat. Also, any existing street to which the parcel of land to be subdivided abuts on only one side.

(6) Lot. A parcel of land occupied or capable of being occupied by a building or a group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to same.

(7) Lot of Record. A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Burke County or Caldwell County Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

(8) Lot Types:

(i) Corner Lot. A lot which occupies the interior angle at the intersection of two street lines which make an angle of more than (45) degrees and less than 135 degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two street lines are equal, in which case the owner shall be required to specify which is the front when requesting a zoning compliance certificate.

(ii) Double Frontage Lot. A continuous (through) lot which is accessible from both streets upon which it fronts.

(iii) Interior Lot. A lot other than a corner lot with only one frontage on a street.

(iv) Through Lot or a "Double Frontage Lot". A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

(v) Reversed Frontage Lot. A lot on which the frontage is at right angles or approximately right angles (interior angles less than one hundred thirty-five (135) degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

(vi) Single-Tier Lot. A lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

(vii) Flag Lot. A lot which does not meet the minimum frontage requirements and access is provided by a narrow driveway leading to the major portion of the lot.

(9) Official Maps or Plans. Any maps or plans officially adopted by the Town of Rhodhiss.

(10) Open Space. An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

(11) Planned Unit Development. A form of development characterized by a unified site design for a number of housing units, clustering of buildings and providing common open space, density increases, and a mix of building types. It permits the planning of a project and a calculation of densities over the entire development rather than on an individual lot-by-lot basis. The site must include two or more principal buildings. Such development shall be based on a plan which allows for flexibility of design most available under normal district requirements.

(12) Planning and Zoning Board. The Planning and Zoning Board of the Town of Rhodhiss, North Carolina.

(13) Plat. A map or plan of a parcel of land which is to be or has been subdivided or meets the exemption requirements of Section 9-2008.

(14) Public Sewage Disposal System. A system serving two (2) or more dwelling units and approved by the Burke County or Caldwell County Health Department.

(15) Recreation Area or Park. An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various man-made features that accommodate such activities.

(16) Reservation. A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

(17) Street. A dedicated, recorded, and accepted public right-of-way for vehicular and pedestrian circulation. The following classifications shall apply:

(i) Rural Roads

(1) Principal Arterial. A rural link in a network of continuous routes serving corridor movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and other routes designed as principal arterials.

(2) Minor Arterial. A rural link in a network joining cities and larger towns and providing intrastate and intercounty service at relatively high overall travel speeds with minimum interference to through movement. This network would primarily serve traffic.

(3) Major Collector. A road which serves major intracounty travel corridors and traffic generators and provides access to the arterial system.

(4) Minor Collector. A road which provides service to small local communities and links locally important traffic generators with their rural hinterland.

(5) Local Road. A local road serves primarily to provide access to adjacent land and for travel over relatively short distances.

(ii) Urban Streets

(1) Major Thoroughfares. Major thoroughfares consist of interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.

(2) Minor Thoroughfares. Minor thoroughfares are important streets in the urban system and perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system by facilitating a minor through traffic movement and may also serve abutting property.

(3) Local Street. A local street is any link not part of a higher-order urban system which serves primarily to provide direct access to abutting land and access to higher systems.

(iii) Specific Type Rural or Urban Streets

(1) Freeway, Expressway, or Parkway. Divided multi-lane roadway designed to carry large volumes of traffic at relatively high speeds. A freeway is a divided highway providing for continuous flow of vehicles with no direct access to abutting property or streets and with access to selected crossroads provided via connecting ramps. An expressway is a divided highway with full or partial control of access and generally with grade separations at major intersections. A parkway is a highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park-like development.

(2) Residential Collector Street. A local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from 100 to 400 dwelling units.

(3) Local Residential Street. Cul-de-sacs, loop streets less than 2,500 feet in length, or streets less than one mile in length that do not connect thoroughfares, or serve major traffic generators, and do not collect traffic from more than 100 dwelling units.

(4) Cul-de-sac. A short street having but one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.

(5) Frontage Road. A local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.

(6) Alley. A public or private thoroughfare which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

(18) Subdivider. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

(19) Town Council. The Town Council of the Town of Rhodhiss, North Carolina.

(20) Town Engineer. The Consulting Engineer retained by the Town of Rhodhiss.

Section 6a. Word Interpretation

For the purpose of this ordinance, certain words shall be interpreted as follows:

- (1) Words used in the present tense include the future tense.
- (2) Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
- (3) The word "person" includes a firm, association, corporation, trust, and company as well as an individual.
- (4) The word "used for" shall include the meaning "designed for".
- (5) The word "structure" shall include the word "building".
- (6) The word "lot" shall include the words "plot", "parcel", or "tract".
- (7) The word "shall" is always mandatory and not merely directory.

PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

Section 7. Plat Shall Be Required on Any Subdivision of Land or Any Manipulation of Property Lines or Boundaries

Pursuant to G.S. 160A-372, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this ordinance whenever any subdivision of land takes place. Whenever any manipulation of property lines or property boundaries takes place within the jurisdiction of the Town of Rhodhiss as established in Section 3 of this ordinance that is exempt from these regulations as provided by Section 5 of this ordinance, a plat clearly displaying such change must be presented to the town council. Said plat must also be presented to the Burke County or Caldwell County Register of Deeds for recordation.

Section 8. Approval Prerequisite to Plat Recordation

Pursuant to G.S. 160A-373, no final plat of a subdivision within the jurisdiction of the Town of Rhodhiss as established in Section 3 of this ordinance shall be recorded by the Register of Deeds of Burke County or Caldwell County

until it has been approved by the proper Board or official as provided herein. To secure such approval of a final plat, the subdivider shall follow the procedures established in this article.

Section 9-2009. Procedures for Review of Major and Minor Subdivisions

(a) All subdivisions shall be considered major subdivisions except those defined as minor subdivisions in this Section. Major subdivisions shall be reviewed in accordance with the procedures in Section 14 through 17. Minor subdivisions shall be reviewed in accordance with the provisions in Section 10 through 13.

(b) For purposes of these regulations, a minor subdivision is defined as a subdivision:

(1) involving not more than ten (10) lots fronting on an existing approved street;

(2) not involving any new street or prospectively requiring any new street for access to interior property;

(3) not requiring extension of public sewage or water lines or creation of new drainage easements through lots to serve property at the rear;

(4) not adversely affecting the development of the remainder of the parcel or of adjoining property;

(5) creating no new or residual parcels not conforming to the requirements of these regulations; and

(6) all included land must be under ownership of one sponsor.

Section 10. Approval Process for Minor Subdivisions

If the land to be subdivided meets the requirements of a minor subdivision as defined in Section 9 above, the subdivider will not have to follow the same procedures as for a major subdivision. The review process for minor subdivisions shall be adequate to protect the public interest, but shall also provide minimum delay and expense to the subdivider. A preliminary plat is required. The following minor plat approval process may be used only where the subdivision meets the requirements of Section 9 above.

Section 11. Procedure for Review of Minor Subdivisions

(a) Prior to submission of a final plat, the subdivider shall submit to the town council a copy of a preliminary plat of the proposed subdivision containing the following information:

- (1) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
- (2) The boundaries of the tract and the portion of the tract to be subdivided;
- (3) The total acreage to be subdivided;
- (4) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;
- (5) The existing street layout and right-of-way width, lot layout and size of lots;
- (6) The name, address and telephone number of the owner;
- (7) The name, if any, of the proposed subdivision;
- (8) Streets and lots of adjacent developed or platted properties;
- (9) The location of water and sewer facilities serving the proposed minor subdivision, if applicable
- (10) A statement from the Burke County or Caldwell County Health Department that a copy of the sketch plan has been submitted to them, if septic tanks or other on-site water or wastewater systems are to be used in the subdivision.

(b) The town council shall review the preliminary plat for general compliance with the requirements of this article, and shall advise the subdivider or his authorized agent of the regulations pertaining to the proposed minor subdivision and the procedures to be followed in the preparation and submission of the final plat.

(c) The town council, after determining that all requirements of this article have been met, shall advise the subdivider to proceed with the preparation of a

final plat which conforms to the submitted preliminary plat. The approval of the sketch plan shall in no way be construed as constituting official approval of the final plat.

Section 12. Final Plat for Minor Subdivisions

(a) The town council shall review the final plat for complete compliance with the requirements outlined for final plat approval of these minor subdivision regulations. The final plat shall be complete and show all information required for final plats, and all certifications and notarizations required in Section 13 for final plat approval of a minor subdivision.

(b) The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in (G.S. 47-30 and the Manual of Practice for Land Surveying in North Carolina.

(c) Three (3) copies of the final plat shall be submitted to the town council. One (1) of these shall be on reproducible material; two (2) shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Burke County or Caldwell County Register of Deeds.

(d) The final plat shall be of a size suitable for recording with the Burke County or Caldwell County Register of Deeds and shall be at a scale of not less than one (1) inch equals two hundred (200) feet. Maps may be placed on more than one sheet with appropriate match lines.

Section 13. Certifications to be Depicted on Final Plat (Minor Subdivision)

(a) The following signed certificates shall appear on all three (3) copies of the final plat:

(1) Certificate of Ownership and Dedication

(1) Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Rhodhiss and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer and water lines to the Town of Rhodhiss.

Owner

Date

(2) Certificate of Survey and Accuracy

In accordance with the Manual of Practice for Land Surveying in North Carolina:

On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgments and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source on information.
The certificate shall take the following form:

State of North Carolina
Burke County or Caldwell County

I, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book __, Page __, Book __, Page __, etc.)(other); that the ratio of precision as calculated by latitudes and departure is 1: __, (that the boundaries not surveyed are shown as broken lines plotted from information found in Book __, Page __); that this map was prepared in accordance with G.S. 47-30, as amended. Witness my hand and seal this ____ day of __, ____ A.D.

Registered Land Surveyor

Registration Number

Official Seal

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Rhodhiss and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.

Owner

Date

(2) Certificate of Survey and Accuracy

In accordance with the Manual of Practice for Land Surveying in North Carolina:

On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgements and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of information. The certificate shall take the following general form:

State of North Carolina
Burke County or Caldwell County

I, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book ___, Page ___, Book ___, Page ___ etc.) (Other); that the ratio of precision as calculated by latitudes and departures is 1: ___, (that the boundaries not surveyed are shown as broken lines plotted from information found in Book ___; Page ___;) that this map was prepared in accordance with G.S. 47-30, as amended.

Witness my hand and seal this ___ day of _____, _____.

Registered Land Surveyor
Official Seal

Registration Number

(3)

North Carolina
Burke County or Caldwell County

I, _____, Review Officer of Burke County or Caldwell County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date

(b) During its review of the final plat the town council may appoint an engineer or surveyor to confirm the accuracy of the final plat. If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be recommended for approval until such errors have been corrected.

(c) If the town council finds that the minor subdivision final plat is in full compliance with the requirements of this article, the plat shall contain the following certification:

I hereby certify that the minor subdivision plat hereon has been found to comply with the minor subdivision regulations for the Town of Rhodhiss and is hereby approved for recording in the office of the Register of Deeds by the subdivider within ninety (90) days of the date of this approval.

Town Council

Date

(d) If the town council recommends disapproval of the final plat, the subdivider shall be instructed concerning resubmission of a revised plat and the subdivider may make such changes as will bring the plat into compliance with the provisions of this article and resubmit same for reconsideration.

Section 14. Procedure for Review of Preliminary Plat for Major Subdivisions

(a) For every subdivision within the territorial jurisdiction established by Section 3 of this ordinance, which does not qualify as a minor subdivision, the subdivider shall submit a preliminary plat which shall be reviewed and approved by the town council before any construction or installation of improvements may begin.

(b) Six (6) copies of the preliminary plat (as well as any additional copies which the town council determines are needed to be sent to other agencies) shall

be submitted at least 20 days prior to the town council meeting at which the subdivider desires the board to review the preliminary plat.

(c) The town board shall review the preliminary plat at its next regularly scheduled meeting.

(d) The town board shall recommend approval, conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons within 30 days of its first consideration of the plat.

(e) If the Town Council disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One (1) copy of the plat and the reasons shall be retained by Town Council and one (1) copy shall be returned to the subdivider.

Section 15. Performance, Defects, and Maintenance Guarantees

(a) Upon approval of the preliminary plat by the Town Council, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this ordinance. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this ordinance or guaranteed their installation as provided herein. No final plat will be accepted for review by the Town Council unless accompanied by written notice by the Town Clerk and/or Town Engineer acknowledging compliance with the improvement and guarantee standards of this ordinance. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at that time, such portion shall conform to all requirements of this ordinance.

(b) Where the required improvements have not been completed prior to the submission of the final plat for approval, the approval of said plat shall be subject to the subdivider guaranteeing the installation of said improvements in one of the following methods:

- (1) Filing a performance or surety bond in an amount to be determined by the Town. The bond shall be payable to the Town of Rhodhiss, and its duration shall be until such time as the improvements are accepted by the Town Council.
- (2) Depositing or placing in escrow a certified check or cash in an amount to be determined by the Town. Portions of the security deposit may be released as work progresses.

- (3) Entering into an agreement with the Town guaranteeing the completion of the required work, said agreement to be binding on subsequent purchasers of the property and to be recorded at the option of the Town. The agreement shall provide that satisfactory security be furnished guaranteeing the completion of the necessary improvements before each section is developed.

Section 16. Final Plat Submission and Review

(a) The subdivider shall submit the final plat, so marked, to the Town Board at which it will be reviewed; further, the final plat for the first stage of the subdivision shall be submitted not more than twelve (12) months after the date on which the preliminary plat was approved; otherwise such approval shall be null and void, unless a written extension of this limit is granted by the Town Council on or before the twelfth month anniversary of the approval.

(b) The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 and the Manual of Practice for Land Surveying in North Carolina.

(c) Six (6) copies of the final plat shall be submitted; one (1) of these shall be on reproducible material; five (5) shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Burke County or Caldwell County Register of Deeds.

(d) The final plat shall be of a size suitable for recording with the Burke County or Caldwell County Register of Deeds and shall be at a scale of not less than one (1) inch equals two hundred (200) feet. Maps may be placed on more than one (1) sheet with appropriate match lines.

(e) There is no fee for subdivisions located within the town limits. Additionally, at the discretion of the Town Clerk, all fees associated with recording the plat at the Register of Deeds shall be paid to the Town of Rhodhiss, and the Town will have the plat recorded after final approval by the Town Council.

(f) The following signed certificates shall appear on all copies of the final plat:

(3) Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements

I hereby certify that all streets, utilities and other required improvements have been installed in an acceptable manner and according to Town specifications and standards in the _____ Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of Rhodhiss have been received, and that the filing fee for this plat, in the amount of \$ _____ has been paid.

Town Engineer or Town Manager

Date

(4) In accordance with the North Carolina General Statute 47-30, the following certification must be included on the final plat:

State of North Carolina
County of Burke or Caldwell

I, _____, Review Officer of Burke County or Caldwell County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date

(h) The Town Board shall review the final plat at or before its next regularly scheduled meeting and shall recommend approval or disapproval of the final plat with reasons within 40 days of its first consideration of the plat.

(i) During its review of the final plat the Town Board may appoint a Registered Land Surveyor to confirm the accuracy of the final plat (if agreed to by the Town Council). If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be recommended for approval until such errors have been corrected.

(j) If the Town Board recommends approval of the final plat, such approval shall be shown on each copy of the final plat by the following signed certification:

The Rhodhiss Town Board hereby approves the final plat for the subdivision.

Mayor, Rhodhiss Town Council

Date

(k) If the Town Board recommends disapproval of the final plat, it shall instruct the subdivider concerning resubmission of a revised plat and the subdivider may make such changes as will bring the plat into compliance with the provisions of this ordinance, and resubmit same for reconsideration by the Town Board.

(l) Failure of the Town Board to make a recommendation within 40 days shall constitute grounds for approval of the subdivision plat.

(m) If the Town Council approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Rhodhiss, North Carolina and that this plat has been approved by Town Council for recording in the Office of the Register of Deeds of Burke County or Caldwell County.

Mayor
Town of Rhodhiss, North Carolina

Date

(n) If the final plat is disapproved by Town Council, the reasons for such disapproval shall be stated in writing, specifying the provisions of this ordinance with which the final plat does not comply. One (1) copy of such reasons and one (1) print of the plat shall be retained by the Town Council as part of its proceedings; one (1) copy of the reasons and three (3) copies of the plat shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance and resubmit for reconsideration by the Town Council.

(o) If the final plat is approved by Town Council, the original mylar and one (1) print of the plat shall be retained by the subdivider. One (1) print shall be filed with the Town Clerk.

(p) The subdivider shall file the approved final plat with the Register of Deeds of Burke County or Caldwell County within six (6) months of Town Council approval; otherwise, such approval shall be null and void.

REQUIRED IMPROVEMENTS, DEDICATION, RESERVATION, AND MINIMUM STANDARDS OF DESIGN

Section 18. General

Each subdivision shall contain the improvements specified in this article, which shall be installed in accordance with the requirements of this ordinance and paid for by the subdivider, unless other means of financing is specifically stated in this ordinance. Land shall be dedicated and reserved in each subdivision as specified in this article. Each subdivision shall adhere to the minimum standards of design established by this article.

Section 19. Suitability of Land

(a) Land which has been determined by the Town Council on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.

(b) Areas that have been used for disposal of solid waste shall not be subdivided.

(c) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

Section 20. Name Duplication

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within Burke County or Caldwell County.

Section 21. Subdivision Design

Blocks

(a) The lengths, widths, and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of

the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.

(b) Blocks shall be wide enough to allow two tiers of lots of minimum depth, except where fronting on major streets or prevented by topographic conditions, in which case a single tier of lots may be approved.

(c) Where deemed necessary by the Town Board, a pedestrian crosswalk at least fifteen (15) feet in width may be required to provide convenient public access to a public area such as a park or school, to a water area, or to areas such as shopping centers, religious or transportation facilities.

(d) Block numbers shall conform to the County or Town street numbering system, if applicable.

Lots

(a) Lots shall meet any applicable Burke County or Caldwell County Health Department requirements.

(b) Flag lots are discouraged, but may be permitted in unique circumstances with the approval of the Town Board.

(c) Double frontage lots shall be avoided wherever possible.

(d) Side lot lines shall be substantially at right angles to or radial to street lines.

(e) All structures built or placed upon lots shall face the street to which the lot abuts.

Easements

(a) Easements for underground or above ground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least 25 feet wide for water and sanitary sewer lines and as required by the companies involved, for telephone, gas and power lines. The Town Council will determine whether one (1) easement is sufficient or whether several easements are necessary to accommodate the various facilities and the subdivider shall provide the required easements.

(b) Where a subdivision is traversed by a stream or drainage way, a drainage easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose.

Section 22. Type of Street Required

(a) All subdivision lots shall abut on a public street.

(b) All public streets shall be built to the standards of this ordinance and all other applicable standards of the Town of Rhodhiss or the North Carolina Department of Transportation (when outside the Town limits).

(c) Public streets not dedicated to the Town which are eligible for acceptance into the State Highway System shall be constructed to the standards necessary to be put on the State Highway System or the standards in this ordinance, whichever is stricter, in regard to each particular item and shall be put on such system.

(d) Streets not dedicated to the Town which are not eligible to be put on the State Highway System because there are too few lots or residences shall, nevertheless, be dedicated to the public and shall be in accordance with the standards in this ordinance or the standards necessary to be put on the State Highway System, whichever is stricter in regard to each particular item, so as to be eligible to be put on the system at a later date.

(e) A written maintenance agreement with provisions for maintenance of the street until it is put on the State System shall be included with the final plat.

(f) Costs of all street, sidewalk and utility construction shall be paid by the subdivider.

Section 23. Subdivision Street Disclosure Statement

(a) All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6 and designation as public shall be conclusively presumed an offer of dedication to the public.

(b) Where streets are dedicated to the public but not accepted into a municipal system or the State system, before lots are sold, a statement explaining the status of the street shall be included with the final plat.

Section 24. Half-Streets

(a) The dedication of half streets of less than fifty (50) feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impractical, adequate provision for the concurrent dedication of the remaining half of the street must be furnished by the subdivider. Where there exists a half street in an adjoining subdivision, the remaining half shall be provided by the proposed development.

Section 25. Marginal Access Streets

Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.

Section 26. Access to Adjacent Properties

Where, in the opinion of the Town Council, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turnaround provided. Adequate turnaround facilities shall be provided as determined by the Town Council.

Section 27. Nonresidential Streets

The subdivider of a nonresidential subdivision shall provide streets in accordance with the North Carolina Department of Transportation, Division of Highways' Subdivision Roads Minimum Construction Standards, July 1, 1985, as amended, and the standards in this ordinance, whichever are stricter in regard to each particular item.

Section 28. Design Standards of Streets

The design of all streets and roads within the jurisdiction of this ordinance shall be in accordance with the accepted policies of the North Carolina Department of Transportation, Division of Highways, as taken or modified from the American Association of State Highway and Transportation Officials (AASHTO) manuals. The N.C. Department of Transportation, Division of Highways' Subdivision Roads Minimum Construction Standards, July 1, 1985, as amended, shall apply for any items not included in this ordinance, or where stricter than this ordinance. Curb and gutter, swales, or ditches shall be installed as prescribed by the Town Engineer.

Section 9-2029. Rights-of-Way Widths

(a) Right-of-way widths shall not be less than the following and shall apply except in those cases where right-of-way requirements have been specifically set out in the thoroughfare plan.

Minor Thoroughfare	60 Feet
Local Street	40 Feet
Cul-de-sac	50 Radius

Pavement Type

Road construction in all subdivisions shall be of the following:

6-8 inch gravel base
2 inch pavement thickness of asphalt or 6 inch thickness concrete
2 foot concrete curbing both sides of street with appropriate driveway
turnouts to each lot.

Actual Street Width

Street width from back of curb to back of curb shall be:

Minor Thoroughfare	35 feet minimum
Local Street	24 feet minimum

Section 30. Geometric Characteristics

The standards outlined below shall apply to all subdivision streets proposed for addition to the Municipal Street System.

30.1 Design Speed

Minimum design speeds for subdivision-type streets shall be in accordance with A *Policy on Geometric Design of Highways and Streets* (AASHTO).

30.2 Maximum and Minimum Grades

(a) The maximum grades in percent shall be:
6 to 12 Percent

(b) A minimum grade for curbed streets normally should not be less than 0.5%, a grade of 0.35% may be allowed where there is a high type

pavement accurately crowned and in areas where special drainage conditions may control.

(c) Grades for 100 feet each way from intersections should not exceed 5%.

(d) For streets and roads with projected annual average daily traffic less than 250, short grades, less than 500 feet long, may be no greater than 15.0%.

30.3 Sight Distance

Sight distance provided for stopped vehicles at intersections shall be in accordance with *A Policy on Geometric Design of Highways and Streets* (AASHTO).

9-2030.4 Intersections

(a) It is recommended that no street shall intersect any other street at an angle less than ninety (90) degrees. However, at the discretion of the town board, a street may intersect at less than 90 degrees but more than seventy-five (75) degrees. Under no circumstances may a street intersect at less than a 75 degree angle.

(b) Property sight lines shall be maintained at all intersections of streets. Measured along the centerline, there shall be a clear sight triangle of seventy-five (75) feet, (one-hundred fifty (150) feet for major streets), from a point of intersection. This shall be indicated on all plans. No building or obstruction shall be permitted in this area.

(c) Offset intersections are to be avoided unless the Division of Highways grants exception. Intersections which cannot be aligned should be separated by a minimum length of 200 feet between survey center lines.

(d) Intersections with arterials, collectors and thoroughfares shall be at least one thousand (1000) feet from center line to center line, or more if required by the North Carolina Department of Transportation.

30.5 Cul-de-sacs

Dead end streets shall have a turn-around with a right-of-way radius of 50 feet.

Section 31. Utilities

Storm and sanitary sewer, water mains, and fire hydrants shall be designed by a registered engineer and shall be approved by the Town Engineer.

31.1 Water and Sanitary Sewer Systems

Each lot in all subdivisions within the corporate limits of the Town of Rhodhiss shall be provided with an extension of the municipal water and sanitary sewer systems. The water system shall be designed to meet the criteria as established by the North Carolina Department of Human Resources - Division of Health Services. All water lines shall be a class C-900 minimum of six (6) inches in diameter and shall be sized to provide peak design flow while maintaining a 30 PSI residual pressure throughout the system. Less than a six-inch line may be permitted at the discretion of the Town Board and Town Engineer in instances where a smaller line is feasible. Fire protection shall be provided in accordance with all requirements of the insurance service office. All materials to be used shall have written approval from the Town Engineer prior to their use.

31.2 Storm Water Drainage System

The subdivider shall provide a surface water drainage system constructed to the standards of the North Carolina Department of Transportation, as reflected in Handbook for the Design of Highway Surface Drainage Structures, 1973), subject to review by the Town Engineer.

- (1) No surface water shall be channeled or directed into a sanitary sewer.
- (2) Where feasible, the subdivider shall connect to an existing storm drainage system.
- (3) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.
- (4) Surface drainage courses shall have side slopes of at least three (3) feet of horizontal distance for each one (1) foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding, and designed to comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution Control Administrative Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinances.

(5) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each two hundred (200) feet of horizontal distance.

(6) Streambanks and channels downstream from any land disturbing activity shall be protected from increased degradation from accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North Carolina Sedimentation Pollution Control Act, G.S. 143-34.12, Chapter 11 3A, Article 4 and the North Carolina Administrative Code Title 15, Chapter 4.

(7) Anyone constructing a dam or impoundment within the subdivision must comply with the North Carolina Dam Safety Law of 1967 and the North Carolina Administrative Code Title 15, Subchapter 2 K.

(8) In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

31.3 Sanitary Sewer System

The sanitary sewer system shall be designed to facilitate gravity flow to the fullest extent possible.

(1) All gravity sanitary sewer lines shall have a minimum diameter of eight (8) inches, a minimum slope of one-half of one percent (0.5) and a maximum slope of twelve (12) percent.

(2) An approved manhole shall be provided at all changes in alignment and grade, unless approved by the Town Engineer.

(3) All materials to be used shall have written approval from the Town Engineer prior to their use, but shall be a minimum of Schedule 40 type pipe. All sanitary sewer systems shall meet the approval of the Burke County or Caldwell County Health Department.

(4) All sewer extensions shall be approved by the NC Department of Natural Resources and the Town Engineer.

Section 32 Other Requirements

32.1 Through Traffic Discouraged on (Residential) Local Streets

32.2 Wheelchair accessible curbs

In accordance with Chapter 136, Article 2A, Section 136-44.14, all street curbs in North Carolina being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities, or altered for any reason after September 1, 1973, shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.

32-3 Underground Services

All cable TV, telephone, gas and electrical services shall be underground.

Section 33. Placement of Monuments

Unless otherwise specified by this ordinance, the Manual of Practice for Land Surveying as adopted by the N.C. State Board of Registration for Professional Engineers and Land Surveyors, under the provisions of Title 21 of the North Carolina Administrative Code, Chapter 56 (21 NCAC 56), shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties; to determine the location, design and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.

Section 34. Construction Procedures

(a) No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities.

(b) No building or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this ordinance until all the requirements of this ordinance have been met.

(c) The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the town clerk to provide for adequate inspection.

(d) The approving authorities having jurisdiction or their representatives

shall inspect and approve all completed work prior to release of the sureties.

Section 35. Oversized Improvements

The Town of Rhodhiss may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the Town requires the installation of improvements in excess of the standards required in this ordinance, including all standards adopted by reference, the Town shall bear the cost of the additional requirements.

LEGAL PROVISIONS

Section 36. General Procedure for Plat Approval

(a) After the effective date of this ordinance, no subdivision plat of land within the Town's jurisdiction shall be filed or recorded until it has been submitted to and approved by the Town Board as set forth in this ordinance, and until this approval is entered in writing on the face of the plat by the Town Council for major subdivisions, or the Town Clerk for minor subdivisions.

(b) The Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the Town that has not been approved in accordance with these provisions, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with this section.

Section 37. Statement By Owner

The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision-regulation jurisdiction of the Town of Rhodhiss.

Section 38. Effect of Plat Approval on Dedications

Pursuant to G.S. 160A-374, the approval of a plat shall not be deemed to constitute or affect the acceptance by the municipality or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the Town Council may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its subdivision regulation jurisdiction. Acceptance of dedication of lands or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the

municipality shall not place on the Town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the municipality shall in no event be held to answer in any civil action or proceeding for failure to open, repair or maintain any street located outside its corporate limits.

Section 39. Penalties for Violation

(a) After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this ordinance, thereafter subdivides his land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this ordinance and recorded in the Office of the Register of Deeds, shall be guilty of a misdemeanor. Violators of this ordinance shall be subject upon conviction, to fine and/or imprisonment as provided by G.S. 14-4.

(b) The violation of any provision of this ordinance shall subject the violator to a civil penalty in the amount of \$50.00 to be recovered by the Town. Violators shall be issued a written citation to be paid to the Town within ten days. Each day's continuing violation of this ordinance shall be a separate and distinct offense.

Section 40. Amendments

No amendment shall be adopted by the governing body until they have held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the Town's area at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) nor less than ten (10) days prior to the hearing date. In computing the ten-to-twenty-five day period, the date of first publication shall be counted, but the date of the hearing shall not be counted.

Section 41. Abrogation

It is not intended that this ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

Section 42. Administrator

The Town Board or its designee(s) is hereby appointed to serve as subdivision administrator.

Section 43. Re-enactment and Repeal of Existing Subdivision Ordinance

This chapter in part carries forward by re-enactment some of the provisions of the subdivision regulations of Rhodhiss, adopted by the Town Council in September, 1966, as amended, and it is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued hereunder are preserved and may be enforced. All provisions of the subdivision regulations of the Town of Rhodhiss enacted in 1998, as amended, which are not continued in effect are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any subdivision regulations heretofore in effect, which are now pending in any of the courts of this state or the United States, shall not be abated or abandoned by reason of the adoption of this chapter, but shall be prosecuted to their finality the same as if this chapter had not been adopted, any and all violations of the existing subdivision regulations, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted, and nothing in this chapter shall be construed as to abandon, abate or dismiss any litigation or prosecution now pending, and/or which may heretofore have been instituted or prosecuted.

Section 44. Adoption and Effective Date

Adopted by the Rhodhiss Town Council Monday, July 12, 1999, the effective date of this ordinance and codified on the date below.

Adopted this 12 day of JUNE, 2000.

Signed:

Douglas H. Cowick
Mayor

Attest:

David Hollen
Town Clerk

Approved as to form:

De 2 96
Town Attorney

COPY

ORDINANCE NUMBER 25

AN ORDINANCE
ESTABLISHING MINIMUM HOUSING CODE
WITHIN THE TOWN LIMITS

WHEREAS, NC General Statutes give the town authority to establish local laws to protect the general welfare of its citizens (GS 160A-174); and,

WHEREAS, the Town Of Rhodhiss desires to prohibit unsafe and unsanitary conditions in town;

NOW, THEREFORE, BE IT ORDAINED by the town council of the Town Of Rhodhiss, North Carolina, that:

Section 1. Finding; Purpose.

Pursuant to North Carolina General Statute 160A-441, it is hereby found and declared that there exist in the Town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe or unsanitary, and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the Town.

In order to protect the health, safety and welfare of the residents of the Town as authorized by Part 6 of Article 19, Chapter 160A of the NC General Statutes, it is the purpose of this ordinance to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444.

Section 2. Definitions.

The following definitions shall apply in the interpretation and enforcement of this ordinance:

(a) *Basement* - shall mean a portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

(b) *Cellar* - shall mean a portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

(c) *Deteriorated* - shall mean that a dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this ordinance, at a cost not in excess of fifty percent of its value, as determined by finding of the Inspector.

(d) *Dilapidated* - shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards

established by this ordinance at a cost not in excess of fifty percent of its value, as determined by finding of the Inspector.

(e) *Dwelling* - shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing as hereinafter defined shall not be regarded as a dwelling.

(f) *Dwelling Unit* - shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

(g) *Extermination* - shall mean the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the Inspector.

(h) *Garbage* - shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(i) *Habitable Room* - shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

(j) *Infestation* - shall mean the presence, within or around a dwelling of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or to the public.

(k) *Inspector* - shall mean a Building Inspector of the County or any agent of the Inspector who is authorized by the Inspector.

(l) *Minimum Housing Officer* - shall mean a person designated by the Town Board Of Commissioners to conduct hearings and all other procedures necessary for Minimum Housing Code Enforcement.

(m) *Multiple Dwelling* - shall mean any dwelling containing more than two dwelling units.

(n) *Occupant* - shall mean any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

(o) *Operator* - shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

(p) *Owner* - shall mean any person who alone, or jointly, or severally with others:

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

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

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

(r) *Rooming Unit* - shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(s) *Rooming House* - shall mean any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

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

(u) *Supplied* - shall mean paid for, furnished or provided by, or under the control of, the owner or operator.

(v) *Temporary Housing* - shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

(w) *Unfit For Human Habitation* - shall mean that conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this ordinance.

(x) *Meaning Of Certain Words* - Whenever the words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof".

Section 3. Minimum Standards Of Fitness For Dwellings And Dwelling Units.

Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of Sections 4, 5, 6, 7, 8, and 9 of this ordinance. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of Sections 4, 5, 6, 7, 8, and 9 of this ordinance.

Section 4. Minimum Standards For Structural Condition.

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

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

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

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

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

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

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

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

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

Section 5 - Minimum Standard For Basic Equipment And Facilities.

(a) Plumbing System.

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

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

(3) All plumbing fixtures shall meet the standards of the State Plumbing Code and shall be maintained in a state of good repair and in good working order.

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

(b) Heating System. Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either (1) or (2) below:

(1) *Central And Electric Heating Systems.* Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 68 degrees Fahrenheit measured at a point three feet above the floor during ordinary winter conditions.

(2) *Other Heating Facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of 68 degrees Fahrenheit measured three feet above the floor during ordinary winter conditions.

(c) Electrical System.

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

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

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

(d) *Food Storage.*

(1) Every dwelling and unit shall contain the following equipment in proper operating condition: cooking stove or range and a refrigerator of appropriate size for the unit, supplied by either the owner or the family.

(2) Adequate space for the storage, preparation and serving of food shall be provided.

Section 6. Minimum Standards For Ventilation.

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

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

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

Section 7. Minimum Standards For Space, Use And Location.

(a) *Room Sizes.* Every dwelling unit shall contain at least the minimum room size in each habitable room as follows:

(1) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant.

(2) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall

contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(b) *Ceiling Height.* At least one-half of the floor area of every room shall have a ceiling height of not less than seven feet and six inches (7'6").

(c) *Floor Area Calculation.* Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four feet and six inches (4'6") shall not be considered as part of the floor area computing the total area of the room to be determine maximum permissible occupancy.

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

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

(1) The floor and walls are substantially watertight;

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

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

Section 8. Minimum Standards For Safe And Sanitary Maintenance.

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

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

(c) *Windows And Doors.* Every window, exterior door, basement or cellar door, and hatchway shall be substantially weathertight, watertight, and rodent proof; and shall be kept in sound working condition and good repair.

(d) *Stairs, Porches And Appurtenances.*

(1) Every inside and outside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(2) Railings shall be required around any porch or balcony which is approximately 30 inches or more above the ground. A handrail shall be required when there is four or more steps.

(e) *Bathroom Floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(f) *Supplied Facilities.* Every supplied facility, piece of equipment, or utility which is required under this ordinance shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(g) *Drainage.* Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

(h) *Noxious Weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

(i) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the State Building Code.

(j) *Lead Based Paint.*

(1) All interior surfaces must be free either of cracking, scaling, peeling, chipping and loose paint or be adequately treated or covered (as discussed in (3) below) to prevent the exposure of the occupants to lead based paint hazards.

(2) All exterior surfaces (such as stairs, decks, porches, railings, windows and doors) which are accessible to children under 7 years of age must be free of cracking, peeling, chipping and loose paint or be adequately treated or covered (as discussed in (3) below) to prevent the exposure of such children to lead based paint hazards.

(3) All surfaces to be treated must be thoroughly washed, sanded, and scraped or wire brushed so as to remove all hazards before repainting with at least two coats of a suitable nonleaded paint. All surfaces to be covered must have had the paint removed or covered with materials such as gypsum wallboard, plywood, drywall, plaster, or other suitable material. (Simply painting over surfaces requiring treatment or covering as an abatement method is not acceptable as a means of compliance.)

Section 9. Minimum Standards For Control Of Insects, Rodents, And Infestations.

(a) *Screens.* In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed.

(b) *Rodent Control* Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or other such approved device as will effectively prevent their entrance.

(c) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(d) *Rubbish Storage And Disposal.* Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by Town ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(e) *Garbage Storage And Disposal.* Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in every dwelling unit to be approved by the Inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage can as required by Town ordinances.

Section 10. Minimum Standards Applicable To Rooming Houses; Exceptions.

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

(a) *Water Closet, Hand Lavatory And Bath Facilities.* At least one water closet, lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever said facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(b) *Minimum Floor Area For Sleeping Persons.* Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(c) *Sanitary Conditions.* The operator of each rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings and for the sanitary maintenance of every other part of the rooming house; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained, is leased, or occupied by the operator.

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

Section 11. Responsibilities Of Owners And Occupants.

(a) *Public Areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(b) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he occupies and controls.

(c) *Rubbish And Garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(d) *Supplied Plumbing Fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of the same.

(e) *Care Of Facilities, Equipment And Structure.* No occupant shall willfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

Section 12. Duties And Powers Of County Building Inspector.

The County Building Inspector is hereby designated as the officer to inspect buildings and exercise the duties and powers herein prescribed:

(a) To investigate the dwelling conditions, and to inspect dwellings and dwelling units, located in the Town, in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this ordinance with respect to such dwellings and dwelling units;

(b) To take such action, together with the Minimum Housing Officer, as may be necessary to effect rehabilitation of housing which is deteriorated;

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

(d) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of this ordinance.

Section 13. Duties And Powers Of Minimum Housing Officer.

The Minimum Housing Officer is hereby designated as the officer to enforce the provisions of this ordinance. It shall be the duty of the Minimum Housing Officers to:

(a) Keep a record of the results of inspections made by the County Inspector under this ordinance and an inventory of those dwellings that do not meet the minimum standards of fitness for human habitation herein described;

(b) Take such action as may be necessary, together with the County Building Inspector, to effect the rehabilitation of housing which is deteriorated;

(c) At all hearings, to administer oaths and affirmations, examine witnesses, and receive evidence.

(d) To perform such other duties as may be herein described.

Section 14. Inspections; Duty Of Owners And Occupants.

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

Section 15 - Procedure For Enforcement.

(a) *Preliminary Investigation; Notice; Hearing.* Whenever a petition is filed with the Minimum Housing Officer by a Town, County or State department concerned with health, fire or safety, or by at least five residents of the Town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Minimum Housing Officer that any dwelling or dwelling unit is unfit for human habitation, he shall have the County Inspector conduct a Minimum Housing Code Inspection of the unit. If the Inspector's preliminary investigation discloses a basis for such charges, the Minimum Housing Officer shall issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Minimum Housing Officer and Building Inspector at a place therein fixed, not less than ten nor more than 30 days after the serving of said complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Minimum Housing Officer.

(b) *Procedure After Hearing.* After such notice and hearing, the Building Inspector shall state in writing his determination whether such dwelling or dwelling unit is unfit for human habitation, and if so, whether it is deteriorated or dilapidated.

If the Inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and the Minimum Housing Officer shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards on fitness established by this

ordinance within a specified period of time, not to exceed 90 days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.

If the Inspector determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and the Minimum Housing Officer shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this ordinance or else vacate and remove or demolish the same within a specified period of time not to exceed 90 days.

(c) Failure To Comply With Order.

(1) In Personam Remedy. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Minimum Housing Officer to repair, alter, or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the Minimum Housing Officer to vacate and close and remove or demolish the same within the time specified therein, the Minimum Housing Officer shall submit to the Board of Commissioners at its next regular meeting, a resolution directing the Town Attorney to petition the Superior Court for an order directing such owner to comply with the order of the Minimum Housing Officer, as authorized by NC G.S. 160A-446(g).

(2) In Rem Remedy. After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with the order of the Minimum Housing Officer within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding paragraph (1), the Minimum Housing Officer shall submit to the Board of Commissioners an ordinance ordering the Officer to cause such dwelling or dwelling unit to be repaired, altered, improved, vacated and closed and removed or demolished, as provided in the original order of the Officer, and pending such removal or demolition, to placard such dwelling as provided by NC G.S. 160A-443 and Section 9-4016 of this ordinance.

(d) Appeals From Orders Of Minimum Housing Officer. An appeal from any decision or order of the Minimum Housing Officer may be taken by any person aggrieved thereby. Any appeal from the Officer shall be taken within 10 days from the rendering of the decision or service of the order, and shall be taken by filing with the Officer and with the Town Board of Commissioners a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Officer shall forthwith transmit to the Board all the papers constituting the record from which the decision appealed from was made. When an appeal is from a decision of the Officer refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from the decision of the Officer requiring any person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Officer certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the

Officer, by the Board, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and subsection (E) of this Section.

The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Minimum Housing Officer, but the concurring vote of three members of the Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(e) *Petition To Superior Court By Owner.* Any person aggrieved by an order issued by the Officer or a decision rendered by the Board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the Housing Officer pending a final disposition of the cause, as provided by G.S. 160A-446(f).

Section 16. Methods Of Service Of Complaints And Orders.

Complaints or orders issued by the Housing Officer shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Housing Officer shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same once each week for two successive weeks in a newspaper available in the Town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

Section 17. In Rem Action By Minimum Housing Officer; Placarding.

After failure of an owner of a dwelling unit to comply with an order of the Minimum Housing Officer issued pursuant to the provisions of this ordinance, and upon adoption by the Board of Commissioners of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443(5) and Section 15(C) of this ordinance, the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this ordinance, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Board of Commissioners and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This

building is unfit for human habitation; the use or occupation of this building so posted shall constitute a misdemeanor."

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

Section 18. Costs, A Lien On Premises.

As provided by G.S. 160A-446(6), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Minimum Housing Officer pursuant to Section 17 of this ordinance shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by Article 10, Chapter 160A of the NC General Statutes.

Section 19. Alternative Remedies.

Neither this ordinance or any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this ordinance by criminal process as authorized by G.S. 14-4 and Section 21 of this ordinance, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

Section 20. Town Board Of Commissioners To Hear Appeals.

All appeals which may be taken from decisions or orders of the Minimum Housing Officer pursuant to Section 15(D) of this ordinance shall be heard and determined by the Town Board of Commissioners. As the appeals body, the Board shall have power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The Board shall perform the duties prescribed by Section 15(D) and shall keep an accurate journal of all its proceedings.

Section 21. Conflict With Other Provisions.

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

Section 22. Violations; Penalty.

It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or

demolish the same, upon order of the Minimum Housing Officer duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to Section 9-4014 of this ordinance, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

The violation of any provision of this ordinance shall constitute a misdemeanor, as provided by G.S. 14-4.

Section 21. Severability.

If any provision of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, independent provision and such holding shall not affect the validity of any other provision hereof, and to that end the provisions of this ordinance are hereby declared to be severable.

This ordinance was adopted by the Rhodhiss Town Council on March 12, 1984 and codified on the date below.

Adopted this 12 day of JUNE, 2000.

Signed:

Douglas H. Cowick
Mayor

Attest:

David Heller
Town Clerk

Approved as to form:

Oliver
Town Attorney

COPY

ORDINANCE PROHIBITING REGISTERED SEX OFFENDERS FROM PRESENCE AT PUBLIC PARKS

Ordinance #39

WHEREAS, currently there are at least One Hundred and Two (102) Registered Sex Offenders residing in Burke County, North Carolina, and One Hundred and Eighteen (118) Registered Sex Offenders residing in Caldwell County, North Carolina, and One Hundred Ninety-Two (192) Registered Sex Offenders residing in Catawba County, North Carolina, all jurisdictions located within 50 miles of the Town of Rhodhiss; and

WHEREAS, there is a substantial rate of recidivism amongst sexual offenders, and;

WHEREAS, it is in the best interests of the people of Rhodhiss to reduce insofar as possible opportunities for recidivism amongst said individuals, and;

WHEREAS, the Town of Rhodhiss maintains a park system that is meant for the peaceful enjoyment of children and other citizens, and;

WHEREAS, it is in the best interest of promoting the general welfare and safety of the people of Rhodhiss to reduce opportunities for sexual predators to make use of public spaces for criminal intent, and;

WHEREAS, the Rhodhiss park system is a public space wherein sexual predators may attempt to find victims, and;

WHEREAS, it is a justifiable exercise of police powers of the Town of Rhodhiss to regulate the use of the public parks, then;

Let it be known that the Town Council does hereby adopt the following Ordinance for the Town of Rhodhiss.


Section 1: Presence of registered Sex Offender on or About Public Parks

A. Definitions:

- 1) Registered Sex Offender-An individual who is registered by any state or federal agency as a sex offender and whose name is published on any state or federal registered sex offender listing, including, but not limited to the sex offender registry established in Article 27A of North Carolina General Statute Chapter 14.
- 2) Public Park - Any publicly owned or maintained land which is designated by the Town of Rhodhiss as a park or recreational facility.

- B. Offense – It shall constitute a general offense against the regulations of the Town of Rhodhiss for any person or persons who are Registered Sex Offenders as defined herein to knowingly enter into or on any Public Park of the Town of Rhodhiss as defined herein.
- C. Punishment - Anyone who is found in violation of this ordinance shall be subject to immediate removal from such Public Park by any Law Enforcement Officer with jurisdiction and shall be subject to a immediate arrest and a fine of not less than \$500 for each offense and/or 30 days in jail or the maximum sentence authorized by Statutes of the State of North Carolina, whichever is less. Each and every entry into the park, regardless of the time period involved shall constitute a separate offense under this ordinance.
- D. Notice and Posting – The Town Manager or designee shall be charged with the posting of this regulation at the main entrance(s) of each park within thirty (30) days of the passage of this ordinance.
- E. Effective Date – This ordinance is effective immediately upon passage.

BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF RHODHISS ON THE 11th DAY OF March, 2008.



RICK JUSTICE, MAYOR
TOWN OF RHODHISS

ATTEST:



BARBARA HARMON, Town Manager



COPY

RESOLUTION ADOPTING NEW NOISE ORDINANCE #2010-17

WHEREAS, the North Carolina General Statutes give Towns and Municipalities authority to regulate noise within their corporate limits pursuant to GS 160A-184; and

WHEREAS, the current ORDINANCE # 10, An Ordinance Regulating Noise Within the Town Limits, of the Town of Rhodhiss has some provisions which are somewhat ambiguous and difficult to enforce; and

WHEREAS, there is a need for a new ordinance to replace the old ordinance to set clear, unambiguous standards for enforcement; and

WHEREAS, there is a need to regulate annoying and disturbing noises within the corporate limits of the Town of Rhodhiss;

NOW THEREFORE BE IT RESOLVED AND ORDAINED that the following Ordinance be adopted by the Town of Rhodhiss and that the former ordinance be hereby rescinded:

**AN ORDINANCE REGULATING NOISE WITHIN THE TOWN LIMITS OF
RHODHISS**

#45

Section 1 – Loud Noise

It shall be unlawful for any person, group of persons, regardless of number, to willfully make, continue, or cause to be made or continued, any unreasonable loud or disturbing noise in excess of the limits for such noise established in this Ordinance.

Section 2 - Noise Disturbance Prohibited

- A. Maximum Possible Noise Levels for sound amplification equipment – Activities that produce sound in excess of the noise herein proscribed are deemed “noise disturbances.” With the exception of sound levels elsewhere specifically authorized by this article, and in addition to noises expressly prohibited by Section 3 below, it shall be a violation to operate or allow the operation of sound amplification equipment so as to create sounds registering more than 55 dBs between the hours of 7:00 pm and 7:00 am Monday through Monday and 60 dBs between the hours of 7:00 am and 7:00 pm, Monday through Monday.
- B. Measurement of the Sound – The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute or its successor body. The instrument shall be an averaging meter maintained in calibration and in good working order. A calibration check using an external calibration

device shall be made of the system within one hour of any noise measurement. All measurements shall be made at a height of at least 4 feet and no more than 6 feet from the ground and at least 10 feet from any building, tree trunks, vehicles, or other obstructions other than the person making the measurement. The meter will be set on the "A" weighted network", "slow setting" and the "averaging feature" will be activated. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during the measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, watercraft, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured. The measurement period shall be at least one minute. Readings must be at least 3 dB above ambient noise level to be considered a violation of this Ordinance.

Section 3 - Other Noises Expressly Prohibited

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of the above section, but said enumeration shall not be deemed to be exclusive, namely:

- A. The intentional sounding of any horn or signal device, or any 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 after, or as brakes are being applied and deceleration of the vehicle intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such devices for an unnecessary and unreasonable period of time.
- B. The use of any gong or siren upon any vehicle, other than police, fire or other emergency vehicles.
- C. The use or operation of any mechanical or nonmechanical musical or sound-producing instrument, phonograph, radio, loud speaker, or any other instrument or sound amplifying device or apparatus installed or located in a motor vehicle when the speaker volume is elevated to such an extent that the sound is clearly audible more than 50 feet from the vehicle. The provisions of the subsection shall apply regardless of whether the vehicle is traveling upon the street of the Town, parked on public or private property, or stopped in traffic. Upon application to the Town Manager pursuant to Section 4 below, permits may be granted to responsible organizations to produce programs in music, speeches or general entertainment.
- D. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

- E. The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced, or used to give notice of time to begin or stop work, or as a warning of danger.
- F. The erection, excavation, demolition, alteration or repair of any building between the hours of 7:00 pm and 7:00 am, except in the case of urgent necessity, and then only with a permit from the Town Manager, which permits may be renewed for a period of three days or less while the emergency continues.
- G. The creation of any excessive noise on Sunday during church hours on any street adjacent to any church, provided that signs are displayed in such streets adjacent to churches indicating that the same is a church.
- H. The creation of loud and excessive noise in connection with loading or unloading any vehicle, or in connection with the opening and destruction of bales, boxes, crates and containers.
- I. The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof, except as recognized practice.
- J. The shouting and crying of peddlers, barkers, hawkers and vendors which disturbs the quiet and peace of the neighborhood.
- K. The use of any drum, loud speaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance or sale or display of merchandise.
- L. The use of any mechanical loud speaker or amplifiers on trucks or other moving vehicles for advertising purposes or other purposes except where specific license is received from the Town Manager in accordance with the same noise level restrictions set forth in Section 4 below.
- M. The conducting, operating or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of 7:00 pm and 7:00 am.
- N. The firing or discharging of squibs, firecrackers, or gunpowder or other combustible substances in the streets or elsewhere for the purpose of making noise or disturbance, except by permit from the Town Manager in accordance with the same noise level restrictions set forth in Section 4 below.
- O. Operate lawn mowers and other domestic tools out-of-doors between 9:00 pm and 7:00 am in any residentially zoned area.

Section 4 - Exceptions to Noise Restrictions

Upon at least 30 days written notice and within a time necessary for the Board to act at its regular meetings, exception permits may be granted to responsible organizations to produce programs in music, speeches or general entertainment at a specific location up to two times a year to permit exceptions to the sound levels proscribed in Sections 2 and 3 herein . This permit allows the operation of sound amplification equipment so as to create sounds registering up to 63 dB during times set by the permit when measured at an exterior portion of the dwelling unit of a person alleging a complaint.

The business manager or authorized agent or any person or group of persons desiring a permit for live musical group or individual performing out of doors using sound amplification equipment not exceeding the levels and times set forth herein or any other person or organization applying for an exception permit pursuant to this Ordinance must apply no later than Thirty days prior to the event. Each application for an exception permit must be for a specific performance at a specific site at a specific date and time. Each application must list the name of the performing group or groups, the name and address of the business manager or agent, and be signed by the owner, manager or authorized agent of the site at which the performance or other noise will occur. It is expected that the site owner, manager or designated agents will be present on site during the performance and available to assist the Police Department as necessary in enforcing the ordinance. The Town Board shall act on all requests for permits. A permit application will require payment of a twenty-five dollar (\$25.00) application fee.

Section 5 - Violations

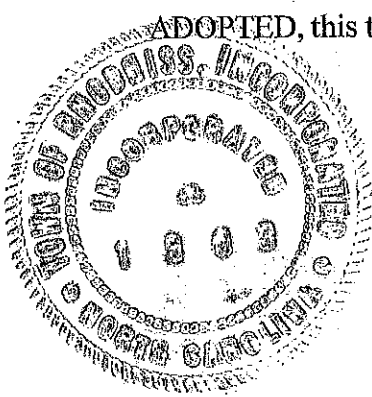
Notwithstanding any other provision of the ordinances of the Town of Rhodhiss, violations of this ordinance shall be subject to penalties as follows:

- A. First offense. Any person who violates any portion of the sections 1-4 as determined by the Chief of Police, his designee or any other law enforcement officer with jurisdiction, shall receive a written notice to cease or abate the noise immediately, or within a reasonable time period, not to exceed five minutes.
- B. Second and Subsequent Violations. If a second violation occurs at the same site within sixty (60) days of the first violation, an oral notice to cease or abate need not be issued prior to issuing a citation for violation of any portion of the above-mentioned sections. In addition to, or in lieu of a citation, the Chief of Police, or his designees may Order the immediate cessation of the noise.
- C. Civil Penalty. If the Notice or Order to cease or abate the noise is not complied with, or if a second or additional violation occurs at the same site within sixty (60) days of the first offense, the owner or manager of the site at which the violation occurs will be subject to a civil penalty in the amount of five hundred dollars (\$500). Violators will be issued a written citation which must be paid within five (5) days of the issue date and time. Each subsequent violation within a 60 day period from the first notice shall be considered a

separate violation, subject to a separate civil penalty.

- D. Criminal penalty. The repeated failure to comply with any provisions of this noise ordinance shall constitute a Class 3 misdemeanor pursuant to NC General Statutes Section 14-4 and General Statutes 160-175, as amended, punishable for each violation by a fine of up to two hundred fifty dollars (\$250.00). A law enforcement officer with jurisdiction or other duly authorized noise control officer may initiate the criminal process as provided by law.
- E. Other Remedies. Sections 1-4 above may also be enforced through equitable remedies issued by a Court of competent jurisdiction.

ADOPTED, this the 10th day of August, 2010.



Rick Justice
RICK JUSTICE, Mayor

Witnessed by:

Barbara Harmon
BARBARA HARMON, Town Manager

COPY

ORDINANCE #46 MAINTAINING A DISORDERLY HOUSE

DEFINITIONS

1. Disorderly house -- A disorderly house is a place where individuals reside or frequent wherein or whereon is carried on, conducted or permitted repeated acts which create and constitute a breach of the peace **OR** wherein or whereon unlawful practices are habitually carried on by the persons residing or frequenting such location.
2. Breach of the peace -- Repeated acts that disturb the public order, including, but not limited to the following:
 - a. Homicide;
 - b. Assault;
 - c. Affray;
 - d. Communicating threats;
 - e. Unlawful possession of dangerous or deadly weapons;
 - f. Unlawfully discharging weapons;
 - g. Using utterances, gestures, actions, conduct and/or profane, indecent or abusive language that are intended and likely to cause a disturbance of public order or provoke violent retaliation and that can be heard within the neighborhood or by a passerby

OFFENSE

It shall be unlawful for any property owner, lessee, manager, or landlord to allow real property to be used as a disorderly house. Such person(s) shall be treated as direct offender(s) if such person(s) knows or should have known that such property was or is being used or maintained in such a manner.

PENALTIES

CRIMINAL Any violation of this ordinance shall be a Class 3 Misdemeanor, as defined by the North Carolina General Statutes.

CIVIL Violations of this ordinance shall be subject to civil penalties of \$100 for the first violation, \$250 for a second violation, and \$500 for each and every violation thereafter.

In addition, the Town of Rhodhiss may request the Courts of the General Court of Justice to enforce this Ordinance by issuance of mandatory and/or prohibitory injunctions and orders of abatement, commanding any violator of this ordinance

to correct the unlawful condition(s) or to cease the unlawful use of the property. Failure to pay any civil penalties imposed and to correct any violations within seventy-two hours of a citation shall result in an additional penalty of \$25.00 per day being imposed until such penalty is paid or correction made.

Adopted this 24th day of January, 2011 by the Town Council of Rhodhiss.



Rick Justice
Rick Justice, Mayor

Barbara Harmon
Barbara Harmon, Town Clerk

COPY

TOWN OF RHODHISS

Ordinance # 51

State of Emergency

Sec. 1. State of emergency; restrictions authorized.

- (a) A state of emergency shall be deemed to exist whenever during times of public safety, 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 any part thereof, or threatening damage to or destruction of property, the mayor is hereby authorized and empowered under G.S. 14-288.12 and 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 the restrictions hereinafter authorized.
- (c) The mayor is hereby 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, firemen 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. 2. Proclamation imposing prohibitions and restrictions.

- (a) The mayor, by proclamation, may impose the prohibitions and restrictions specified in sections 3 through 8 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 mayor shall retain a text of the proclamation and furnish, upon request, certified copies of it for use as evidence.

Sec. 3. Evacuation.

The mayor may direct and compel the evacuation of all or part of the population of the town, to describe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress of a disaster area, the movement of persons within the area, and the occupancy of premises therein.

Sec. 4. Curfew.

- (a) The proclamation 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 or areas and the period during each twenty-four-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. 5. Restrictions on possession, consumption or transfer of alcoholic beverages.

The proclamation 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. The prohibition, if imposed, may apply to transfers of alcoholic beverages by employees of alcoholic beverage control stores as well as by anyone else within the geographical area described.

Sec. 6. Restriction on possession, transportation and transfer of dangerous weapons and substances.

- (a) The proclamation may prohibit the transportation or possession off one's 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)(5), gasoline, 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 above when the circumstances indicate a probability that such a part or ingredient will be so used.
- (4) Notwithstanding anything in this section to the contrary, "dangerous weapon or substance" shall not be deemed to include "lawfully possessed firearms or ammunition."

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

Sec. 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. 8. Movement, etc., in public places.

The proclamation may prohibit or restrict:

- (a) Movement 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. 9. Removal of prohibitions and restrictions.

The mayor shall, by proclamation, terminate the entire declaration of emergency or remove the prohibitions and restrictions as the emergency no longer requires them, or when directed to do so by the board of commissioners.

Sec. 10. Superseding and amendatory proclamations.

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

Sec. 11. Absence or disability of mayor.

In case of the absence or disability of the mayor, the mayor pro tem, or such other person as may be designated by the board of commissioners, shall have and exercise all of the powers herein given the mayor.

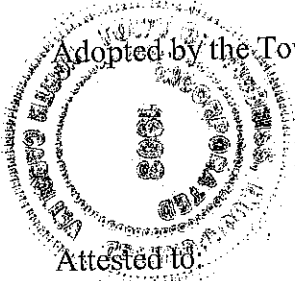
Sec. 12. Termination of proclamation.

Any proclamation issued under this article shall expire five (5) days after its last imposition unless sooner terminated in writing under the same procedures set forth in section 2 for proclamations.

Sec. 13. Penalty for violation.

Any person violating any prohibition or restriction imposed by a proclamation authorized by this article shall be guilty of a misdemeanor, punishable upon conviction.

Adopted by the Town Board this ____ Day of October 2014



Attested to:

Arthur Delaney, Manager

Rick Justice, Mayor