
Town of Wilkesboro

APPROVED

Sewer Use Ordinance

(SUO)

December 3, 2012

Sewer Use Ordinance
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SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the **Town of Wilkesboro**, hereafter referred to as the Town of Wilkesboro, and enables the Town of Wilkesboro to comply with all applicable State and Federal laws, including, the Clean Water Act (33 United States Code §1251 *et seq.*) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

- (a) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the State or otherwise be incompatible with the system;
- (c) To promote reuse and recycling of industrial wastewater and sludges from the municipal system;
- (d) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
- (e) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
- (f) To ensure that the municipality complies with its NPDES or Non-discharge Permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the municipal wastewater system is subject.

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to all users of the municipal wastewater system, as authorized by N.C.G.S. 160A-312 and/or 153A-275. The Town of Wilkesboro shall designate an administrator of the Publicly Owned Treatment Works or POTW and pretreatment program hereafter referred to as the POTW Director. Except as otherwise provided herein, the POTW Director shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or imposed upon the POTW Director may be delegated by the POTW Director to other Town of Wilkesboro personnel.

By discharging wastewater into the Town of Wilkesboro wastewater system, industrial users located outside the Town of Wilkesboro limits agree to comply with the terms and conditions established in this Ordinance, as well as any permits, enforcement actions, or orders issued hereunder.

1.2 Definitions and Abbreviations

- (a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:
 - (1) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251, *et seq.*
 - (2) Approval Authority. The Director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources or his designee.
 - (3) Authorized Representative of the Industrial User.
 - (i) If the industrial user is a corporation, authorized representative shall mean:
 - (A) the president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
 - (B) the manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25)

million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (ii) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
 - (iii) If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (iv) The individuals described in paragraphs i-iii above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to the Town of Wilkesboro.
 - (v) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to POTW Director prior to or together with any reports to be signed by an authorized representative.
- (4) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g. mg/l).
 - (5) Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.
 - (6) Bypass. The intentional diversion of waste streams from any portion of a user's treatment facility.
 - (7) Categorical Standards. National Categorical Pretreatment Standards or Pretreatment Standard.
 - (8) Control Authority. Refers to the POTW organization if the POTW organization's Pretreatment Program approval has not been withdrawn.
 - (9) Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
 - (10) Grab Sample. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
 - (11) Holding Tank Waste. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
 - (12) Indirect Discharge or Discharge. The discharge or the introduction from any nondomestic source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).
 - (13) Industrial User or User. Any person which is a source of indirect discharge.
 - (14) Interference. The inhibition, or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES, collection system, or Non-discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. §6901, *et seq.*), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any

State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

- (15) Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (16) National Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. §1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.
- (17) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section [2.1] of this ordinance and are developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.
- (18) New Source.
 - (1) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with section 307(c), provided that:
 - (A) the building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (B) the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (C) the production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
 - (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section [(1)(B)] or [(C)] above but otherwise alters, replaces, or adds to existing process or production equipment.
 - (3) For purposes of this definition, construction of a new source has commenced if the owner or operator has:
 - (A) Begun, or caused to begin, as part of a continuous on-site construction program:
 - 1. Any placement, assembly, or installation of facilities or equipment; or
 - 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (B) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.
- (19) Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

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- (20) National Pollution Discharge Elimination System, or NPDES, Permit. A permit issued pursuant to section 402 of the Act (33 U.S.C. §1342), or pursuant to N.C.G.S. 143-215.1 by the State under delegation from EPA.
 - (21) Non-discharge Permit. A permit issued by the State pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the State.
 - (22) Pass Through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the NPDES, collection system, or Non-discharge Permit.
 - (23) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.
 - (24) pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
 - (25) Pollutant. Any "waste" as defined in N.C.G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).
 - (26) POTW Director. The chief administrative officer of the Control Authority or his/her delegate.
 - (27) POTW Treatment Plant. That portion of the POTW designed to provide treatment to wastewater.
 - (28) Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW collection system and/or treatment plant. The reduction or alteration may be obtained by physical, chemical, or biological processes, or process changes or other means, except as prohibited by 40 CFR Part 403.6(d).
 - (29) Pretreatment Program. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the Town of Wilkesboro in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.
 - (30) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.
 - (31) Pretreatment Standard. Any prohibited discharge standard, categorical standard or local limit which applies to an industrial user.
 - (32) Publicly Owned Treatment Works (POTW) or Municipal Wastewater System. A treatment works as defined by section 212 of the Act, (33 U.S.C. §1292) which is owned in this instance by the Town of Wilkesboro. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the Town of Wilkesboro who are, by contract or agreement with the Town of Wilkesboro, or in any other way, users of the POTW of the Town of Wilkesboro.
 - (33) Severe Property Damage. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the

absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

- (34) Significant Industrial User or SIU. An industrial user that discharges wastewater into a publicly owned treatment works and that:
- (A) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewaters); or
 - (B) contributes process wastewater which makes up five percent or more of the NPDES or Non-discharge permitted flow limit or five percent or more of the maximum allowable headworks loading of the POTW treatment plant for any POTW pollutant of concern; or
 - (C) is subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, Subchapter N, Parts 405-471; or
 - (D) is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any Pretreatment Standard or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for contributing to violations of the POTW's receiving stream standard, or for limiting the POTW's sludge disposal options.
 - (E) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraphs (A) and (B) above has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for contributing to violations of the POTW's receiving stream standard, or for limiting the POTW's sludge disposal options, and thus is not a Significant Industrial User.
 - (F) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraph (C) above meets the requirements of 40 CFR Part 403.3(v)(2) and thus is a Non-Significant Categorical Industrial User.
 - (G) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraph (C) above meets the requirements of 40 CFR Part 403.12(e)(3) and thus is a Middle Tier Significant Industrial User. Sampling and inspection requirements may be cut in half as per 40 CFR Parts 403.8 (f)(2)(v)(C).and 403.12 (e)(3).
- (35) Significant Noncompliance or SNC is the status of noncompliance of a Significant Industrial User when one or more of the following criteria are met. Additionally, any Industrial User which meets the criteria in Subparagraph (b)(35), Parts (C), (D), or (H) shall also be SNC.
- (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);
 - (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH);
 - (C) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority and/or POTW determines has

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- caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (D) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the Control Authority's or the POTW's, if different from the Control Authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and Section [8.1(e)] of this SUO to halt or prevent such a discharge;
 - (E) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
 - (F) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.
 - (G) Failure to accurately report noncompliance.
 - (H) Any other violation or group of violations that the Control Authority and/or POTW determines will adversely affect the operation or implementation of the local pretreatment program.
- (36) **Slug Load or Discharge.** Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in section [2.1] of this ordinance.
 - (37) **Standard Industrial Classification (SIC).** A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.
 - (38) **Storm Water.** Any flow occurring during or following any form of natural precipitation and resulting there from.
 - (39) **Suspended Solids.** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
 - (40) **Upset.** An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
 - (41) **Wastewater.** The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.
 - (42) **Wastewater Permit.** As set forth in section [4.2] of this ordinance.
 - (43) **Waters of the State.** All streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.
- (b) This ordinance is gender neutral and the masculine gender shall include the feminine and vice-versa.
 - (c) Shall is mandatory; may is permissive or discretionary.
 - (d) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

(e) The following abbreviations, when used in this ordinance, shall have the designated meanings:

(1)	BOD	Biochemical Oxygen Demand
(2)	CFR	Code of Federal Regulations
(3)	COD	Chemical Oxygen Demand
(4)	EPA	Environmental Protection Agency
(5)	gpd	Gallons per day
(6)	l	Liter
(7)	mg	Milligrams
(8)	mg/l	Milligrams per liter
(9)	N.C.G.S.	North Carolina General Statutes
(10)	NPDES	National Pollution Discharge Elimination System
(11)	O & M	Operation and Maintenance
(12)	POTW	Publicly Owned Treatment Works
(13)	RCRA	Resource Conservation and Recovery Act
(14)	SIC	Standard Industrial Classification
(15)	SWDA	Solid Waste Disposal Act
(16)	TSS	Total Suspended Solids
(17)	TKN	Total Kjeldahl Nitrogen
(18)	U.S.C	United States Code.

SECTION 2 - GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

- (a) General Prohibitions. No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any National, State, or local pretreatment standards or requirements.
- (b) Specific Prohibitions. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
 - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
 - (2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one half inch (1/2") in any dimension.
 - (3) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
 - (4) Any wastewater having a pH less than 5.0 or more than 10.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
 - (5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
 - (6) Any wastewater having a temperature greater than 150° F (66° C), or which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).
 - (7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
 - (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with section [2.9] of this ordinance.
 - (9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
 - (10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.
 - (11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
 - (12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable State or Federal regulations.
 - (13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director.

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- (14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l unless authorized by the POTW Director.
 - (15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
 - (16) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit.
 - (17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
 - (18) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director.
 - (19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200.
 - (20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
 - (21) Recognizable portions of the human or animal anatomy.
 - (22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
 - (23) At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.

Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

When the POTW Director determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass through, the POTW Director shall:

- 1) advise the user(s) of the potential impact of the contribution on the POTW in accordance with section [8.1]; and
- 2) take appropriate actions in accordance with section [4] for such user to protect the POTW from interference or pass through.

2.2 National Categorical Pretreatment Standards

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

- (a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- (c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
- (e) A user may request a removal credit adjustment to a categorical standard in accordance with 40 CFR 403.7.

2.3 Local Limits

An industrial waste survey is required prior to a User discharging wastewater containing in excess of the following average discharge limits.

BOD	300	mg/l	
TSS	300	mg/l	
NH ₃	25	mg/l	
Arsenic	0.000*	mg/l	
Cadmium	0.04	mg/l	
Chromium	0.4	mg/l	(total chromium)
Copper	0.1	mg/l	
Cyanide	0.000*	mg/l	
Lead	0.1	mg/l	
Mercury	0.000*	mg/l	
Nickel	0.01	mg/l	
Silver	0.000*	mg/l	
Zinc	0.5	mg/l	

*no limits, will be monitored only

Industrial Waste Survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading are not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The POTW Director may impose mass based limits in addition to, or in place of concentration based limits.

2.4 State Requirements

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

2.5 Right of Revision

The Town of Wilkesboro reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulation if deemed necessary to comply with the objectives presented in section [1.1] of this ordinance or the general and specific prohibitions in section [2.1] of this ordinance, as is allowed by 40 CFR 403.4.

2.6 Dilution

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the Town of Wilkesboro or State.

2.7 Pretreatment of Wastewater

(a) Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under section [4.2] of this ordinance and shall achieve compliance with all National categorical pretreatment standards, local limits, and the prohibitions set out in section [2.1] of this ordinance within the time limitations as specified by EPA, the State, or the POTW Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Town of Wilkesboro for review, and shall be approved by the POTW Director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Town of Wilkesboro under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.

(b) Additional Pretreatment Measures

- (1) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only

into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.

- (2) The POTW Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

2.8 Accidental Discharge/Slug Control Plans

- (a) The POTW Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Section [1.2(a) (36)]. All SIUs must be evaluated within one year of being designated an SIU. The POTW Director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the POTW Director may develop such a plan for any user.
- (b) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see Sections 5.5 and 5.6.
- (c) An accidental discharge/slug control plan shall address, at a minimum, the following:
 - (1) Description of discharge practices, including non-routine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by section [5.6] of this ordinance; and
 - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

2.9 Hauled Wastewater

- (a) Septic tank waste may be introduced into the POTW only at locations designated by the POTW Director, and at such times as are established by the POTW Director. Such waste shall not violate section [2] of this ordinance or any other requirements established by the Town of Wilkesboro. The POTW Director may require septic tank waste haulers to obtain wastewater discharge permits.
- (b) The POTW Director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
- (c) Industrial waste haulers may discharge loads only at locations designated by the POTW Director. No load may be discharged without prior consent of the POTW Director. The POTW Director may collect samples of each hauled load to ensure compliance with applicable standards. The POTW Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

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- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

SECTION 3 - FEES

3.1 Purpose

It is the purpose of this chapter to provide for the recovery of costs from users of the wastewater disposal system of the Town of Wilkesboro for the implementation of the program established herein. The applicable charges or fees shall be set forth in a schedule of sewer use charges and fees by the POTW Director and approved by the Town of Wilkesboro Board. A copy of these charges and fees will be made available from the POTW Director.

3.2 User Charges

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

- (a) The user charge shall reflect, at least, the cost of debt service, operation and maintenance (including replacement) of the POTW.
- (b) Each user shall pay its proportionate cost based on volume of flow.
- (c) The Manager of the Town of Wilkesboro shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the Council or Board serving the Town of Wilkesboro for adjustments in the schedule of charges and fees as necessary.
- (d) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

3.3 Surcharges: The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater:

- (a) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:
 - (1) Metered water consumption as shown in the records of meter readings maintained by the Town of Wilkesboro; or
 - (2) If required by the Town of Wilkesboro or at the individual discharger's option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the Town of Wilkesboro. The metering system shall be installed and maintained at the user's expense according to arrangements that may be made with the Town of Wilkesboro.
 - (3) Where any user procures all or part of his or her water supply from sources other than the Town of Wilkesboro, the user shall install and maintain at his or her own expense a flow measuring device of a type approved by the Town of Wilkesboro.
- (b) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the Town of Wilkesboro. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.
- (c) The determination of the character and concentration of the constituents of the wastewater discharge by the POTW Director or his duly appointed representatives shall be binding as a basis for charges.

3.4 Pretreatment Program Administration Charges

The schedule of charges and fees adopted by the Town of Wilkesboro may include charges and fees for:

- (a) reimbursement of costs of setting up and operating the Pretreatment Program;
- (b) monitoring, inspections and surveillance procedures;
- (c) reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- (d) permitting;
- (e) other fees as the Town of Wilkesboro may deem necessary to carry out the requirements of the Pretreatment Program.

SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE

4.1 Wastewater Dischargers

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the Town of Wilkesboro. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within [thirty (30)] days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

4.2 Wastewater Permits

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the POTW Director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW Director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the POTW Director be required to obtain a wastewater discharge permit for non-significant industrial users.

(a) Significant Industrial User Determination

All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the POTW Director a significant industrial user determination. If the POTW Director determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.

(b) Significant Industrial User Permit Application

Users required to obtain a significant industrial user permit shall complete and file with the Town of Wilkesboro, an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW Director's determination in [4.2(a)] above. The application shall include at a minimum:

- (A) name of industrial user;
- (B) address (and location if different from address) of industrial user;
- (C) standard industrial classification (SIC) code(s) or expected classification and industrial user category;
- (D) wastewater flow;
- (E) types and concentrations (or mass) of pollutants contained in the discharge;
- (F) major products manufactured or services supplied;
- (G) description of existing on-site pretreatment facilities and practices;
- (H) locations of discharge points;
- (I) raw materials used or stored at the site;
- (J) flow diagram or sewer map for the industrial user;
- (K) number of employees;
- (L) operation and production schedules; and
- (M) description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g);

In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in section [2] of this ordinance, any of the priority pollutants (section 307(a) of the Act) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, Part 136, as amended and as required in Section 5.10 and 5.11;
- (2) Time and duration of the indirect discharge;

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- (3) Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
 - (4) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation;
 - (5) Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;
 - (6) Where known, the nature and concentration of any pollutants in the discharge which are limited by any Town of Wilkesboro, State, or Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
 - (7) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:
 - (i) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine (9) months.
 - (ii) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW Director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.
 - (8) Each product produced by type, amount, process or processes and rate of production;
 - (9) Type and amount of raw materials processed (average and maximum per day);
 - (10) If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and 15A NCAC 2H .0908(a), as outlined in section [5.1] of this ordinance.
 - (11) Any other information as may be deemed by the POTW Director to be necessary to evaluate the permit application.
- (c) **Application Signatories and Certification**
All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the Control Authority and/or Municipality as defined in Section [1.2(a)(3)] and contain the following certification statement:
- “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”
- (d) **Application Review and Evaluation**
The POTW Director will evaluate the data furnished by the user and may require additional information.

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- (1) The POTW Director is authorized to accept applications for the Town of Wilkesboro and shall refer all applications to the POTW staff for review and evaluation.
 - (2) Within 30 days of receipt the POTW Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.
 - (e) Tentative Determination and Draft Permit
 - (1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
 - (2) If the staff's tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing:
 - (A) proposed discharge limitations for those pollutants proposed to be limited;
 - (B) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
 - (C) a brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
 - (3) The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the general permit conditions of the Town of Wilkesboro into a significant industrial user permit.
 - (f) Permit supporting documentation. The Control Authority staff shall prepare the following documents for all Significant Industrial User permits.
 - (1) An allocation table (AT) listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the Division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.
 - (2) The basis, or rationale, for the pretreatment limitations, including the following:
 - (A) documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and
 - (B) documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).
 - (g) Final Action on Significant Industrial User Permit Applications
 - (1) The POTW Director shall take final action on all applications not later than 90 days following receipt of a complete application.
 - (2) The POTW Director is authorized to:
 - (A) issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and N.C.G.S. 143-215.1;
 - (B) issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
 - (C) modify any permit upon not less than 60 days' notice and pursuant to section [4.2(i)] of this ordinance;
 - (D) revoke any permit pursuant to section [8.1] of this ordinance;
 - (E) suspend a permit pursuant to section [8.1] of this Ordinance;
 - (F) deny a permit application when in the opinion of the POTW Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.
 - (h) Permit Modification
 - (1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

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- (A) changes in the ownership of the discharge when no other change in the permit is indicated,
 - (B) a single modification of any compliance schedule not in excess of four months,
 - (C) modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
 - (2) Within 9 months of the promulgation of a National categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by section [4.2(b)], the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National categorical pretreatment standard.
 - (3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.
- (i) Permit Conditions
- (1) The POTW Director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and N.C.G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
 - (A) a statement of duration (in no case more than five years);
 - (B) a statement of non-transferability;
 - (C) applicable effluent limits based on categorical standards or local limits or both;
 - (D) applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
 - (E) requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in Section [1.2(a)(36)];
 - (F) requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Section [1.2(a)(36)], if determined by the **POTW Director** to be necessary for the User and,
 - (G) requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in [1.2(a) (36)]. Also see Sections [5.5 and 5.6];
 - (H) a statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
 - (2) In addition, permits may contain, but are not limited to, the following:
 - (A) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
 - (B) Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
 - (C) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 - (D) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
 - (E) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
 - (F) Requirements for installation and maintenance of inspection and sampling facilities and equipment.

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- (G) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
 - (H) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
 - (I) Compliance schedules for meeting pretreatment standards and requirements.
 - (J) Requirements for submission of periodic self-monitoring or special notification reports.
 - (K) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in section [5.13] and affording the POTW Director, or his representatives, access thereto.
 - (L) Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
 - (M) Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee.
 - (N) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the terms of the permit.
 - (O) Other conditions as deemed appropriate by the POTW Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.
- (j) Permit Duration
- Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
- (k) Permit Transfer
- Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
- (l) Permit Reissuance
- A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with section [4.2] a minimum of 180 days prior to the expiration of the existing permit.

SECTION 5 - REPORTING REQUIREMENTS

5.1 Baseline Monitoring Reports

- (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW Director a report which contains the information listed in paragraph [(b)], below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW Director a report which contains the information listed in paragraph [(b)], below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (b) Users described above shall submit the information set forth below.
 - (1) Identifying Information. The name and address of the facility, including the name of the operator and owner.
 - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
 - (5) Measurement of Pollutants.
 - (A) The categorical pretreatment standards applicable to each regulated process.
 - (B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section [5.10] of this ordinance.
 - (C) Sampling must be performed in accordance with procedures set out in section [5.11] of this ordinance and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g) (4).
 - (6) Certification. A statement, reviewed by the user's current authorized representative as defined in Section [1.2(a)(3)] and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
 - (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section [5.2] of this ordinance.
 - (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with section [4.2(c)] of this ordinance.

5.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by section [5.1(b) (7)] of this ordinance:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;
- (c) The user shall submit a progress report to the POTW Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (d) In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.

5.3 Reports on Compliance with Categorical Pretreatment Standard, Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in section [5.1(b) (4-6)] of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section [4.2(c)] of this ordinance.

5.4 Periodic Compliance Reports

Municipalities may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

- (a) All significant industrial users shall, at a frequency determined by the POTW Director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in section [5.10 and 5.11] of this ordinance. All periodic compliance reports must be signed and certified in accordance with section [4.2(c)] of this ordinance.
- (b) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in section [5.10 and 5.11] of this ordinance, the results of this monitoring shall be included in the report.

5.5 Reports of Changed Conditions

Each user must notify the POTW Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least [thirty (30)] days before the change. The permittee shall not begin the changes until receiving written approval from the Control Authority and/or Municipality. See Section 5.6(d) for other reporting requirements.

- (a) The POTW Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section [4.2] of this ordinance.
- (b) The POTW Director may issue a wastewater discharge permit under section [4.2] of this ordinance or modify an existing wastewater discharge permit under section [4.2] of this ordinance in response to changed conditions or anticipated changed conditions.
- (c) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants; increases or decreases to production; increases in discharge of previously reported pollutants; discharge of pollutants not previously reported to the Control Authority

and/or Municipality; new or changed product lines; new or changed manufacturing processes and/or chemicals; or new or changed customers.

5.6 Reports of Potential Problems

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section [1.2(a)(36)], that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five (5) days following such discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- (d) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section [1.2(a)(36)].

5.7 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require.

All users classified as Non-Significant Categorical Industrial Users under Section [1.2(a) (34) (F)] shall provide appropriate reports to the POTW Director as the POTW Director may require. At a minimum, this shall include the Annual Certification of continuing to meet the Non-Significant Categorical Industrial User criteria as required under 40 CFR 403.12(q).

5.8 Notice of Violation/Repeat Sampling and Reporting

- (a) If sampling performed by a user indicates a violation, the user must notify the POTW Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within thirty (30) days after becoming aware of the violation. If allowed by the POTW Director, the user is not required to resample:
 - (1) if the POTW Director monitors at the user's facility at least once a month; or
 - (2) if the POTW Director samples between the user's initial sampling and when the user receives the results of this sampling.
- (b) If the POTW Director has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the POTW Director shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:
 - (1) the POTW Director monitors at the user's facility at least once a month; or
 - (2) the POTW Director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
 - (3) the POTW Director requires the user to perform sampling and submit the results to the POTW Director within the 30 day deadline of the POTW becoming aware of the violation.

5.9 Notification of the Discharge of Hazardous Waste

The Town of Wilkesboro prohibits the discharge of any hazardous wastes without notification to and approval by the POTW Director.

- (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 180 days before the discharge commences. The user shall not begin the discharge until receiving written approval from the Town of Wilkesboro. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under section [5.5] of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections [5.1, 5.3, and 5.4] of this ordinance.
- (b) Dischargers are exempt from the requirements of paragraph [(a)], above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (c) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

5.10 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analyses in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard or unless otherwise performed in accordance with procedures approved by EPA or Town of Wilkesboro. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and Town of Wilkesboro.

5.11 Grab and Composite Sample Collection

- (a) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

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- (b) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the User's discharge. See 40 CFR 403.12(g) (5) for additional grab sample number requirements for BMR and 90 Day Compliance Reports. Additionally, the POTW Director may allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.
 - (c) Composite Samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW Director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

5.12 Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

5.13 Record Keeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Town of Wilkesboro, or where the user has been specifically notified of a longer retention period by the POTW Director.

5.14 Electronic Reporting

The POTW Director may develop procedures for receipt of electronic reports for any reporting requirements of this Ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under Section 8 of this Ordinance.

SECTION 6 - COMPLIANCE MONITORING

6.1 Monitoring Facilities

The Town of Wilkesboro requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the Town of Wilkesboro may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the requirements of the Town of Wilkesboro and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the Town of Wilkesboro.

6.2 Inspection and Sampling

The Town of Wilkesboro will inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Town of Wilkesboro, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The Town of Wilkesboro, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the Town of Wilkesboro, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the Town of Wilkesboro's, approval authority's, or EPA's access to the user's premises shall be a violation of this ordinance. Unreasonable delays may constitute denial of access.

6.3 Search Warrants

If the Town of Wilkesboro, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town of Wilkesboro designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town of Wilkesboro, approval authority, or EPA may seek issuance of a search warrant from the court having jurisdiction within the Town of Wilkesboro.

SECTION 7 - CONFIDENTIAL INFORMATION

(a) Information and data provided by an industrial user to the POTW Director pursuant to this ordinance identifying the nature and frequency of a discharge, shall be available to the public without restriction. All other information which may be so submitted by an industrial user to the POTW Director in connection with any required reports shall also be available to the public unless the industrial user or other interested person specifically identifies the information as confidential upon submission and is able to demonstrate to the satisfaction of the POTW Director that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.

(b) Information provided by an industrial user to the POTW Director that is determined to be entitled to confidential treatment shall be made available upon written request to the Division of Water Quality or any state agency for uses related to the Pretreatment Program, the National Pollutant Discharge Elimination System (NPDES) Permit, collection system permit, stormwater permit, and/or Non-discharge permit, and for uses related to judicial review or enforcement proceedings involving the person furnishing the report.

(c) Information and data received by the Division or other state agency under paragraph (b) above shall be subject to the processes set forth in G.S. 143-215.3C.

SECTION 8 - ENFORCEMENT

8.1 Administrative Remedies

(a) Notification of Violation

Whenever the POTW Director finds that any industrial user has violated or is violating this Ordinance, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the POTW Director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the Town of Wilkesboro by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent Orders

The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to section [8.1(d)], below.

(c) Show Cause Hearing

The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this ordinance or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under section [8.2] nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under section [10].

(d) Administrative Orders

When the POTW Director finds that an industrial user has violated or continues to violate this ordinance, permits or orders issued hereunder, or any other pretreatment requirement the POTW Director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

- (1) Immediately comply with all requirements;
- (2) Comply in accordance with a compliance time schedule set forth in the order;
- (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
- (4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(e) Emergency Suspensions

The POTW Director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or Non-discharge permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Director prior to the date of the above-described hearing.

(f) Termination of Permit or Permission to Discharge

The POTW Director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

- (1) Failure to accurately report the wastewater constituents and characteristics of his discharge;
- (2) Failure to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
- (4) Violation of conditions of the permit or permission to discharge, conditions of this ordinance, or any applicable State and Federal regulations.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under section [8.1] of this ordinance why the proposed action should not be taken.

8.2 Civil Penalties

- (a) Any user who is found to have failed to comply with any provision of this ordinance, or the orders, rules, regulations and permits issued hereunder, may assessed a civil penalty of up to twenty-five thousand dollars (\$25,000) per day per violation.
 - (1) Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:
 - (A) For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or
 - (B) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.
- (b) In determining the amount of the civil penalty, the POTW Director shall consider the following:
 - (1) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
 - (2) The duration and gravity of the violation;
 - (3) The effect on ground or surface water quantity or quality or on air quality;
 - (4) The cost of rectifying the damage;
 - (5) The amount of money saved by noncompliance;
 - (6) Whether the violation was committed willfully or intentionally;
 - (7) The prior record of the violator in complying or failing to comply with the pretreatment program;
 - (8) The costs of enforcement to the Town of Wilkesboro.

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- (c) Appeals of civil penalties assessed in accordance with this section shall be as provided in section [10].

8.3 Other Available Remedies

Remedies, in addition to those previously mentioned in this ordinance, and are available to the POTW Director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

(a) Criminal Violations.

The District Attorney for the applicable Judicial District may, at the request of the Town of Wilkesboro, prosecute noncompliant users who violate the provisions of N.C.G.S. 143-215.6B. [Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. 143-215.6B(i)).]

(b) Injunctive Relief

Whenever a user is in violation of the provisions of this ordinance or an order or permit issued hereunder, the POTW Director, through the City Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

(c) Water Supply Severance

Whenever an industrial user is in violation of the provisions of this ordinance or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.

(d) Public Nuisances

Any violation of the prohibitions or effluent limitations of this ordinance or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of the Town of Wilkesboro governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

8.4 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The POTW Director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town of Wilkesboro's enforcement response plan. However, the POTW Director may take other action against any user when the circumstances warrant. Further, the POTW Director is empowered to take more than one enforcement action against any noncompliant user.

SECTION 9 - ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE

At least annually, the POTW Director shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance, in 15A NCAC 2H .0903(b)(34), with applicable pretreatment standards and requirements, during the previous 12 months.

SECTION 10 – ADJUDICATORY HEARINGS

- (a) Judicial Review. An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under section [8.2], or one issued an

administrative order under section [8.1] may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Wilkes County within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, along with a copy to the Town of Wilkesboro. Within [30] days after receipt of the copy of the petition of judicial review, the [Council or Board] serving the Town of Wilkesboro shall transmit to the reviewing court the original or a certified copy of the official record of their decision.

SECTION 11 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

11.1 Upset

- (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b), below, are met.
- (b) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the POTW Director within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
 - (A) A description of the indirect discharge and cause of noncompliance;
 - (B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (e) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

11.2 Prohibited Discharge Standards Defense

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section [2.1 (a)] of this ordinance or the specific prohibitions in sections [2.1(b)(2), (3), and (5 - 7) and (9-23)] of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Town of Wilkesboro was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

11.3 Bypass

- (a) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs [(b)] and [(c)] of this section.

(b)

- (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director, at least ten (10) days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the POTW Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(c)

- (1) Bypass is prohibited, and the POTW Director may take an enforcement action against a user for a bypass, unless
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (C) The user submitted notices as required under paragraph (b) of this section.
- (2) The POTW Director may approve an anticipated bypass, after considering its adverse effects, if the POTW Director determines that it will meet the three conditions listed in paragraph [(c)(1)] of this section.

SECTION 12 - SEVERABILITY

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

SECTION 13- CONFLICT

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 14 - EFFECTIVE DATE

This ordinance shall be in full force and effect on the 3rd day of December, 2012.

INTRODUCED the ____ day of _____, 19__.

FIRST READING: _____, 19__.

SECOND READING: _____, 19__.

PASSED this 3rd day of December, 2012.


AYES: _____

NAYS: _____

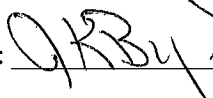
ABSENT: _____

NOT VOTING:

APPROVED this 3rd day of December, 2012.



MAYOR, of the Town of Wilkesboro

ATTEST:  (Seal) City Clerk

Published the ____ day of _____, 19__.



**CAPITAL PROJECT ORDINANCE
CHERRY STREET WATER AND SEWER IMPROVEMENTS
TOWN OF WILKESBORO
JUNE 4, 2012**

Be It Ordained by the Governing Board of the Town of Wilkesboro, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted.

Section 1: The project authorized is Cherry Street Water and Sewer Improvements. The project is to be financed through a combination of grant funds and locally provided funds.

Section 2: The Town Manager is hereby directed to proceed with the capital project within the terms of the bond resolution, grant documents, and the budget contained herein.

Section 3: The following amounts are approved for the project:

1. Construction (Buckeye Construction)	\$1,245,968.60
2. Engineering Fees (WESCO)	\$ 103,909.91
3. Construction Observation (MESCO)	\$ 60,000.00
4. Grant Administration (Rural Center & ARC)	\$ 25,000.00
5. Legal/Other	\$ 15,000.00
6. Contingency	<u>\$ 50,000.00</u>

Total Project Costs: **\$1,499,878.51**

Section 4: The following amounts will be available to complete this project:

1. Grants: (ARC)	\$ 300,000.00
(Rural Center)	\$ 706,403.91
2. Local Funds	\$ 493,474.60

Total Revenue: **\$1,499,878.51**

Section 5: The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the grantor agency, the grant agreements, and any federal or state regulations that may apply.

Section 6: The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 7: Copies of this capital project ordinance shall be furnished to the Clerk, to the Governing Board, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this _____ day of _____, 2012 in Wilkesboro, North Carolina.

Mike Inscore, Mayor

James K. Byrd, Town Clerk

SEAL:

ORDINANCE NUMBER 2013-01

**AN ORDINANCE AFFECTING THE REGULATION OF NUISANCES, SANITATION,
HEALTH AND PUBLIC NUISANCE; AMENDING CHAPTER 132 OF THE CODE OF
ORDINANCES OF THE TOWN OF WILKESBORO**

WHEREAS, Article 8 of Chapter 160A of the North Carolina General Statutes, N.C.G.S. 160A-174, et seq., delegates to municipalities the authority to exercise the general police power; and

WHEREAS, Article 8 of Chapter 160A of the North Carolina General Statutes, N.C.G.S. 160A-193, authorizes municipalities to summarily remedy, abate or remove public health nuisances; and

WHEREAS, the Town Council of the Town of Wilkesboro finds that it is in the public interest to amend Chapter 132 of the Town's Code of Ordinances to provide more specificity as to the requirements for regulating Sanitation, Health and Public Nuisances; and

WHEREAS, the Town Council of the Town of Wilkesboro, after due notice, conducted a public hearing on the 9th day September of 2013, upon the question of amending the Town Code in this respect.

**THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
WILKESBORO, NORTH CAROLINA:**

PART ONE. That Title **XIII**, General Offenses, Chapter 132: Offenses Against Public Morals, Section 132.12, General Nuisances; Property Owner's Duty to Abate, of the Code of Ordinances of the Town of Wilkesboro, North Carolina, is hereby amended and rewritten in its entirety to read as follows:

**"CHAPTER 132, SECTION 132.12
SANITATION, HEALTH AND PUBLIC NUISANCES**

Section (A) Administration.

For the purpose of this Chapter, the term "nuisance" shall mean or refer to any condition or any use of property or any act or omission affecting the condition or use of property which threatens or is likely to threaten the safety of the public; adversely affects the general health, happiness, security or welfare of others; or, is detrimental to the rights of others to the full use of their own property and their own comfort, happiness and emotional stability because of decreased property values and the unsightliness and decreased livability of neighborhoods.

Section (B) Declaration of Public Nuisance

The following enumerated and described conditions, or any combination thereof, are hereby found, deemed, and declared to constitute a detriment, danger and hazard to the health, safety, morals and general welfare of the inhabitants of the Town. They are hereby found, deemed and declared to be public nuisances wherever the conditions may exist within the corporate limits as now or hereafter established. The creation, maintenance or failure to abate any nuisances is hereby declared unlawful:

1. Any weeds or other vegetation having an overall height of more than eighteen (18) inches above the surrounding ground provided that the following shall not be considered to be a part of this condition: trees and ornamental shrubs; cultured plants; natural vegetation on undeveloped property that is not a threat to the character of surrounding properties; and flowers and growing and producing vegetable plants. It shall be the duty of every person occupying, owning or having control of property abutting on a street or highway that utilizes a portion of the unused street or highway right-of-way as a yard or any other use to maintain said right-of-way in the same character and manner as the abutting use_
2. Any accumulation of trash, garbage, food waste and other trash which is the result of the absence of, or overflowing of, or improperly closed trash or garbage containers, that attracts or is likely to attract mice and rats, flies and mosquitoes or other pests.
3. An open or unsecured storage or collection place for chemicals, acids, oils, gasoline, flammable or combustible materials or flammable or combustible liquids, poisonous materials or other similar harmful or dangerous substances, gasses or vapors.
4. An open place, collection, storage place or concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags, or any other combustible materials collection.
5. An open storage place for old worn out, broken or discarded machinery, car parts, junk, tire rims, furniture, stoves, refrigerators, appliances, cans and containers, household goods, plumbing or electrical fixtures, old rusty metal, fencing materials or other similar materials.
6. Any accumulation of garbage, rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, mosquitoes, or vermin prejudicial to the public health.
7. Any accumulation of animal or vegetable matter that is offensive by virtue of

odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health.

8. The open storage of any discarded ice box, furniture, refrigerator, stove, glass, building materials, building rubbish or similar items. The use of carports, open porches, decks, open garages and other outdoor areas that are visible from the street as a storage or collection place for boxes, appliances, furniture (not typical outdoor or yard furniture), tools, equipment, junk, garbage, old worn out broken or discarded machinery and equipment, cans, containers, household goods or other similar condition that increase the likelihood of a fire; may conceal dangerous conditions; may be a breeding place or habitat for mice, rats or other pests; or, create an unattractive condition or visually blighted property
9. A collection place for lumber, bricks, blocks, nails, building hardware, roofing materials, scaffolding, masonry materials, electrical supplies or materials, plumbing supplies or materials, heating and air conditioning supplies or materials or any other type of old or unusable building supplies (especially those with nails, staples or sharp objects and edges) unless such conditions are temporary in nature and caused by a current construction project in progress pursuant to a lawfully issued building permit.
10. Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the Code Administrator or his designee can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises.
11. The placement, storage or use of upholstered sofas, couches, chairs or other indoor type furniture, appliances, seats removed from motor vehicles or other furniture not intended for outdoor use by the manufacturer, use on any open porch, carport, stoop, deck, veranda, terrace, patio or other outdoor area that is visible from nearby streets and sidewalks.
12. A collection place, pool or pond of stagnant or foul water or persistent dampness caused by overflowing septic tanks, manmade dams, open ditches, overflowing pipes, foundation trenches or other impoundments of any kind.
13. Barns or farm animal pens, pastures or enclosures for farm animals which are not kept sanitary and clean or otherwise become a collection place for animal waste and which because of the conditions associated therewith attract rats, mice, flies or other pests or emit foul odors that can be detected or noticed on adjacent properties or are otherwise not kept in a sanitary condition.

14. Dog lots, pens, pet enclosures of all kinds, outdoor areas where dogs or other pets are chained or kept or areas where dogs and cats are permitted to roam which become a collection place for dog, cat or pet waste and excrement and which attract flies or other pests, emit foul odors which can be detected or noticed on adjacent property or are not kept in a sanitary condition.
15. A collection place for sewage and sewage drainage or the seepage from septic tanks, broken or malfunctioning plumbing and sewer pipes or any other seepage of dangerous, hazardous or poisonous liquids.
16. A collection place for tree limbs, dried brush, dead vegetation, stumps or other decayed wood and materials or other similar rubbish.
17. Any discharge into or polluting of any stream, creek, river or other body of water or the discharge of any dangerous substance or any other material likely to harm the water or any vegetation, fish or wildlife in or along the water or the storage of such harmful materials and substances in a manner so that it is likely that such streams, creeks, rivers or other bodies of water will become polluted or adversely affected in any manner.
18. Any condition which blocks, hinders, or obstructs in any way the natural flow of branches, streams, creeks, surface waters, ditches, or drains, to the extent that the premises is not free from standing water.
19. Any conditions or use of property, which results in the emission of pollutants and particles into the atmosphere or causes noxious odors, vapors and stenches to be discharged into the air.
20. Nuisance vehicle: A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:
 - a. A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
 - b. A point of heavy growth of weeds or other noxious vegetation which exceeds eight (8) inches in height ; or
 - c. In a condition allowing the collection of pools or ponds of water; or
 - d. A concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or
 - e. An area of confinement which cannot be operated from the inside, such as, but not limited to, trunks or hoods; or
 - f. So situated or located that there is a danger of it falling or turning over; or
 - g. A collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind; or
 - h. One which has sharp parts thereof which are jagged or contain sharp edges

- i of metal or glass;
 - Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Council.

21. Any condition detrimental to the public health which violates the rules and regulations of the County Health Departments.

Section (C) Complaint; Investigation of Public Nuisance

When any condition in violation of this section is found to exist, the Code Administrator or such persons as may be designated by the Town Council shall give notice to the owner of the premises to abate or remove such conditions within ten (10) days. Such notice shall be in writing, shall include a description of the premises sufficient for identification and shall set forth the violation and state that, if the violation is not corrected within ten (10) days, the city may proceed to correct the same as authorized by this section. Service of such notice shall be by any one of the following methods.

1. By delivery to any owner personally or by leaving the notice at the usual place of abode of the owner with a person who is over the age of sixteen (16) years and a member of the family of the owner.
2. By depositing the notice in the United States Post Office addressed to the owner at his last known address with regular mail postage prepaid thereon.
3. By posting and keeping posted, for ten (10) days, a copy of the notice, in placard form, in a conspicuous place on the premises on which the violation exists, when notice cannot be served by method (1) and (2).

Section (D) Abatement Procedure.

If the owner of any property fails to comply with a notice given pursuant to this section, within ten (10) days after the service of such notice, he shall be subject to prosecution for violation of this ordinance in accordance with law and each day that such failure continues shall be a separate offense. In addition, the Town may have the condition described in the notice abated, removed or otherwise corrected and all expenses incurred thereby shall be chargeable to and paid by the owner of the property and shall be collected as taxes and levies are collected. All such expenses shall constitute a lien against the property on which the work was done.

Section (E) Procedure Is Alternative

The procedure set forth in this Chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances. In addition to the remedies provided for herein, any violation of the terms of this Chapter shall subject the violator to the penalties and remedies as set forth in Chapter 10, Section 10.99, General Penalty, of the Code of Ordinances of the Town of Wilkesboro."

PART TWO. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

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

PART FOUR. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing violations.

PART FIVE. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 9th day of September, 2013.

Michael Vestal Inscore, Mayor

ATTEST:

Approved as to form:

James K. Byrd, Town Clerk

William C. Gray Jr. Town Attorney

ORDINANCE NUMBER 2013-02

**AN ORDINANCE CONCERNING GENERAL PENALTIES
AMENDING CHAPTER 10 OF
THE CODE OF ORDINANCES OF THE TOWN OF WILKESBORO**

WHEREAS, Article 8 of Chapter 160A of the North Carolina General Statutes, N.C.G.S. 160A-174, et seq., delegates to municipalities the authority to exercise the general police power; and

WHEREAS, the Town Council of the Town of Wilkesboro finds that it is in the public interest to amend Section 10.99 of the Town's Code of Ordinances to provide more specificity as to the methods for enforcing such ordinances; and

WHEREAS, the Town Council of the Town of Wilkesboro, after due notice, conducted a public hearing on the day of 2013, upon the question of amending the Town Code in this respect.

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WILKESBORO, NORTH CAROLINA:

PART ONE. Subject to the requirements stated herein, Title 1, General Provisions, Chapter 10, Rules of Construction; General Penalty, Section 10.99, of the Code of Ordinances of the Town of Wilkesboro, entitled "General Penalty", is hereby repealed and replaced with a new Section 10.99 entitled, "General Penalties; Enforcement of Ordinances; Continuing Violations". To the extent that the provisions of this section are the same in substance as the previously adopted provisions they replace, they shall be considered as continuations thereof and not as new enactments. Particularly, the enactment of this Ordinance shall in no way affect be deemed to render null or impair in any way any existing enforcement actions or existing violations of the Code of Ordinances.

PART TWO. Title 1, General Provisions, Chapter 10, Rules of Construction; General Penalty, Section 10.99 of the Code of Ordinances of the Town of Wilkesboro, entitled "General Penalties; Enforcement of Ordinances; Continuing Violations", is hereby enacted to read as follows:

"10.99 GENERAL PENALTIES; ENFORCEMENT OF ORDINANCES; CONTINUING VIOLATIONS

(A) Administration.

- (1) Unless a greater amount is specified herein, an act constituting a violation of the provisions of this Code or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$100.00, which includes administrative fees. Each day any single violation continues shall be a separate violation. Unless expressly stated otherwise in a chapter or appendix, a violation of this Code shall not constitute a misdemeanor pursuant to N.C.G.S. 14-4. If the offender fails to correct this violation by the prescribed deadline after being notified of said violation, the penalty may be recovered in a civil action in the nature of a debt.
- (2) In addition to the civil penalties set out above, any provision of any Town ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the Town for equitable relief that there is an adequate remedy at law.
- (3) In addition to the civil penalties set out above, any provision of any Town ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by the General Court of Justice. When a violation of such a provision occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and/or order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.
- (4) An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that grass and weeds be cut; that abandoned or junked vehicles be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the applicable Town ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judicial order. Cancellation of an order of abatement shall not suspend or cancel an injunction

issued in conjunction therewith.

- (5) The provisions of any Town ordinance may be enforced by one, all, or a combination of the remedies authorized and prescribed by this Section.

(B) Procedures.

- (1) This section sets forth the procedures to be followed in enforcing the provisions of the Code of Ordinances. They shall be utilized unless an individual ordinance codified herein has different procedures, in which event the procedures of the individual ordinance shall be followed.
- (2) Unless otherwise provided by a specific provision of any Town ordinance, upon determination of a violation of any section of a Town ordinance, the enforcement official of the Town of Wilkesboro shall cause a warning citation to be issued to the violator. Such warning citation shall be issued either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the County. Such warning citation shall set out the nature of the violation, the section violated, the date of the violation, and shall contain an order to immediately cease the violation. If the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated in which the violation must be abated. The warning citation shall specify that a second citation shall incur a civil penalty, together with costs, and attorney fees.
- (3) An appeal from a warning citation shall be taken within ten (10) days from the date of said warning citation by filing with the enforcement official and with the Board of Adjustment, a notice of appeal which shall specify the grounds upon which the appeal is based. Except in any case where the ordinance violated, which is the subject of the warning citation, specifically grants to the Board of Adjustment other powers in considering appeals and such appeal is applied for, the Board of Adjustment in considering appeals of warning citations shall have power only in the manner of administrative review and interpretation where it is alleged that the enforcement official has made an error in the application of an ordinance, in the factual situation as it relates to the application of an ordinance or both.
- (4) Where the enforcement official of the Town determines that the period of time stated in the original warning citation is not sufficient for abatement based upon the work required or consent agreement, the enforcement official may amend the warning citation to provide for additional time.

- (5) Upon failure of the violator to obey the warning citation, a civil citation may be issued by the enforcement official, either served directly on the violator, his duly designated agent, or registered agent if a corporation, either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the County or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of said citation. The citation shall direct the violator to appear before the Town Manager of the Town of Wilkesboro, or designee, within fifteen days of the date of the citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid, otherwise further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.
- (6) If the violator fails to respond to a citation within fifteen days of its issuance, and pay the penalty prescribed therein, the Town of Wilkesboro may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty, costs, attorney fees, and such other relief as permitted by law."

PART THREE. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

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

PART FIVE. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing violations.

PART SIX. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 9th day of September, 2013.

Michael Vestal Inscore, Mayor

ATTEST:

Approved as to form:

James K. Byrd, Town Clerk

William C. Gray Jr, Town Attorney

**AMENDMENT TO THE TOWN CODE OF ORDINANCE
ORDINANCE 2013-03
TITLE VII, CHAPTER 75: PARKING SCHEDULES**

In accordance with NCGS- 160-178 the Town Council of Wilkesboro adds the following language to the Town of Wilkesboro Code of Ordinances:

2 Hour Parking, Monday through Saturday 8 am – 5 pm, on both sides of Main Street, where parking spaces are available, from Woodland Boulevard intersection to the East Street intersection will be enforced by the Wilkesboro Police Department. Existing No Parking sections for loading zones, hydrants, driveways, etc. will not change.

Approved this the 7th day of October 2013.

Michael Vestal Inscore, Mayor

ATTEST: _____
James K. Byrd, Town Clerk

SEAL:

**CAPITAL PROJECT ORDINANCE
FOR SEWER SYSTEM IMPROVEMENTS
MORAVIAN CREEK/SCHOOL STREET OUTFALL
TOWN OF WILKESBORO
MAY 17, 2010**

Be It Ordained by the Governing Board of the town of Wilkesboro, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted.

Section 1: The project authorized is the Moravian Creek/School Street Sewer outfall. The project is to be financed through a combination of grant funds and locally provided funds.

Section 2: The Town Manager is hereby directed to proceed with the capital project within the terms of the bond resolution, grant documents, and the budget contained herein.

Section 3: The following amounts are approved for the project:

Municipal Engineering Services Co., PA

1. Construction (Iron Mountain Construction, Inc.)	\$594,465.00
2. Engineering Fees (8%)	\$49,340.60
3. Construction Observation	\$40,000.00
4. Grant Administration (Rural Center & Commerce)	\$40,000.00
Total Project Costs:	\$723,805.60

Section 4: The following amounts will be available to complete this project:

1. Grants: Department of Commerce	\$500,000.00
Rural Center	\$100,000.00
2. Local Funds	\$123,805.60

Section 5: The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the grantor agency, the grant agreements, and any federal or state regulations that may apply.

Section 6: The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 7: Copies of this capital project ordinance shall be furnished to the Clerk, to the Governing Board, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this _____ day of _____, 2010 in Wilkesboro, North Carolina

ATTEST:

Mike Inscore, Mayor

Josephine Cass, Clerk

SEAL:

**CAPITAL PROJECT ORDINANCE
WATER TREATMENT FACILITY SLUDGE HANDLING IMPROVEMENTS
TOWN OF WILKESBORO
SEPTEMBER 9, 2013**

Be It Ordained by the Governing Board of the Town of Wilkesboro, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following project ordinance is hereby adopted.

Section 1: The project authorized is improving the Water Treatment Facility's process of handling Sludge. The project is to be financed through local funds.

Section 2: The Town Manager is hereby directed to proceed with the capital project within the terms of the budget contained herein.

Section 3: The following amounts are approved for the project:

1. Construction	\$ 2,450,000
2. Engineering Fees (Davis & Floyd)	\$ 250,000
3. Legal/Permits/Other	\$ 25,000
4. Contingency	<u>\$ 275,000</u>

Total Project Costs: **\$ 3,000,000**

Section 4: The following amounts will be available to complete this project:

1. Local Funds	\$ 3,000,000
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Total Revenue: **\$ 3,000,000**

Section 5: The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the grantor agency, the grant agreements, and any federal or state regulations that may apply.

Section 6: The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 7: Copies of this capital project ordinance shall be furnished to the Clerk, to the Governing Board, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this _____ day of _____, 2013 in Wilkesboro, North Carolina.

Mike Inscore, Mayor

James K. Byrd, Town Clerk

SEAL:

**KENNEDY STREET ACCEPTANCE
RESOLUTION 2013-11**

WHEREAS, The Town of Wilkesboro Public Works has inspected and confirmed Kennedy Street is in compliance to Town street standards; and

WHEREAS, the Police Department recommends that the Town limits parking to the South Side of the street for public safety concerns.

NOW THEREFORE BE IT RESOLVED, that the Town does hereby accept Kennedy Street into the Town Street Maintenance System from US 421 to Olive Drive.

AND BE IT FURTHER RESOLVED, that the Town place “No Parking” signs on the North Side of the street.

Approved this the 3rd day of June, 2013.

BY: _____
Mike Inscore, Mayor

ATTEST: _____
James K. Byrd, Town Clerk

NORTH CAROLINA
WILKES COUNTY
TOWN OF WILKESBORO

**ORDINANCE CLOSING
A PORTION OF WINKLER STREET
WITHIN THE CORPORATE LIMITS OF THE
TOWN OF WILKESBORO**

The Town Council of the Town of Wilkesboro received a Petition under date of July 12, 2010, by the Town of Wilkesboro, by and through Michael Vestal Inscore, Mayor, requesting that the Town of Wilkesboro close a portion of Winkler Street within the corporate limits of the Town of Wilkesboro. Specifically, said Petition does request that a portion of said street which lies within the corporate limits of the Town of Wilkesboro be closed and is described as follows:

BEGINNING on an existing Rail Road Spike in the centerline of Secondary Road #1322 (Winkler Mill Road), said spike being located South 49° 17' East 59.26 feet from a Rail Road Spike in the northwestern end of the sixty (60) foot dedicated street (Db. 628, Pg. 74) leading to the Sheraton Hotel and Wilkes Mall and runs thence South 51° 12' 32" West 129.85 feet to a point in a curve curving to the right; thence as the curve on a Chord Bearing of South 72° 01' 10" West, a distance of 382.22 feet, a Radius of 610.89 feet, an Arc Length of 388.75 feet to a point in the southern boundary line of the Faw land, said point being in the northern edge of the right-of-way along U.S. Highway No. 421; thence as the right-of way of said highway, North 89° 45' West 410.08 feet to the southeast corner of the land conveyed to J.C. Faw et al in Db. 619, Pg. 202, WCR; thence as their eastern line, North 0° 15' East 30.00 feet; thence a new line, South 89° 45' East 410.08 feet to the point of curvature of a curve curving to the left, said curve having a Chord Bearing of North 72° 01' 10" East, a distance of 363.45 feet, a Radius of 580.89 feet, an Arc Length of 369.66 feet; thence a new line, North 33° 57' 29" East 102.93 feet to a point in the aforesaid S.R. #1322; thence as the Centerline of said road, South 65° 19' 21" East 67.62 feet to the point of Beginning, containing 0.667 Acre by D.M.D. as computed by R.H. Carpenter, R.L.S., L-1385 on March 27, 1986, and being in the southeastern portion of the lands conveyed to J.C. Faw by deed recorded in DB. 528, Pg. 560, WCR. Reference is made to the Antenuptial Agreement at Vol. 635, Page 160, WCR wherein Mrs. Faw released her marital rights.

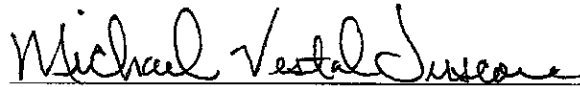
See Book 639, Page 386, Wilkes County Registry.

The Town of Wilkesboro passed a resolution on July 12, 2010, which directed that a hearing be held in declaring its intent to close a portion of the above described street. The Town of Wilkesboro has complied with the notice provisions of G.S. 160A-299 and did advertise in the Wilkes Journal-Patriot, a local newspaper of general circulation within the Town of Wilkesboro, that a hearing would be held on September 13, 2010, at 7:15 p.m. at the Town Hall of the Town of Wilkesboro, 203 West Main Street, Wilkesboro, North Carolina, and certified letters, return receipt requested have been mailed to adjoining and abutting property owners advising them of said request and their right to appear and be heard for or against said request to close the aforesaid portion of Winkler Street as set forth hereinabove and described.

The Town Council of the Town of Wilkesboro does hereby CLOSE the above described portion of Winkler Street as of September 13, 2010.

The Town of Wilkesboro reserves its right, title and interest in any and all utility improvements or easements within the above described property within the street which the Town of Wilkesboro has closed pursuant to G.S. 160A-296 and G.S. 160A-299.

This the 13th day of September, 2010.



Michael Vestal Inscore, Mayor
Town of Wilkesboro

ATTEST:


Josephine Cass, Town Clerk

NORTH CAROLINA
WILKES COUNTY
TOWN OF WILKESBORO

ORDINANCE CLOSING
A PORTION OF WINKLER STREET
WITHIN THE CORPORATE LIMITS OF THE
TOWN OF WILKESBORO

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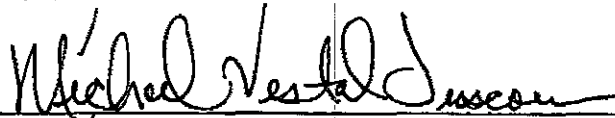
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The Town Council of the Town of Wilkesboro does hereby CLOSE the above described portion of Winkler Street as of September 13, 2010.

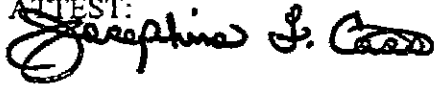
The Town of Wilkesboro reserves its right, title and interest in any and all utility improvements or easements within the above described property within the street which the Town of Wilkesboro has closed pursuant to G.S. 160A-296 and G.S. 160A-299.

This the 13th day of September, 2010.



Michael Vestal Inscore, Mayor
Town of Wilkesboro

ATTEST:



Josephine Cass, Town Clerk

AN ORDINANCE OF THE TOWN OF WILKESBORO, NORTH CAROLINA
ESTABLISHING A PARKS AND RECREATION ADVISORY COMMISSION.

- Section 1. Common Established. There is hereby established a Town of Wilkesboro Parks and Recreation Advisory Commission.
- Section 2. Duties of the Commission. The duties of the Parks and Recreation Advisory Commission is to work with the Town Board and the Parks and Recreation Department in establishing long-range plans for new park systems and for the development of new recreation programs, the evaluation of existing programs, and making recommendations regarding the Annual Operating Budget and Capital Improvements Plan request.
- Section 3. Composition, Appointment And Term Of Office Of Members. The Parks and Recreation Advisory Commission shall be made up of five (5) members appointed by the Town Board. The Parks and Recreation Director shall be a permanent non-voting member of the commission. The Town Board shall appoint a member of the Council to serve as a non-voting representative to the commission.
- All members shall be appointed for two year terms and shall hold their office until their successors are appointed and qualified. All terms will begin as of the first Town Board meeting in July of the year appointed unless the appointment is to fill the unexpired term of vacant position, in which case the appointment would be effective immediately.
- Section 4. Officers, Adoption Of Rules, Meetings. The Parks and Recreation Advisory Commission shall select from its membership it officers each year at its July meeting. The officers shall include a Chairman and Vice-Chairman. The Chairman, or Vice-Chairman, shall conduct the orderly business of the Commission. The Parks and Recreation Director shall be the Secretary and shall take minutes and cause the minutes to be printed and made available to the Town Board, Town Manager and members of the Parks and Recreation Advisory Commission each month.

The Commission may adopt rules and regulations covering its meetings as deemed necessary to conduct orderly business.

A quorum will be necessary to conduct official business. A simple majority of those present will be required to adopt resolutions.

The Parks and Recreation Advisory Commission will meet quarterly on the fourth Wednesday of the month, unless the Chairman shall declare the meeting cancelled for lack of business.

Members who miss more than two (2) of the scheduled meetings in any twelve month period may be removed from the Commission by the Town Board.

Section 5. Parks and Recreation Director. The Parks and Recreation Director shall act as Secretary and shall attend the meetings of the Parks and Recreation Advisory Commission as a non-voting member and in an advisory capacity only. The Director shall make a meeting room available for the Commission.

Section 6. Effective Date. This ordinance shall be effective upon its adoption.

I, Josephine Cass, Clerk, of the Town of Wilkesboro, do hereby certify that the foregoing is a true and correct copy of the excerpts from the Minutes of the meeting for the Board of Commissioners duly held on the 1st day of October, 2002

Witness, my hand and the official seal of said Municipality on this the 19th day of December, 2002.

Josephine Cass, Town Clerk

SEAL

NORTH CAROLINA
WILKES COUNTY
TOWN OF WILKESBORO

**CHAPTER 12, SECTION 12.47
AN ORDINANCE PERMITTING THE POSTING
OF SIGNS PROHIBITING THE CARRYING
OF CONCEALED WEAPONS ON CERTAIN
MUNICIPAL PROPERTY**

The Town Board of Commissioners of the Town of Wilkesboro at regularly scheduled meeting on Monday, June 5, 2000, does hereby enact Section 12.47 of Chapter 12 of the Wilkesboro Town Code permitting the posting of signs prohibiting the carrying of concealed weapons on certain municipal property.

WHEREAS, Chapter 398 of the 1995 Session Laws made changes to the laws governing concealed weapons by establishing a system that will allow private citizens to obtain permits to carry concealed handguns;

WHEREAS, this change will significantly increase the number of individuals who may legally carry concealed handguns;

WHEREAS, it is necessary to restrict the carrying of concealed handguns on certain Town property in order to protect the health and safety of municipal employees and the community at large;

WHEREAS, NCGS 14-415.23 authorizes municipalities to adopt ordinances to permit the posting of a prohibition against carrying a concealed handgun, in accordance with NCGS 14-415.11 (c), on local government buildings, their appurtenant premises, and parks; and

WHEREAS, it is the intent of this ordinance to direct the posting of municipal property such that, pursuant to NCGS 14-415.11 (c), the carrying of concealed handguns on posted premises will constitute a violation of NCGS Chapter 14, Article 54B;

NOW, THEREFORE, BE IT ORDAINED by the Town Board of Commissioners of the Town of Wilkesboro, North Carolina, that:

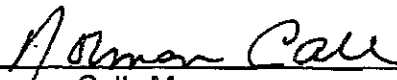
Section 1. Posting of Signs Required. The Town Manager of the Town of Wilkesboro is hereby authorized and instructed to post conspicuous signage at appropriate locations on or within each park and each building or portion of a building owned, leased as lessee, operated, occupied, managed or controlled by the Town of Wilkesboro, as well as the appurtenant premises to such buildings, indicating that carrying a concealed handgun is prohibited therein.

Section 2. Location of Signs. Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The Town Manager of the Town of Wilkesboro shall exercise discretion in determining the number and appropriate locations of signs to be placed on or within appurtenant premises and parks.

Section 3. Severability; Conflict of Laws. If this ordinance or application thereof to any person or circumstances is held invalid such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. Effective Date. This ordinance shall be effective on and after July 1, 2000.

ADOPTED THIS THE 5TH DAY OF JUNE, 2000.


Norman Call, Mayor

ATTEST:


Josephine Cass, Town Clerk

APPROVED AS TO FORM:

William C. Gray, Jr.
Town Attorney

Town of Wilkesboro

APPROVED

Sewer Use Ordinance

(SUO)

December 3, 2012

Sewer Use Ordinance
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SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the **Town of Wilkesboro**, hereafter referred to as the Town of Wilkesboro, and enables the Town of Wilkesboro to comply with all applicable State and Federal laws, including, the Clean Water Act (33 United States Code §1251 *et seq.*) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

- (a) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the State or otherwise be incompatible with the system;
- (c) To promote reuse and recycling of industrial wastewater and sludges from the municipal system;
- (d) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
- (e) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
- (f) To ensure that the municipality complies with its NPDES or Non-discharge Permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the municipal wastewater system is subject.

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to all users of the municipal wastewater system, as authorized by N.C.G.S. 160A-312 and/or 153A-275. The Town of Wilkesboro shall designate an administrator of the Publicly Owned Treatment Works or POTW and pretreatment program hereafter referred to as the POTW Director. Except as otherwise provided herein, the POTW Director shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or imposed upon the POTW Director may be delegated by the POTW Director to other Town of Wilkesboro personnel.

By discharging wastewater into the Town of Wilkesboro wastewater system, industrial users located outside the Town of Wilkesboro limits agree to comply with the terms and conditions established in this Ordinance, as well as any permits, enforcement actions, or orders issued hereunder.

1.2 Definitions and Abbreviations

- (a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:
 - (1) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251, *et seq.*
 - (2) Approval Authority. The Director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources or his designee.
 - (3) Authorized Representative of the Industrial User.
 - (i) If the industrial user is a corporation, authorized representative shall mean:
 - (A) the president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
 - (B) the manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25)

million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (ii) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
 - (iii) If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (iv) The individuals described in paragraphs i-iii above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to the Town of Wilkesboro.
 - (v) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to POTW Director prior to or together with any reports to be signed by an authorized representative.
- (4) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g. mg/l).
 - (5) Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.
 - (6) Bypass. The intentional diversion of waste streams from any portion of a user's treatment facility.
 - (7) Categorical Standards. National Categorical Pretreatment Standards or Pretreatment Standard.
 - (8) Control Authority. Refers to the POTW organization if the POTW organization's Pretreatment Program approval has not been withdrawn.
 - (9) Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
 - (10) Grab Sample. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
 - (11) Holding Tank Waste. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
 - (12) Indirect Discharge or Discharge. The discharge or the introduction from any nondomestic source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).
 - (13) Industrial User or User. Any person which is a source of indirect discharge.
 - (14) Interference. The inhibition, or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES, collection system, or Non-discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. §6901, *et seq.*), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any

State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

- (15) Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (16) National Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. §1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.
- (17) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section [2.1] of this ordinance and are developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.
- (18) New Source.
 - (1) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with section 307(c), provided that:
 - (A) the building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (B) the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (C) the production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
 - (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section [(1)(B)] or [(C)] above but otherwise alters, replaces, or adds to existing process or production equipment.
 - (3) For purposes of this definition, construction of a new source has commenced if the owner or operator has:
 - (A) Begun, or caused to begin, as part of a continuous on-site construction program:
 - 1. Any placement, assembly, or installation of facilities or equipment; or
 - 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (B) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.
- (19) Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

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- (20) National Pollution Discharge Elimination System, or NPDES, Permit. A permit issued pursuant to section 402 of the Act (33 U.S.C. §1342), or pursuant to N.C.G.S. 143-215.1 by the State under delegation from EPA.
- (21) Non-discharge Permit. A permit issued by the State pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the State.
- (22) Pass Through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the NPDES, collection system, or Non-discharge Permit.
- (23) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.
- (24) pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (25) Pollutant. Any "waste" as defined in N.C.G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).
- (26) POTW Director. The chief administrative officer of the Control Authority or his/her delegate.
- (27) POTW Treatment Plant. That portion of the POTW designed to provide treatment to wastewater.
- (28) Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW collection system and/or treatment plant. The reduction or alteration may be obtained by physical, chemical, or biological processes, or process changes or other means, except as prohibited by 40 CFR Part 403.6(d).
- (29) Pretreatment Program. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the Town of Wilkesboro in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.
- (30) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.
- (31) Pretreatment Standard. Any prohibited discharge standard, categorical standard or local limit which applies to an industrial user.
- (32) Publicly Owned Treatment Works (POTW) or Municipal Wastewater System. A treatment works as defined by section 212 of the Act, (33 U.S.C. §1292) which is owned in this instance by the Town of Wilkesboro. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the Town of Wilkesboro who are, by contract or agreement with the Town of Wilkesboro, or in any other way, users of the POTW of the Town of Wilkesboro.
- (33) Severe Property Damage. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the

absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

- (34) Significant Industrial User or SIU. An industrial user that discharges wastewater into a publicly owned treatment works and that:
- (A) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewaters); or
 - (B) contributes process wastewater which makes up five percent or more of the NPDES or Non-discharge permitted flow limit or five percent or more of the maximum allowable headworks loading of the POTW treatment plant for any POTW pollutant of concern; or
 - (C) is subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, Subchapter N, Parts 405-471; or
 - (D) is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any Pretreatment Standard or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for contributing to violations of the POTW's receiving stream standard, or for limiting the POTW's sludge disposal options.
 - (E) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraphs (A) and (B) above has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for contributing to violations of the POTW's receiving stream standard, or for limiting the POTW's sludge disposal options, and thus is not a Significant Industrial User.
 - (F) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraph (C) above meets the requirements of 40 CFR Part 403.3(v)(2) and thus is a Non-Significant Categorical Industrial User.
 - (G) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraph (C) above meets the requirements of 40 CFR Part 403.12(e)(3) and thus is a Middle Tier Significant Industrial User. Sampling and inspection requirements may be cut in half as per 40 CFR Parts 403.8 (f)(2)(v)(C).and 403.12 (e)(3).
- (35) Significant Noncompliance or SNC is the status of noncompliance of a Significant Industrial User when one or more of the following criteria are met. Additionally, any Industrial User which meets the criteria in Subparagraph (b)(35), Parts (C), (D), or (H) shall also be SNC.
- (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);
 - (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH);
 - (C) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority and/or POTW determines has

-
- caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (D) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the Control Authority's or the POTW's, if different from the Control Authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and Section [8.1(e)] of this SUO to halt or prevent such a discharge;
 - (E) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
 - (F) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.
 - (G) Failure to accurately report noncompliance.
 - (H) Any other violation or group of violations that the Control Authority and/or POTW determines will adversely affect the operation or implementation of the local pretreatment program.
- (36) **Slug Load or Discharge.** Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in section [2.1] of this ordinance.
 - (37) **Standard Industrial Classification (SIC).** A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.
 - (38) **Storm Water.** Any flow occurring during or following any form of natural precipitation and resulting there from.
 - (39) **Suspended Solids.** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
 - (40) **Upset.** An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
 - (41) **Wastewater.** The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.
 - (42) **Wastewater Permit.** As set forth in section [4.2] of this ordinance.
 - (43) **Waters of the State.** All streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.
- (b) This ordinance is gender neutral and the masculine gender shall include the feminine and vice-versa.
 - (c) Shall is mandatory; may is permissive or discretionary.
 - (d) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

(e) The following abbreviations, when used in this ordinance, shall have the designated meanings:

(1)	BOD	Biochemical Oxygen Demand
(2)	CFR	Code of Federal Regulations
(3)	COD	Chemical Oxygen Demand
(4)	EPA	Environmental Protection Agency
(5)	gpd	Gallons per day
(6)	l	Liter
(7)	mg	Milligrams
(8)	mg/l	Milligrams per liter
(9)	N.C.G.S.	North Carolina General Statutes
(10)	NPDES	National Pollution Discharge Elimination System
(11)	O & M	Operation and Maintenance
(12)	POTW	Publicly Owned Treatment Works
(13)	RCRA	Resource Conservation and Recovery Act
(14)	SIC	Standard Industrial Classification
(15)	SWDA	Solid Waste Disposal Act
(16)	TSS	Total Suspended Solids
(17)	TKN	Total Kjeldahl Nitrogen
(18)	U.S.C	United States Code.

SECTION 2 - GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

- (a) General Prohibitions. No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any National, State, or local pretreatment standards or requirements.
- (b) Specific Prohibitions. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
 - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
 - (2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one half inch (1/2") in any dimension.
 - (3) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
 - (4) Any wastewater having a pH less than 5.0 or more than 10.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
 - (5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
 - (6) Any wastewater having a temperature greater than 150° F (66° C), or which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).
 - (7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
 - (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with section [2.9] of this ordinance.
 - (9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
 - (10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.
 - (11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
 - (12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable State or Federal regulations.
 - (13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director.

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- (14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l unless authorized by the POTW Director.
 - (15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
 - (16) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit.
 - (17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
 - (18) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director.
 - (19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200.
 - (20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
 - (21) Recognizable portions of the human or animal anatomy.
 - (22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
 - (23) At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.

Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

When the POTW Director determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass through, the POTW Director shall:

- 1) advise the user(s) of the potential impact of the contribution on the POTW in accordance with section [8.1]; and
- 2) take appropriate actions in accordance with section [4] for such user to protect the POTW from interference or pass through.

2.2 National Categorical Pretreatment Standards

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

- (a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- (c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
- (e) A user may request a removal credit adjustment to a categorical standard in accordance with 40 CFR 403.7.

2.3 Local Limits

An industrial waste survey is required prior to a User discharging wastewater containing in excess of the following average discharge limits.

BOD	300	mg/l	
TSS	300	mg/l	
NH ₃	25	mg/l	
Arsenic	0.000*	mg/l	
Cadmium	0.04	mg/l	
Chromium	0.4	mg/l	(total chromium)
Copper	0.1	mg/l	
Cyanide	0.000*	mg/l	
Lead	0.1	mg/l	
Mercury	0.000*	mg/l	
Nickel	0.01	mg/l	
Silver	0.000*	mg/l	
Zinc	0.5	mg/l	

*no limits, will be monitored only

Industrial Waste Survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading are not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The POTW Director may impose mass based limits in addition to, or in place of concentration based limits.

2.4 State Requirements

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

2.5 Right of Revision

The Town of Wilkesboro reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulation if deemed necessary to comply with the objectives presented in section [1.1] of this ordinance or the general and specific prohibitions in section [2.1] of this ordinance, as is allowed by 40 CFR 403.4.

2.6 Dilution

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the Town of Wilkesboro or State.

2.7 Pretreatment of Wastewater

(a) Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under section [4.2] of this ordinance and shall achieve compliance with all National categorical pretreatment standards, local limits, and the prohibitions set out in section [2.1] of this ordinance within the time limitations as specified by EPA, the State, or the POTW Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Town of Wilkesboro for review, and shall be approved by the POTW Director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Town of Wilkesboro under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.

(b) Additional Pretreatment Measures

- (1) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only

into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.

- (2) The POTW Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

2.8 Accidental Discharge/Slug Control Plans

- (a) The POTW Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Section [1.2(a) (36)]. All SIUs must be evaluated within one year of being designated an SIU. The POTW Director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the POTW Director may develop such a plan for any user.
- (b) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see Sections 5.5 and 5.6.
- (c) An accidental discharge/slug control plan shall address, at a minimum, the following:
 - (1) Description of discharge practices, including non-routine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by section [5.6] of this ordinance; and
 - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

2.9 Hauled Wastewater

- (a) Septic tank waste may be introduced into the POTW only at locations designated by the POTW Director, and at such times as are established by the POTW Director. Such waste shall not violate section [2] of this ordinance or any other requirements established by the Town of Wilkesboro. The POTW Director may require septic tank waste haulers to obtain wastewater discharge permits.
- (b) The POTW Director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
- (c) Industrial waste haulers may discharge loads only at locations designated by the POTW Director. No load may be discharged without prior consent of the POTW Director. The POTW Director may collect samples of each hauled load to ensure compliance with applicable standards. The POTW Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

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- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

SECTION 3 - FEES

3.1 Purpose

It is the purpose of this chapter to provide for the recovery of costs from users of the wastewater disposal system of the Town of Wilkesboro for the implementation of the program established herein. The applicable charges or fees shall be set forth in a schedule of sewer use charges and fees by the POTW Director and approved by the Town of Wilkesboro Board. A copy of these charges and fees will be made available from the POTW Director.

3.2 User Charges

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

- (a) The user charge shall reflect, at least, the cost of debt service, operation and maintenance (including replacement) of the POTW.
- (b) Each user shall pay its proportionate cost based on volume of flow.
- (c) The Manager of the Town of Wilkesboro shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the Council or Board serving the Town of Wilkesboro for adjustments in the schedule of charges and fees as necessary.
- (d) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

3.3 Surcharges: The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater:

- (a) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:
 - (1) Metered water consumption as shown in the records of meter readings maintained by the Town of Wilkesboro; or
 - (2) If required by the Town of Wilkesboro or at the individual discharger's option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the Town of Wilkesboro. The metering system shall be installed and maintained at the user's expense according to arrangements that may be made with the Town of Wilkesboro.
 - (3) Where any user procures all or part of his or her water supply from sources other than the Town of Wilkesboro, the user shall install and maintain at his or her own expense a flow measuring device of a type approved by the Town of Wilkesboro.
- (b) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the Town of Wilkesboro. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.
- (c) The determination of the character and concentration of the constituents of the wastewater discharge by the POTW Director or his duly appointed representatives shall be binding as a basis for charges.

3.4 Pretreatment Program Administration Charges

The schedule of charges and fees adopted by the Town of Wilkesboro may include charges and fees for:

- (a) reimbursement of costs of setting up and operating the Pretreatment Program;
- (b) monitoring, inspections and surveillance procedures;
- (c) reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- (d) permitting;
- (e) other fees as the Town of Wilkesboro may deem necessary to carry out the requirements of the Pretreatment Program.

SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE

4.1 Wastewater Dischargers

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the Town of Wilkesboro. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within [thirty (30)] days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

4.2 Wastewater Permits

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the POTW Director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW Director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the POTW Director be required to obtain a wastewater discharge permit for non-significant industrial users.

(a) Significant Industrial User Determination

All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the POTW Director a significant industrial user determination. If the POTW Director determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.

(b) Significant Industrial User Permit Application

Users required to obtain a significant industrial user permit shall complete and file with the Town of Wilkesboro, an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW Director's determination in [4.2(a)] above. The application shall include at a minimum:

- (A) name of industrial user;
- (B) address (and location if different from address) of industrial user;
- (C) standard industrial classification (SIC) code(s) or expected classification and industrial user category;
- (D) wastewater flow;
- (E) types and concentrations (or mass) of pollutants contained in the discharge;
- (F) major products manufactured or services supplied;
- (G) description of existing on-site pretreatment facilities and practices;
- (H) locations of discharge points;
- (I) raw materials used or stored at the site;
- (J) flow diagram or sewer map for the industrial user;
- (K) number of employees;
- (L) operation and production schedules; and
- (M) description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g);

In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in section [2] of this ordinance, any of the priority pollutants (section 307(a) of the Act) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, Part 136, as amended and as required in Section 5.10 and 5.11;
- (2) Time and duration of the indirect discharge;

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- (3) Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
 - (4) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation;
 - (5) Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;
 - (6) Where known, the nature and concentration of any pollutants in the discharge which are limited by any Town of Wilkesboro, State, or Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
 - (7) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:
 - (i) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine (9) months.
 - (ii) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW Director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.
 - (8) Each product produced by type, amount, process or processes and rate of production;
 - (9) Type and amount of raw materials processed (average and maximum per day);
 - (10) If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and 15A NCAC 2H .0908(a), as outlined in section [5.1] of this ordinance.
 - (11) Any other information as may be deemed by the POTW Director to be necessary to evaluate the permit application.
- (c) **Application Signatories and Certification**
All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the Control Authority and/or Municipality as defined in Section [1.2(a)(3)] and contain the following certification statement:
- “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”
- (d) **Application Review and Evaluation**
The POTW Director will evaluate the data furnished by the user and may require additional information.

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- (1) The POTW Director is authorized to accept applications for the Town of Wilkesboro and shall refer all applications to the POTW staff for review and evaluation.
 - (2) Within 30 days of receipt the POTW Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.
 - (e) Tentative Determination and Draft Permit
 - (1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
 - (2) If the staff's tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing:
 - (A) proposed discharge limitations for those pollutants proposed to be limited;
 - (B) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
 - (C) a brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
 - (3) The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the general permit conditions of the Town of Wilkesboro into a significant industrial user permit.
 - (f) Permit supporting documentation. The Control Authority staff shall prepare the following documents for all Significant Industrial User permits.
 - (1) An allocation table (AT) listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the Division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.
 - (2) The basis, or rationale, for the pretreatment limitations, including the following:
 - (A) documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and
 - (B) documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).
 - (g) Final Action on Significant Industrial User Permit Applications
 - (1) The POTW Director shall take final action on all applications not later than 90 days following receipt of a complete application.
 - (2) The POTW Director is authorized to:
 - (A) issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and N.C.G.S. 143-215.1;
 - (B) issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
 - (C) modify any permit upon not less than 60 days' notice and pursuant to section [4.2(i)] of this ordinance;
 - (D) revoke any permit pursuant to section [8.1] of this ordinance;
 - (E) suspend a permit pursuant to section [8.1] of this Ordinance;
 - (F) deny a permit application when in the opinion of the POTW Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.
 - (h) Permit Modification
 - (1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

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- (A) changes in the ownership of the discharge when no other change in the permit is indicated,
 - (B) a single modification of any compliance schedule not in excess of four months,
 - (C) modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
 - (2) Within 9 months of the promulgation of a National categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by section [4.2(b)], the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National categorical pretreatment standard.
 - (3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.
- (i) Permit Conditions
- (1) The POTW Director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and N.C.G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
 - (A) a statement of duration (in no case more than five years);
 - (B) a statement of non-transferability;
 - (C) applicable effluent limits based on categorical standards or local limits or both;
 - (D) applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
 - (E) requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in Section [1.2(a)(36)];
 - (F) requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Section [1.2(a)(36)], if determined by the **POTW Director** to be necessary for the User and,
 - (G) requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in [1.2(a) (36)]. Also see Sections [5.5 and 5.6];
 - (H) a statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
 - (2) In addition, permits may contain, but are not limited to, the following:
 - (A) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
 - (B) Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
 - (C) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 - (D) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
 - (E) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
 - (F) Requirements for installation and maintenance of inspection and sampling facilities and equipment.

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- (G) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
 - (H) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
 - (I) Compliance schedules for meeting pretreatment standards and requirements.
 - (J) Requirements for submission of periodic self-monitoring or special notification reports.
 - (K) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in section [5.13] and affording the POTW Director, or his representatives, access thereto.
 - (L) Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
 - (M) Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee.
 - (N) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the terms of the permit.
 - (O) Other conditions as deemed appropriate by the POTW Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.
- (j) Permit Duration
- Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
- (k) Permit Transfer
- Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
- (l) Permit Reissuance
- A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with section [4.2] a minimum of 180 days prior to the expiration of the existing permit.

SECTION 5 - REPORTING REQUIREMENTS

5.1 Baseline Monitoring Reports

- (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW Director a report which contains the information listed in paragraph [(b)], below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW Director a report which contains the information listed in paragraph [(b)], below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (b) Users described above shall submit the information set forth below.
 - (1) Identifying Information. The name and address of the facility, including the name of the operator and owner.
 - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
 - (5) Measurement of Pollutants.
 - (A) The categorical pretreatment standards applicable to each regulated process.
 - (B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section [5.10] of this ordinance.
 - (C) Sampling must be performed in accordance with procedures set out in section [5.11] of this ordinance and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g) (4).
 - (6) Certification. A statement, reviewed by the user's current authorized representative as defined in Section [1.2(a)(3)] and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
 - (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section [5.2] of this ordinance.
 - (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with section [4.2(c)] of this ordinance.

5.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by section [5.1(b) (7)] of this ordinance:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;
- (c) The user shall submit a progress report to the POTW Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (d) In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.

5.3 Reports on Compliance with Categorical Pretreatment Standard, Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in section [5.1(b) (4-6)] of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section [4.2(c)] of this ordinance.

5.4 Periodic Compliance Reports

Municipalities may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

- (a) All significant industrial users shall, at a frequency determined by the POTW Director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in section [5.10 and 5.11] of this ordinance. All periodic compliance reports must be signed and certified in accordance with section [4.2(c)] of this ordinance.
- (b) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in section [5.10 and 5.11] of this ordinance, the results of this monitoring shall be included in the report.

5.5 Reports of Changed Conditions

Each user must notify the POTW Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least [thirty (30)] days before the change. The permittee shall not begin the changes until receiving written approval from the Control Authority and/or Municipality. See Section 5.6(d) for other reporting requirements.

- (a) The POTW Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section [4.2] of this ordinance.
- (b) The POTW Director may issue a wastewater discharge permit under section [4.2] of this ordinance or modify an existing wastewater discharge permit under section [4.2] of this ordinance in response to changed conditions or anticipated changed conditions.
- (c) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants; increases or decreases to production; increases in discharge of previously reported pollutants; discharge of pollutants not previously reported to the Control Authority

and/or Municipality; new or changed product lines; new or changed manufacturing processes and/or chemicals; or new or changed customers.

5.6 Reports of Potential Problems

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section [1.2(a)(36)], that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five (5) days following such discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- (d) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section [1.2(a)(36)].

5.7 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require.

All users classified as Non-Significant Categorical Industrial Users under Section [1.2(a) (34) (F)] shall provide appropriate reports to the POTW Director as the POTW Director may require. At a minimum, this shall include the Annual Certification of continuing to meet the Non-Significant Categorical Industrial User criteria as required under 40 CFR 403.12(q).

5.8 Notice of Violation/Repeat Sampling and Reporting

- (a) If sampling performed by a user indicates a violation, the user must notify the POTW Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within thirty (30) days after becoming aware of the violation. If allowed by the POTW Director, the user is not required to resample:
 - (1) if the POTW Director monitors at the user's facility at least once a month; or
 - (2) if the POTW Director samples between the user's initial sampling and when the user receives the results of this sampling.
- (b) If the POTW Director has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the POTW Director shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:
 - (1) the POTW Director monitors at the user's facility at least once a month; or
 - (2) the POTW Director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
 - (3) the POTW Director requires the user to perform sampling and submit the results to the POTW Director within the 30 day deadline of the POTW becoming aware of the violation.

5.9 Notification of the Discharge of Hazardous Waste

The Town of Wilkesboro prohibits the discharge of any hazardous wastes without notification to and approval by the POTW Director.

- (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 180 days before the discharge commences. The user shall not begin the discharge until receiving written approval from the Town of Wilkesboro. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under section [5.5] of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections [5.1, 5.3, and 5.4] of this ordinance.
- (b) Dischargers are exempt from the requirements of paragraph [(a)], above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (c) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

5.10 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analyses in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard or unless otherwise performed in accordance with procedures approved by EPA or Town of Wilkesboro. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and Town of Wilkesboro.

5.11 Grab and Composite Sample Collection

- (a) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

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- (b) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the User's discharge. See 40 CFR 403.12(g) (5) for additional grab sample number requirements for BMR and 90 Day Compliance Reports. Additionally, the POTW Director may allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.
 - (c) Composite Samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW Director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

5.12 Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

5.13 Record Keeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Town of Wilkesboro, or where the user has been specifically notified of a longer retention period by the POTW Director.

5.14 Electronic Reporting

The POTW Director may develop procedures for receipt of electronic reports for any reporting requirements of this Ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under Section 8 of this Ordinance.

SECTION 6 - COMPLIANCE MONITORING

6.1 Monitoring Facilities

The Town of Wilkesboro requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the Town of Wilkesboro may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the requirements of the Town of Wilkesboro and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the Town of Wilkesboro.

6.2 Inspection and Sampling

The Town of Wilkesboro will inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Town of Wilkesboro, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The Town of Wilkesboro, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the Town of Wilkesboro, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the Town of Wilkesboro's, approval authority's, or EPA's access to the user's premises shall be a violation of this ordinance. Unreasonable delays may constitute denial of access.

6.3 Search Warrants

If the Town of Wilkesboro, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town of Wilkesboro designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town of Wilkesboro, approval authority, or EPA may seek issuance of a search warrant from the court having jurisdiction within the Town of Wilkesboro.

SECTION 7 - CONFIDENTIAL INFORMATION

(a) Information and data provided by an industrial user to the POTW Director pursuant to this ordinance identifying the nature and frequency of a discharge, shall be available to the public without restriction. All other information which may be so submitted by an industrial user to the POTW Director in connection with any required reports shall also be available to the public unless the industrial user or other interested person specifically identifies the information as confidential upon submission and is able to demonstrate to the satisfaction of the POTW Director that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.

(b) Information provided by an industrial user to the POTW Director that is determined to be entitled to confidential treatment shall be made available upon written request to the Division of Water Quality or any state agency for uses related to the Pretreatment Program, the National Pollutant Discharge Elimination System (NPDES) Permit, collection system permit, stormwater permit, and/or Non-discharge permit, and for uses related to judicial review or enforcement proceedings involving the person furnishing the report.

(c) Information and data received by the Division or other state agency under paragraph (b) above shall be subject to the processes set forth in G.S. 143-215.3C.

SECTION 8 - ENFORCEMENT

8.1 Administrative Remedies

(a) Notification of Violation

Whenever the POTW Director finds that any industrial user has violated or is violating this Ordinance, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the POTW Director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the Town of Wilkesboro by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent Orders

The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to section [8.1(d)], below.

(c) Show Cause Hearing

The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this ordinance or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under section [8.2] nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under section [10].

(d) Administrative Orders

When the POTW Director finds that an industrial user has violated or continues to violate this ordinance, permits or orders issued hereunder, or any other pretreatment requirement the POTW Director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

- (1) Immediately comply with all requirements;
- (2) Comply in accordance with a compliance time schedule set forth in the order;
- (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
- (4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(e) Emergency Suspensions

The POTW Director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or Non-discharge permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Director prior to the date of the above-described hearing.

(f) Termination of Permit or Permission to Discharge

The POTW Director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

- (1) Failure to accurately report the wastewater constituents and characteristics of his discharge;
- (2) Failure to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
- (4) Violation of conditions of the permit or permission to discharge, conditions of this ordinance, or any applicable State and Federal regulations.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under section [8.1] of this ordinance why the proposed action should not be taken.

8.2 Civil Penalties

- (a) Any user who is found to have failed to comply with any provision of this ordinance, or the orders, rules, regulations and permits issued hereunder, may assessed a civil penalty of up to twenty-five thousand dollars (\$25,000) per day per violation.
 - (1) Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:
 - (A) For any class of violation, only if a civil penalty has been imposed against the violator with in the five years preceding the violation, or
 - (B) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.
- (b) In determining the amount of the civil penalty, the POTW Director shall consider the following:
 - (1) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
 - (2) The duration and gravity of the violation;
 - (3) The effect on ground or surface water quantity or quality or on air quality;
 - (4) The cost of rectifying the damage;
 - (5) The amount of money saved by noncompliance;
 - (6) Whether the violation was committed willfully or intentionally;
 - (7) The prior record of the violator in complying or failing to comply with the pretreatment program;
 - (8) The costs of enforcement to the Town of Wilkesboro.

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- (c) Appeals of civil penalties assessed in accordance with this section shall be as provided in section [10].

8.3 Other Available Remedies

Remedies, in addition to those previously mentioned in this ordinance, and are available to the POTW Director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

(a) Criminal Violations.

The District Attorney for the applicable Judicial District may, at the request of the Town of Wilkesboro, prosecute noncompliant users who violate the provisions of N.C.G.S. 143-215.6B. [Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. 143-215.6B(i)).]

(b) Injunctive Relief

Whenever a user is in violation of the provisions of this ordinance or an order or permit issued hereunder, the POTW Director, through the City Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

(c) Water Supply Severance

Whenever an industrial user is in violation of the provisions of this ordinance or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.

(d) Public Nuisances

Any violation of the prohibitions or effluent limitations of this ordinance or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of the Town of Wilkesboro governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

8.4 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The POTW Director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town of Wilkesboro's enforcement response plan. However, the POTW Director may take other action against any user when the circumstances warrant. Further, the POTW Director is empowered to take more than one enforcement action against any noncompliant user.

SECTION 9 - ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE

At least annually, the POTW Director shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance, in 15A NCAC 2H .0903(b)(34), with applicable pretreatment standards and requirements, during the previous 12 months.

SECTION 10 – ADJUDICATORY HEARINGS

- (a) Judicial Review. An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under section [8.2], or one issued an

administrative order under section [8.1] may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Wilkes County within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, along with a copy to the Town of Wilkesboro. Within [30] days after receipt of the copy of the petition of judicial review, the [Council or Board] serving the Town of Wilkesboro shall transmit to the reviewing court the original or a certified copy of the official record of their decision.

SECTION 11 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

11.1 Upset

- (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b), below, are met.
- (b) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the POTW Director within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
 - (A) A description of the indirect discharge and cause of noncompliance;
 - (B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (e) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

11.2 Prohibited Discharge Standards Defense

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section [2.1 (a)] of this ordinance or the specific prohibitions in sections [2.1(b)(2), (3), and (5 - 7) and (9-23)] of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Town of Wilkesboro was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

11.3 Bypass

- (a) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs [(b)] and [(c)] of this section.

(b)

- (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director, at least ten (10) days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the POTW Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(c)

- (1) Bypass is prohibited, and the POTW Director may take an enforcement action against a user for a bypass, unless
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (C) The user submitted notices as required under paragraph (b) of this section.
- (2) The POTW Director may approve an anticipated bypass, after considering its adverse effects, if the POTW Director determines that it will meet the three conditions listed in paragraph [(c)(1)] of this section.

SECTION 12 - SEVERABILITY

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

SECTION 13- CONFLICT

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 14 - EFFECTIVE DATE

This ordinance shall be in full force and effect on the 3rd day of December, 2012.

INTRODUCED the ____ day of _____, 19__.

FIRST READING: _____, 19__.

SECOND READING: _____, 19__.

PASSED this 3rd day of December, 2012.


AYES: _____

NAYS: _____

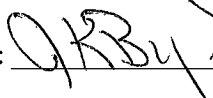
ABSENT: _____

NOT VOTING:

APPROVED this 3rd day of December, 2012.



MAYOR, of the Town of Wilkesboro

ATTEST:  (Seal) City Clerk

Published the ____ day of _____, 19__.



Ordinance 2012-3

(Amending Chapter 74 – Traffic Schedules)

Schedule I: Speed Limits

Upon approval of this ordinance the speed limit on South Street, from West Street to Woodland Boulevard, shall be 20 mph.

Upon approval of this ordinance the speed limit on Henderson Drive, from West Street to the intersection of Woodland Boulevard and College Street, shall be 20 mph.

Schedule II: Traffic Control Devices

Upon approval of this ordinance speed limits signs shall be erected along the right of way of South Street and Henderson Drive.

Approved this the 3rd day of December 2012 by the Wilkesboro Town Council.

BY: _____
Mike Inscore, Mayor

ATTEST: _____
James K. Byrd, Town Clerk

NORTH CAROLINA
WILKES COUNTY
TOWN OF WILKESBORO

**RESOLUTION OF INTENT TO AMEND
THE WILKESBORO TOWN CHARTER
BY ORDINANCE**

The Town Board of Commissioners of the Town of Wilkesboro does hereby adopt a Resolution of Intent to consider an ordinance amending Section 2 of the Town Charter. The Resolution of Intent to the proposed amendments would be to repeal Section 2 – Town Government of the Charter which states as follows:

“The administration and government of said Town shall be vested in one principal officer to be styled the Mayor, a board of four Commissioners and such other officers as are hereinafter provided for.”

The proposed amendment would be to adopt a Council-Manager form of government pursuant to G.S. 160A-101(9)b. Wherein, “The city shall operate under the Council-Manager form of government in accordance with Part 2 of Article 7 of this chapter and any charter provisions not in conflict therewith.”

Further, in accordance with G.S. 160A-101(3) the governing board shall be styled the Town Council.

THIS the 4th day of April, 2006.

Norman Call, Mayor
On behalf of the Town Board of Commissioners of
The Town of Wilkesboro

ATTEST:

Josephine Cass, Town Clerk

NORTH CAROLINA
WILKES COUNTY
TOWN OF WILKESBORO

ORDINANCE TO AMEND
THE WILKESBORO TOWN CHARTER

On April 4, 2006, the Town Board of Commissioners adopted a Resolution of Intent to Consider an Ordinance Amending Section 2 of the Town Charter and further in accordance with G.S. 160A-101(3) gave notice of intent to amend the governing board to be styled the Town Council. Thereafter, a Notice of Public Hearing was published in the *Wilkes Journal-Patriot* on April 19, 2006. The *Wilkes Journal-Patriot* is a newspaper of general circulation within the Town of Wilkesboro and the County of Wilkes. A public hearing was held on this matter on May 1, 2006, at 7:20 p.m.

THEREFORE, the Town Board of Commissioners of the Town of Wilkesboro does hereby adopt this Ordinance amending Section 2 of the Town Charter. By this Ordinance Section 2 of the Town Charter – Town Government of the Charter which states as is set forth below is hereby repealed:

“The administration and government of said Town shall be vested in one principal officer to be styled the Mayor, and four Commissioners and such other officers as are hereinafter provided for.”

By this Ordinance the Town Board of Commissioners does hereby adopt a Council-Manager form of government pursuant to G.S. 160A-101(9)b. Wherein, “The city shall operate under the Council-Manager form of government in accordance with Part 2 of Article 7 of this chapter and any charter provisions not in conflict therewith.” The Town Manager shall appoint the Chief of Police with the advice of the Mayor and Town Council.

Further, in accordance with G.S. 160A-101(3) by this Ordinance the governing board shall be styled the Town Council.

THIS the 5th day of June, 2006.

Norman Call, Mayor
On behalf of the Town Council of
The Town of Wilkesboro

ATTEST:

Josephine Cass, Town Clerk

- § 52. Recovery of penalties.
- § 53. Omitted.
- § 54. Violation of ordinance a misdemeanor.
- § 55. No increase or diminution of salary during term.
- § 56. Vagrants.
- § 57. Omitted.
- § 58. Repeal of conflicting laws.

Sec. 1. Town boundaries.

That the inhabitants of the Town of Wilkesboro, living within the territory bounded as follows, viz.: Beginning on the south bank of the Yadkin River at the iron bridge, running westwardly with the base of the hill on to a poplar and three white oaks at a spring in the edge of Col. E. J. Cowles' bottom; thence same general course to a large red oak on bank of old Jefferson Road at the top of the Curtis Hill; thence across said road southwest to a white walnut, J. M. Walton and L. T. Pruette's corner; thence southwardly across the river road on to a bunch of dogwoods in D. E. Smoak's line; thence eastwardly to a red oak on the old Burke Road; thence across the same, including C. H. Craven's lot, to a stake at I. S. Call's gate on the ridge above his barn; thence east to bend of mountain road near Wm. Harris, and on east with said road, including James Harris et al., on to a large poplar and Spanish oak on east bank of Still-house Branch; thence down said branch to Cob Creek, and down the same to a birch on north bank of said creek south of J. P. Rousseau's house; thence north to the base of hill; thence eastwardly with the base of said hill to the old Salem Road; thence across same with base of hill in Capt. J. T. Peden's bottom and north to a sycamore on the bank of Yadkin River; thence up said river to the beginning, containing the Town of Wilkesboro.

Sec. 2. Town government.

The Town Board of Commissioners does hereby adopt a Council-Manager form of government pursuant to G.S. 160A-101(9)b. Wherein, "The city shall operate under the Council-Manager form of government in accordance with Part 2 of Article 7 of this chapter and any charter provisions not in conflict therewith." The Town Manger shall appoint the Chief of Police with the advice of Mayor and Town Council.

Further, in accordance with G.S. 160A-101(3), the governing board shall be styled the Town Council.

Editor's note:

This section was amended by the Town Board of Commissioners by ordinance with the intent to amend the governing board to be styled the Town Council. Said ordinance was passed on June 5, 2006.

Secs. 3 to 10. Omitted.

Ordinance Amendment 2014-1

Resolution to Amend Section
§ 97.02 (A) Management of Cemeteries
Of the Wilkesboro Town Code of Ordinances

The Town Council of the Town of Wilkesboro does hereby adopt a Resolution to Amend section § 97.02 (A) of the Town of Wilkesboro, Town Code of Ordinances. The proposed amendment would alter the language to allow for non-citizens of Wilkesboro to sit on the Cemetery Committee, as long as, the majority of the members are Wilkesboro citizens.

The ordinance would be altered to read:

“The power of decision-making shall rest in the Cemetery Committee. This Board shall be comprised of four (4) voting members and one (1) Town Council, providing that a majority of members are Wilkesboro citizens. The Town Manager and the Town Attorney shall be ex officio members of the Committee and shall be present at each meeting. The Cemetery Administrator shall be present at each meeting as well and must enact decisions made by the Cemetery Committee.”

Adopted this the 6th day of January, 2014.

BY: _____
Mike Inscore, Mayor

ATTEST: _____
James K. Byrd, Town Clerk

ORDINANCE 2014-02

AN ORDINANCE CONCERNING NON-RESIDENTIAL BUILDING OR STRUCTURE STANDARDS; ENACTING CHAPTER 155 OF THE CODE OF ORDINANCES OF THE TOWN OF WILKESBORO

WHEREAS, Article 8 of Chapter 160A of the North Carolina General Statutes, N.C.G.S. 160A-174, et seq., delegates to municipalities the authority to exercise the general police power; and

WHEREAS, Part 6 of Article 19 of the North Carolina General Statutes, N.C.G.S. 160A-439, authorizes municipalities to provide for the repair, closing or demolition of Non-Residential buildings or structures;

WHEREAS, N.C.G.S. 160A-193 authorizes municipalities to summarily remedy, abate or remove public health nuisances; and

WHEREAS, the Town of Wilkesboro Town Council finds that it is in the public interest to enact and establish Chapter 156 of the Town's Code of Ordinances to provide more specificity as to the requirements for regulating Non-Residential buildings or structures; and

WHEREAS, the Town of Wilkesboro Town Council, after due notice, conducted a public hearing on the 7th day of April 2014, upon the question of amending the Town Code in this respect.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL, THE TOWN OF WILKESBORO, NORTH CAROLINA, MEETING IN REGULAR SESSION AND WITH A MAJORITY OF THE COUNCIL MEMBERS VOTING IN THE AFFIRMATIVE:

PART ONE. That Title XV, Land Usage, Chapter 155, NON-RESIDENTIAL BUILDING AND STRUCTURE STANDARDS, of the Code of Ordinances, Town of Wilkesboro, North Carolina, is hereby established and written to read as follows:

"CHAPTER 155, NON-RESIDENTIAL BUILDING OR STRUCTURE STANDARDS

Section 155.01 Title.

This Chapter shall be known as the "Non-Residential Building or Structure Standards" for the Town of Wilkesboro, and may be cited as such, and will be referred to hereinafter as "this Chapter."

Section 155.02 Purpose.

It is the purpose of the provisions of this Chapter to provide a just, equitable and practicable method to evaluate whether non-residential buildings or structures fail to meet minimum standards of maintenance, sanitation, and safety established by the Town. The minimum standards address conditions that are dangerous and injurious to public health, safety, and welfare and identify circumstances under which a public necessity exists for the repair, closing, or demolition of such

buildings or structures. The provisions of this Chapter are cumulative with and in addition to any other remedy provided by law including the current editions of standard codes adopted by the Town of Wilkesboro.

Section 155.03 Findings; Authority.

Pursuant to Chapter 160A-439 of the General Statutes of North Carolina, it is hereby found and declared that there exist in the Town non-residential buildings or structures which are unsafe and especially dangerous to life because of liability to fire or because of bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating systems, inadequate means of egress and other causes.

In addition, it is hereby found and declared, that there exist in the Town non-residential buildings or structures which, although not meeting the classification of unsafe and especially dangerous to life, fail to fully comply with all the minimum standards for non-residential buildings or structures fitness as established herein and, therefore, have present one or more conditions which are inimical to the public health, safety and general welfare. Such conditions, if not corrected, can lead to deterioration and dilapidation of non-residential buildings or structures which render them unsafe and especially dangerous to life.

Section 155.04 Scope; Jurisdiction.

The provisions of this Chapter shall apply to all existing non-residential buildings or structures and to all non-residential buildings or structures hereafter constructed within the corporate Town limits as now or hereafter established.

Section 155.05 General Definitions and Interpretations.

Unless specifically defined in Section 155.06, words used in the Non-Residential Building or Structure Standards shall have their respective customary dictionary definitions. For the purpose of these regulations certain words, terms or phrases used herein are interpreted and defined as follows:

Words used in the **present tense** shall include the **future tense**.

Words used in the **singular** shall include the **plural** and words used in the **plural** shall include the **singular**.

The words "**shall**" and "**will**" always indicate **MANDATORY**. The words "**should**" and "**may**" always indicate **OPTIONAL**.

The word "**lot**" includes the words "**plot**" and/or "**parcel**".

The word "**building**" includes the word "**structure**".

The word "**person**" includes a "**firm, association, organization, partnership, trust, company, corporation and/or individual**".

The word "**use**" includes the terms "**arranged, designed, and/or intended**" for a use, activity and/or purpose.

The term "**Board of Adjustment**" shall always indicate the **BOARD OF ADJUSTMENT OF THE TOWN OF WILKESBORO, NORTH CAROLINA** as created and appointed by the Town Council of the Town of Wilkesboro.

The term "**Town Council**" shall always indicate the **TOWN COUNCIL OF THE TOWN OF WILKESBORO, NORTH CAROLINA**.

Section 155.06 Special Definitions and Interpretations.

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

Building: Any covered structure intended for shelter, housing or enclosure of persons, animals, facilities, equipment or chattels; the term Building shall be construed to include the term Structure; furthermore, it shall be construed as if followed by the term or part thereof.

Building, Accessory: A detached subordinate building located on a lot, parcel or tract whose use is incidental to that of the principal building. A building cannot be considered accessory unless it accompanies a principal building on the same lot, parcel or tract.

Building, Principal: A building in which the principal use of the lot, parcel or tract is conducted.

Building Code: The North Carolina State Building Code.

Deterioration: The condition of a building or part thereof, characterized by holes, breaks, rot, crumbling, rusting, peeling paint or other evidence of physical decay or loss of structural integrity.

Fire Hazard: (see also **Nuisance**) Any thing or act which increases, or may cause an increase of, the hazard, likelihood or menace of fire to a greater degree than reasonable for the conduct of the non-residential use on the premises, or which may unreasonably obstruct, delay, or hinder, or may unreasonably become the cause of an obstruction, a delay, a hazard or an unreasonable hindrance to the prevention, suppression or extinguishment of fire.

Garbage: The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Infestation: The haunting or overrunning by rats, snakes, birds, insects or other destructive vermin or animals that endanger the public health and safety.

Non-Residential Building or Structures Standards Inspector: The person delegated as such by the Town Council of the Town of Wilkesboro. (Hereinafter referred to as "the Inspector".)

Nuisance:

- 1) Any public nuisance known as common law or in equity jurisprudence, or as provided by the statutes of the State of North Carolina, or the ordinances of the Town of Wilkesboro; or.
- 2) Any condition including an attractive nuisance which may prove detrimental to human health or safety whether in a building, on the premises of a building, or part of a building or upon an occupied lot; or.
- 3) Physical conditions dangerous to human life or detrimental to health of persons in, on or near the premises where the condition exists; or
- 4) Unsanitary conditions or conditions that are dangerous to public health, well-being or the general welfare; or
- 5) Fire hazards or other safety hazards.

Occupant: Any person who has charge, care or control of a non-residential building or structure or a part thereof, whether with or without the knowledge and consent of the owner, or any person, individually or jointly, entitled to possession regardless of whether the building or structure is actually occupied or not.

Owner: The holder of the title in fee simple and every mortgagee of record of a property.

Parties In Interest: All individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

Physical Valuation: The estimated cost to replace a building in kind.

Plumbing: All of the following supplies, facilities and equipment: gas pipes, gas burning equipment, water pipes, water heaters, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, vents and other similar fixtures, together with all connections to water, sewer or gas lines, and water pipes and lines utilized in conjunction with HVAC equipment.

Premises: A lot, plot or parcel of land including the buildings or structures thereon, under control by the same owner or occupant, devoted to or zoned for non-residential use.

Public Sanitary Sewer: Any sanitary sewer owned, operated and maintained by the Town of Wilkesboro and available for public use for the disposal of sewage.

Rubbish: Combustible and non-combustible waste materials, except garbage and ashes, including, but not limited to, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

Sewage: Waste from a flush toilet, bathtub, sink, lavatory, dishwashing or laundry machine, or water-carried waste from any other fixture, equipment or machine.

Structurally Sound: Substantially free from flaw, defect, decay or deterioration to the extent that such structure or structural member is capable of adequately or safely accomplishing the purpose for which it was intended or designed.

Structure: Anything constructed or erected which requires location on the ground. (Refer to the definition of "building" herein.)

Supplied: Paid for, furnished or provided by, or under control of, the owner or occupant.

Vacant Industrial Warehouse: Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

Vacant Manufacturing Facility: Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.

Section 155.07 Office of Non-Residential Building or Structure Standards Inspector Created; Powers and Duties.

(a) For the purposes of administering and enforcing the provisions of this Chapter the office of Non-Residential Building or Structures Standards Inspector, (herein called "Inspector"), is hereby created.

(b) The Inspector shall be appointed by the Town Council and shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provision of this Ordinance, including without limiting the generality of the foregoing, in addition to others herein granted, the following powers:

(1) To investigate the non-residential building conditions in the jurisdiction in order to determine which buildings therein are unsafe, being guided in such examinations of buildings by the requirements set forth in this Chapter and for the purpose of carrying out the objectives of this Chapter with respect to such non-residential buildings or structures.

(2) To administer oaths and affirmations and to examine witnesses and receive evidence.

(3) To enter upon and within premises and buildings for the purpose of making examinations and investigations; provided, that such entries shall be made at reasonable hours in such a manner as to cause the least possible inconvenience to the persons in possession.

(4) To delegate any of his functions and powers under this Chapter to such officers and agents as he may designate.

Section 155.08 Duties and Responsibilities of the Owner.

It shall be the duty and responsibility of the owner to maintain all non-residential buildings or structures in accordance with all standards for non-residential buildings or structures fitness as stated in this Chapter.

Section 155.09 Duties and Responsibilities of the Occupant.

It shall be the duty and responsibility of the occupant to ensure that:

- 1) All parts of the premises under the control of the occupant shall be kept in a safe, clean and sanitary condition consistent with the non-residential use and the occupant shall refrain from performing any acts which would render any part of the building or premises unsafe or unsanitary or which would obstruct any adjacent owner/occupant from performing any duty required, or from maintaining his building or premises in a safe and sanitary condition.
- 2) Every occupant shall be responsible for the elimination of infestation in and on the premises, subject to his control.
- 3) Every occupant shall maintain all supplied plumbing fixtures in a safe and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.
- 4) No garbage or solid waste shall be stored or allowed by the occupant to accumulate on the premises unless contained in a trash receptacle(s) which is in accordance with the Ordinances of the Town of Wilkesboro.
- 5) Damage to public sidewalks and/or curb and gutter located in the public right-of-way shall be repaired or replaced at no expense to the Town when such damage is caused by vehicles making deliveries to the non-residential use under the control of the occupant.
- 6) Where the owner would not otherwise know of a defect of any facility, utility or equipment required to be furnished hereunder and the same is found to be defective or inoperable, the occupant affected thereby shall, upon learning of such defect, provide notice to the owner.

Section 155.10 Relationship of Duties and Responsibilities to Occupancy.

The provisions of this Chapter that apply to the exterior or exterior components of a structure or building or to the premises shall be complied with whether the structure or building or premises is occupied or vacant. All unoccupied or vacant structures or buildings shall be secured by their owners to prevent the entry of unauthorized persons or the formation of nuisance conditions such as infestation.

Section 155.11 Validity.

If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The Town Council hereby declares that it would have passed this Ordinance and each section, subsection,

clause and phrase thereof, irrespective of the fact that any one or more sections, subsections sentences, clauses or phrases be declared invalid.

Section 155.12 Conflict with Other Provisions.

In the event any provision, standard or requirement of this Chapter 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 jurisdiction shall prevail. The North Carolina State Building Code, current edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions and other acts of building made or required pursuant to this Ordinance.

Section 155.13 Amendments.

The Town Council may, from time to time amend, supplement, or change the provisions and requirements of this Chapter. Any such amendment shall be by ordinance of the Council.

Section 155.14 Unlawful to own unsafe buildings and structures.

(A) It shall be unlawful for any firm, person or corporation to own a building or a structure situated in the jurisdiction of the Town of Wilkesboro which is in such a defective or hazardous condition that it is unsafe and especially dangerous to life. The Town Council has determined that unsafe and especially dangerous buildings and structures are detrimental to the health, safety and welfare of the citizens of Wilkesboro, that such unsafe and especially dangerous buildings and structures shall be condemned, and that the owners of such unsafe and especially dangerous buildings and structures shall immediately remedy the unsafe, dangerous, hazardous or unlawful conditions or demolish such buildings or structures.

(B) A building or structure shall be found to be especially dangerous to life and held unsafe by the Inspector if the Inspector finds that any one (1) of the following conditions exists in such building or structure:

- (1) Interior walls or vertical studs which seriously list, lean or buckle to an extent as to render the building unsafe.
- (2) Supporting member or members which show thirty-three (33) percent or more damage or deterioration, or non-supporting, enclosing or outside walls or covering which shows fifty (50) percent or more of damage or deterioration.
- (3) Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- (4) Such damage by fire, wind or other causes as to render the building unsafe.
- (5) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or welfare of the occupants or other people of the jurisdiction.

- (6) Inadequate facilities for egress in case of fire or panic.
 - (7) Defects significantly increasing the hazards of fire, accident or other calamities.
 - (8) Lack of adequate ventilation, light, heating or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or other residents of the jurisdiction.
 - (9) Lack of proper electrical, heating or plumbing facilities required by this Chapter which constitutes a health or a definite safety hazard.
 - (10) For any building whose occupancy classification requires it, lack of connection to a potable water supply and/or to the public sanitary sewer or other approved sewage disposal system. For the purposes of this standard, a building is not connected to a potable water supply if the water supply has been "cut off" because of nonpayment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.
 - (11) Any violation of the State Fire Prevention Code which constitutes a condition which is unsafe and especially dangerous to life.
 - (12) Any abandoned non-residential building or structure which is found to be a health or safety hazard by the Inspector as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities.
- (C) In addition to conditions 1-12 enumerated in (B) above, any one of which renders a building or structure unsafe, the Inspector shall determine that a non-residential building or structure is unsafe if he finds that a building or structure fails to fully comply with any five (5) or more of the following enumerated standards of building and premises fitness. Full compliance with a standard means that if any part of the stated standard is not complied with by a particular building and premises, then that building and premises has failed to fully comply with the enumerated standard.

GENERAL

- (1) Buildings and premises shall be kept clear of accumulations of garbage, trash, or rubbish which create health and sanitation problems. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary way.
- (2) Flammable, combustible, explosive or other dangerous or hazardous materials shall be stored in a manner approved for such materials and consistent with the State Fire Prevention Code.
- (3) Buildings and premises shall be kept free of loose and insufficiently anchored overhanging objects which constitute a danger of falling on persons or property.
- (4) The premises shall be kept free of insufficiently protected holes, excavations, breaks, projections, obstructions and other such dangerous impediments on and around fences, walls,

walks, driveways, parking lots and other areas which are accessible to and generally used by persons on the premises.

(5) Building and premise surfaces shall be kept clear of cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic or other dangerous objects or similar hazardous conditions. Exterior surfaces shall be maintained in such material or treated in such a manner as to prevent deterioration.

(6) Buildings and premises shall be kept free of objects and elements protruding from building walls, roof or premises which are unsafe or not properly secured or which can create a hazard such as abandoned electrical boxes and conduits, wires, sign brackets and other brackets, and similar objects.

APPURTENANCES

(7) All chimneys, flues and vent attachments thereto shall be maintained structurally sound. Chimneys, flues, gas vents or other draft-producing equipment which are in use shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight and capable of withstanding the action of flue gases.

(8) All exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair, and free of defects.

(9) All cornices shall be made structurally sound. Rotten or weakened portions shall be removed and/or replaced. All exposed wood shall be treated or painted.

(10) Gutters and down spouts shall be replaced or repaired as necessary and shall be appropriately located and securely installed so as not to cause a hazard to pedestrians, vehicular traffic or property.

(11) Attached and unattached accessory structures shall be maintained in a state of good repair.

(12) Advertising sign structures, attached or freestanding, awnings, marquees and their supporting members and other similar attachments and structures shall be maintained in good repair and shall not cause a nuisance or safety hazard.

STRUCTURAL

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

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

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

(16) Interior and exterior steps, railings, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fall or collapse.

(17) Where a wall of a building has become exposed as a result of demolition of an adjacent building said wall must have all doors, windows, vents or other similar openings closed with material of the type comprising the wall unless such doors, windows, vents or other similar openings are to be maintained in accordance with the provisions of this Chapter. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stuccoed or bricked and weatherproofed if necessary to prevent deterioration of the wall.

PLUMBING, ELECTRICAL AND SUPPLIED FACILITIES

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

(19) All electrical 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 Electric Code.

(20) Every supplied facility, piece of equipment or utility which is required under this Chapter or the State Building Code for occupancy or use shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

EGRESS

(21) Facilities for egress in case of fire or panic shall be adequate and shall remain clear for such purposes.

(22) All windows must be tight-fitting and have sashes of proper size and design and free from rotten wood, broken joints, or broken or loose mullions.

(23) All windows shall be maintained free of broken glass that could be dangerous to the public, invitees or third parties ordinarily expected to use the premises, from falling or shattering.

(24) All openings originally designed as windows shall be maintained as windows, unless specifically approved by the Inspector for enclosure.

DRAINAGE

(25) All yards and premises shall be properly graded and maintained so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

Section 155.15 Buildings and Premises Not Declared Unsafe But Which Are Not in Compliance With All Standards.

In any case where the Inspector determines that a non-residential building or structure fails to fully comply with one or more but less than five of the standards of non-residential buildings or structures fitness set forth in 155.14(C), such building or structure shall not be found to be unsafe and shall not be subject to the procedures and remedies as provided for in this Chapter for unsafe buildings and premises. Each such failure of non-compliance, however, shall constitute a violation of the terms of this Chapter and shall subject the violator to the penalties and enforcement procedures, civil or criminal or both, of Section 155.29. In such case the Inspector shall notify the owner as provided for in Section 155.19.

Section 155.16 Investigation.

Whenever it appears to the Inspector that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by the Town Council, the Inspector shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

Section 155.17 Complaint and Notice of Hearing.

If the preliminary investigation discloses evidence of a violation of the minimum standards, the Inspector shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that a hearing will be held before the Inspector (or his or her designated agent) at a place within the county scheduled not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

Section 155.18 Order to take corrective action; contents; issuance.

If, after notice and hearing, the Inspector determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards as established by the Town Council, the Inspector shall state in writing the findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.

(A) An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by the Council or to vacate and close the nonresidential building or structure for any use.

(B) An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the Town Council determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this ordinance.

(C) An order **may not** require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

Section 155.19 Service of Complaints and Orders of Inspector.

Complaints or orders issued by the Inspector pursuant to this ordinance shall be served upon persons either personally or by registered or certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is refused, but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence, and the Inspector makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the Town at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

Section 155.20 Appeal of Order of Inspector; finality if not appealed.

Any owner who has received an order under Section 155.18 may appeal from the order to the Town Board of Adjustment by giving notice of appeal in writing to the Inspector and to the Town Clerk within ten (10) days following issuance of the order. In the absence of an appeal to the Board of Adjustment within the prescribed time, the order of the Inspector shall be final. The Board of Adjustment shall hear appeals within a reasonable time after receipt of the notice of appeal and it

may modify and affirm or revoke the order. Any person aggrieved by a decision or order of the Inspector shall have the remedies provided in G.S. 160A-446.

Section 155.21 Failure to comply with Order of Inspector.

(A) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the Town Council may adopt an ordinance ordering the Inspector to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Inspector found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the Office of the Register of Deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Inspector may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The Inspector may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

(B) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the Town Council may adopt an ordinance ordering the Inspector to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Inspector found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the Town Council. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the Office of the Register of Deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Inspector may cause the building or structure to be removed or demolished.

Section 155.22 Remedies; lien for cost of demolition and removal.

(A) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

(B) The amount of the costs is also a lien on any other real property of the owner located within the Town limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(C) If the nonresidential building or structure is removed or demolished by the Inspector, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the Inspector, shall be secured in a manner directed by the

court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the Town Council to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Section 155.23 Failure of occupant to comply with order to vacate.

If any occupant fails to comply with an order to vacate a nonresidential building or structure, the Inspector may file a civil action in the name of the Town to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the Inspector produces a certified copy of an ordinance adopted by the Town Council pursuant to Section 155.21 of this Chapter to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the governing body has ordered the Inspector to proceed to exercise his duties under Section 155.21 of this Chapter to vacate and close or remove and demolish the nonresidential building or structure.

Section 155.24 Action by Council Upon Abandonment of Intent to Repair.

(A) If the Town Council has adopted an ordinance or the Inspector has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of **two years** pursuant to the ordinance or order, the Town Council may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the municipality in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the Town Council may, after the expiration of the **two year** period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

- (1) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current

value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days; or

(2) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

(B) In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of **five years** before the Town Council may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the Inspector shall effectuate the purpose of the ordinance.

Section 155.25 Demolition of Non-Residential Buildings by Owner.

Where a non-residential building or structure is under the jurisdiction of this Chapter, the building may be demolished by the owner provided that the following requirements are met:

(1) The owner shall obtain a demolition permit from the Building Inspections Department.

(2) All sewer, gas, water and similar taps or connections shall be properly closed and disconnected.

(3) All debris from the building shall be removed from the site. This requirement is for the removal of all debris that is above the street level of the building.

(4) The lot shall be graded to a smooth, even, finished grade, free from building material, debris, holes, and/or depressions. Where building debris remains on the site below street level, the owner must back fill the lot with twelve (12) inches of clean fill which shall be graded to a smooth, even finished grade.

(5) Where walls of adjacent buildings become exposed as a result of the demolition, said walls must have all doors, windows, vents or other similar openings closed with material of the type comprising the wall, unless such doors, windows, vents, or other similar openings are to be maintained in accordance with the provisions of this Chapter. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stuccoed or bricked and weatherproofed if necessary to prevent deterioration of the wall.

Section 155.26 Inspections.

(A) For the purpose of carrying out the intent of this Chapter, the Inspector is hereby authorized to enter, examine and survey at all reasonable times all non-residential buildings and premises,

including abandoned structures. The owner or occupant of every non-residential building or the person in charge thereof, shall give the Inspector free access to such building and its premises, at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a non-residential building shall give the owner thereof, or his agent or employee, access to any part of such building and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Chapter or with any lawful order issued pursuant to the provisions of this Chapter.

(B) The Inspector may make periodic inspections for unsafe, unsanitary or otherwise hazardous and unlawful conditions in non-residential structures within the jurisdiction. In addition, he may make inspections when he has reason to believe that such conditions may exist in a particular structure or premises.

Section 155.27 Defects in buildings to be corrected.

When the Inspector finds any defects in a non-residential building, or finds that a building has not been constructed in accordance with applicable State and Town laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be his duty to notify the owner or occupant of the building of its defects, hazardous conditions or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions or violations of law in the property he owns. Failure to do so shall constitute a violation of this Chapter. Each day any violation of this Chapter shall continue shall constitute a separate offense.

Section 155.28 Violations.

In addition to the conditions, acts or failure to act that constitute violations specified in this Chapter, it shall be unlawful for the owner of any building or structure to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close or vacate and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. It shall be unlawful for the owner of any building, with respect to which an order has been issued pursuant to Section 155.18, 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, or vacation and removal or demolition.

Section 155.29 Procedure Is Alternative

Neither this chapter nor 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 chapter by criminal process, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinance or laws. In addition to the remedies provided for herein, any violation of the terms of this Chapter shall subject the violator to the penalties and remedies as set forth in Chapter 10, Section 10-99, General Penalties; Enforcement of Ordinances; Continuing Violations, of the Code of Ordinances Town of Wilkesboro.”

PART TWO. That all ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

PART THREE. That this Ordinance shall become effective upon its adoption by the Council of the Town of Wilkesboro, North Carolina.

Adopted this 7th day of April, 2014.

Michael Vestal Inscore, Mayor

ATTEST:

Approved as to form:

James K. Byrd, Town Clerk

William C. Gray Jr., Town Attorney

ORDINANCE NUMBER 2014-03

AN ORDINANCE AFFECTING THE REGULATION OF ABANDONED, NUISANCE AND JUNKED VEHICLES; AMENDING CHAPTER 94 OF THE CODE OF ORDINANCES OF THE TOWN OF WILKESBORO

WHEREAS, Article 8 of Chapter 160A of the North Carolina General Statutes, N.C.G.S. 160A-174, et seq., delegates to municipalities the authority to exercise the general police power; and

WHEREAS, Article 15 of Chapter 160A of the North Carolina General Statutes, N.C.G.S. 160A-303, et seq., authorizes municipalities to regulate, remove and dispose of Abandoned and Junked Vehicles;

WHEREAS, N.C.G.S. 160A-193 authorizes municipalities to summarily remedy, abate or remove public health nuisances; and

WHEREAS, the Town Council of the Town of Wilkesboro finds that it is in the public interest to amend Chapter 94 of the Town's Code of Ordinances to provide more specificity as to the requirements for regulating Abandoned, Nuisance and Junked Vehicles; and

WHEREAS, the Town Council of the Town of Wilkesboro, after due notice, conducted a public hearing on the 7th day of April 2014, upon the question of amending the Town Code in this respect.

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WILKESBORO, NORTH CAROLINA:

PART ONE. That Title IX, General Regulations, Chapter 94: Abandoned Vehicles, of the Code of Ordinances of the Town of Wilkesboro, North Carolina, is hereby amended as follows:

“CHAPTER 94: ABANDONED, JUNKED AND NUISANCE VEHICLES

SECTION 94.01 ADMINISTRATION.

The Police Department and the Code Administrator of the Town shall be responsible for the administration and enforcement of this Chapter. The Police Department shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the Town, and on property owned by the Town. The Code Administrator (and/or other public official as designated by the Town Manager) shall be responsible for administering the removal and disposal of abandoned, nuisance or junked motor vehicles located on private property. The Town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles, and junked motor vehicles in compliance with this Chapter and applicable State laws. Nothing in this Chapter shall be construed to limit the legal authority or powers of officers of the Police Department

and Fire Department in enforcing other laws or in otherwise carrying out their duties.

State law reference — Town authority for removal and disposal of junked and abandoned motor vehicles, G.S. 160A-303 as amended. Town authority for regulation of abandonment of junked motor vehicles, G.S. 160A-303.2 as amended.

SECTION 94.02 DEFINITIONS.

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

ABANDONED VEHICLE: As authorized and defined in G.S. 160A-303, an abandoned motor vehicle is one that:

- (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking; or
- (2) Is left upon a public street or highway for longer than seven (7) days; or
- (3) Is left upon property owned or operated by the Town for longer than twenty-four (24) hours; or
- (4) Is left upon private property without the consent of the owner, occupant, or lessee thereof for longer than two (2) hours.

AUTHORIZING OFFICIAL: The supervisory employee of the Police Department or the Town Code Administrator, respectively, designated to order the removal of vehicles under the provisions of this Chapter.

JUNKED MOTOR VEHICLE: As authorized and defined in G.S. 160A-303.2, the term **JUNKED MOTOR VEHICLE** means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or move in the manner in which it originally was intended to move; or
- (3) Is more than five (5) years old and appears to be worth less than five hundred dollars (\$500.00).

MOTOR VEHICLE OR VEHICLE: All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

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

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
- (2) A point of heavy growth of weeds or other noxious vegetation over 8

inches in height; or

- (3) A point of collection of pools or ponds of water; or
- (4) A point of concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or
- (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods and the like;
- (6) So situated or located that there is a danger of it falling or turning over; or
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind;
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass;
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Council.

SECTION 94.03 ABANDONED VEHICLE UNLAWFUL, REMOVAL AUTHORIZED.

- (A) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.
- (B) Upon investigation, the authorizing officials of the Town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

SECTION 94.04 NUISANCE VEHICLE UNLAWFUL, REMOVAL AUTHORIZED.

- (A) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.
- (B) Upon investigation, the Code Administrator may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.

SECTION 94.05 JUNKED MOTOR VEHICLE REGULATED, REMOVAL AUTHORIZED.

- (A) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.
- (B) It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of private property. A single, permitted junked motor vehicle must strictly comply with the location and concealment requirements of this Chapter.
- (C) It shall be unlawful for the owner, person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to fail to comply with the location requirements or the concealment requirements of this Chapter.
- (D) Subject to the provisions of subsection (E), The Code Administrator may order the

removal of a junked motor vehicle found in violation of this Chapter, to a storage garage or area. No such vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the premises unless the Code Administrator finds in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. That finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood, or area appearance. The following, among other relevant factors, may be considered:

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

(E) Permitted concealment or enclosure of junked motor vehicles:

- (1) One junked motor vehicle, in its entirety, may be located in the rear yard, as defined in the Town Zoning Ordinance, provided the junked motor vehicle is entirely concealed from public view from a public street and/or abutting premises by an acceptable covering for not more than sixty (60) calendar days. Junked motor vehicles kept on the premises more than sixty (60) calendar days shall be kept inside a completely enclosed building. The Code Administrator has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision. The covering must remain in good repair and must not be allowed to deteriorate.
- (2) Any one or more junked motor vehicles kept for a period exceeding sixty (60) calendar days shall be kept within a completely enclosed building, as defined in the Town Zoning Ordinance.

SECTION 94.06 REMOVAL OF ABANDONED, NUISANCE, OR JUNKED MOTOR VEHICLES; PRE-TOWING NOTICE REQUIREMENTS.

(A) Except as set forth in Section 94.07 below, an abandoned, nuisance, or junked motor vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to whom and to which mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by

the Town on a specified date (no sooner than 7 days after the notice is affixed). The notice shall state that the vehicle will be removed by the Town on a specified date, no sooner than seven days after the notice is mailed or affixed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(B) With respect to abandoned vehicles on private property, nuisance vehicles and junked vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the Board of Adjustment in writing, heard at the next regularly scheduled meeting of the Board of Adjustment, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

SECTION 94.07 EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.

(A) The requirement that notice be given prior to the removal of an abandoned, nuisance, or junked motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the police and public welfare.

(B) Those findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

(1) Vehicles abandoned on the streets. For vehicles left on the public streets and highways, the Town Council hereby determines that the immediate removal of such vehicles may be warranted when they are:

- (a) Obstructing traffic.
- (b) Parked in violation of an ordinance prohibiting or restricting parking.
- (c) Parked in a no-stopping or standing zone.
- (d) Parked in loading zones.
- (e) Parked in bus zones, or
- (f) Parked in violation of temporary parking restrictions.

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

SECTION 94.08 REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS.

(A) Any abandoned, nuisance, or junked motor vehicle which has been ordered removed may, as directed by the Town, be removed to a storage garage or area by a tow truck operator or towing business contracted to perform such services for the Town. Whenever such a vehicle is removed, the authorized Town official shall immediately notify the last known registered owner of the vehicle with such notice to include the following;

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

(B) The Town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, indicating the information set forth in subsections (A)(1) through (A)(5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent. If the vehicle is registered in North Carolina, notice shall be given within 24 hours. If the vehicle is not registered in the State, notice shall be given to the registered owner within 72 hours from the removal of the vehicle.

(C) Whenever an abandoned, nuisance, or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorized Town official shall make reasonable efforts, including checking the vehicle identification number to determine the last known registered owner of the vehicle and to notify him of the information set forth in subsections (A)(1) through (A)(5) above.

SECTION 94.09 RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.

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

SECTION 94.10 REDEMPTION OF VEHICLE DURING PROCEEDINGS.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fees, including any storage charges, or by

posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this Chapter.

SECTION 94.11 SALE AND DISPOSITION OF UNCLAIMED VEHICLE.

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

SECTION 94.12 CONDITIONS ON REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

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

SECTION 94.13 PROTECTION AGAINST CRIMINAL/CIVIL LIABILITY.

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

SECTION 94.14 EXCEPTIONS TO CHAPTER.

Nothing in this Chapter shall apply to any vehicle:

- (A) Which is located in a bona fide automobile graveyard or junkyard as defined in G.S. 136-143, in accordance with the Junkyard Control Act, G.S. 136-141, et seq.,
- (B) Which is in an enclosed building,
- (C) Which is on the premises of a business enterprise being operated in a lawful place and manner, or
- (D) Which is in an appropriate storage place or depository maintained in a lawful place and manner by the Town.

SECTION 94.15 UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility

designated by the Town, any vehicle which has been impounded pursuant to the provision of this Chapter unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

SECTION 94.16 ALTERNATIVE REMEDIES.

Nothing in this Chapter, nor 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 removal or abatement by summary proceedings or otherwise, nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violation of the terms of this Chapter shall subject the violator to the penalties and remedies, as set forth in Chapter 10, Section 10.99, General Penalties; Enforcement of Ordinances; Continuing Violations, of the Code of Ordinances of the Town of Wilkesboro.”

PART TWO. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

PART THREE. This Ordinance shall become effective upon its adoption by the Town Council of the Town of Wilkesboro, North Carolina.

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

PART FIVE. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing violations.

PART SIX. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 7th day of April, 2014.

Michael Vestal Inscore, Mayor

ATTEST:

Approved as to form:

James K. Byrd, Town Clerk

William C. Gray Jr, Town Attorney

ORDINANCE 2014-04

WHEREAS, The Town of Wilkesboro has a Planning Board comprised of Town and Extra-Territorial Jurisdiction (ETJ) members with the powers as prescribed by North Carolina General Statute; and

WHEREAS, The Town Council recognizes the valuable input provided by the ETJ members.

NOW THEREFORE BE IT RESOLVED, that The Wilkesboro Town Council hereby provides voting rights on all matters before the Planning Board to both Town and ETJ members; and

BE IT FURTHER RESOLVED, that The Wilkesboro Town Council hereby repeals Chapter 32, section 32.001 of the Code of Ordinances as follows:

§ 32.001 ESTABLISHED; NUMBER, APPOINTMENT AND TERM OF MEMBERS; VACANCIES.

The Planning Board is hereby established, which shall consist of 5 members to be appointed by the Mayor with the approval of the Board of Commissioners. On or before May 18 of each year, 1 member shall be appointed to take office on the first Tuesday in June for a term of 5 years and until his or her successor is appointed and qualified. Vacancies occurring for reasons other than expiration of term shall be filled as they occur for the period of the unexpired term.

BE IT FURTHER RESOLVED, that the Wilkesboro Town Council enacts Chapter 32, Section 32.001A as follows:

§ 32.001A ESTABLISHED; NUMBER, APPOINTMENT AND TERM OF MEMBERS; VACANCIES.

The Planning Board is hereby established, which shall consist of 11 members (5 town members and 6 ETJ members) to be filled by appointment by the Mayor with the approval of the Town Council on or before June 30th of each year. All members, including ETJ, shall have equal voting rights on all matters brought before the Wilkesboro Planning Board. Terms of office shall be from one (1) to three (3) years staggered in a manner that provides for no more than two (2) terms of inside members and two (2) terms of ETJ members expiring at any one time. Vacancies occurring for reasons other than expirations of term shall be filled as they occur for the period of the unexpired term.

This the 7th Day of April, 2014.

Michael V. Inscore, Mayor

ATTEST: _____
James K. Byrd, Town Clerk

**TWO (2) HOUR PARKING ZONE
HISTORIC DOWNTOWN WILKESBORO
ORDINANCE 2014-05**

WHEREAS, the Town of Wilkesboro Town Council has achieved consensus for revitalizing downtown through the development and approval of the Historic Downtown Wilkesboro Master Plan; and

WHEREAS, the Town intends to work diligently to create a business friendly environment in the downtown; and

WHEREAS, by doing so wishes to enhance the economic viability of the downtown district; and

WHEREAS, the Historic Downtown Wilkesboro Merchants Association (WMA) is a representative committee of the merchants and businesses in the district; and

WHEREAS, the WMA wishes to see a downtown district that is accessible for all merchants, patrons, and pedestrians; and

WHEREAS, available parking has become an issue due to vehicles being parked for long periods of time in the historic district; and

WHEREAS, the main sections of interest for the district are Woodland Boulevard to West Street, West Street to Bridge Street, and Bridge Street to East Street; and

NOW, THEREFORE, BE IT RESOLVED, that the Wilkesboro Town Council enacts the introduction and enforcement of two (2) hour parking regulations and signage in the above described zones along Main Street (Woodland Blvd. to East Street).

BE IT FURTHER RESOLVED, the ordinance enacts time periods for two (2) hour parking to be effective Monday – Friday 7 am until 5 pm.

APPROVED BY THE WILKESBORO TOWN COUNCIL THIS 2nd DAY OF JUNE, 2014.

BY: _____
Mike Inscore, Mayor

ATTEST: _____
James K. Byrd, Town Clerk

ZONING ORDINANCE AMENDMENT

Ordinance 2014-06

August 04, 2014

WHEREAS, the Wilkesboro Town Council wishes to make modifications to Section 6.10 of the Town Zoning Code; and

WHEREAS, these changes will provide adequate opportunity for an Electronic Gaming Operation to exist in the B-2 zone.

NOW THEREFORE BE IT RESOLVED that the current section 6.10 of the Zoning Code be amended with the following language and made effective upon passage.

Wilkesboro Zoning Ordinance 6.10 - Electronic Gaming Operations

Amendment:

6.10 (A) amended to read "The maximum number of machines/terminals/computers for any electronic gaming operations business shall be unlimited, except as limited only by Paragraph (B) stated hereunder.

6.10 (F) combined with 6.10 (G) and amended to read as follows: "The establishment must be a minimum of one thousand (1,000) feet from any other organization engaged in an electronic gaming operation business or any adult or sexually oriented business. The establishment must also be a minimum of one thousand (1,000) feet from any established place of religious worship, school, daycare center/home, library, public park, recreation area or motion picture establishment where "G" or "PG" movies are shown to the general public on a regular basis.

New 6.10 (G) to read as follows: When, separated by an imposing physical divide such as a road right of way which is difficult to cross, or other substantial geographical barrier such as a steep slope or river or other substantial water course, then such gaming facility's entrance door must be a minimum of two hundred and fifty (250) feet from any structures mentioned in 6.10 (E) and (F). The determination of whether an "imposing physical divide" or "other

substantial geographical barrier" exists shall rest in the sole and unfettered discretion of the Zoning Board of Adjustment.

APPROVED THIS THE 4TH DAY OF AUGUST, 2014.

Mike Inscore, Mayor

ATTEST:

James K. Byrd, Town Clerk

**CAPITAL PROJECT ORDINANCE
BROWN'S FORD WATER LOOP AND TANK
ORDINANCE 2014-07**

BE IT ORDAINED by the Town Council of the Town of Wilkesboro, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1. The project authorized includes replacement of water lines connecting to the Town of Wilkesboro's water system, a booster pump station and an elevated tank for storage and fire protection to be financed by a NC Dept of Commerce IDF grant, a GoldenLEAF Economic Catalyst grant and local funds provided by the Town of Wilkesboro.

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the bond resolution, grant documents, and the budget contained herein.

Section 3. The following amounts are appropriated for the project:

Construction	\$5,084,350
Construction Observation and Admin.	125,000
Engineering	375,000
Contingency (5%)	<u>254,200</u>
	<u>\$5,838,550</u>

Section 4. The following revenues are anticipated to be available to complete this project:

IDF Grant	\$1,110,000
GoldenLEAF Grant	200,000
West Wilkes Water Association Contribution	150,000
Town of Wilkesboro	<u>4,378,550</u>
	<u>\$5,838,550</u>

Section 5. The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the grantor agency, the grant agreements, and federal regulations. The terms of the bond resolution also shall be met.

Section 6. The use of Contingency Funds shall only be used after Town Council approval of amendment dictating the amount and documentation detailing need for contingency.

Section 7. Funds may be advanced from the Utility Fund for the purpose of making payments as due. Reimbursement requests should be made to the grantor agency in an orderly and timely manner.

Section 8. The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and on the total grant revenues received or claimed.

Section 9. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 10. Copies of this capital project ordinance shall be furnished to the Clerk to the Town Council, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this the 8th day of September 2014.

BY: _____
Mike Inscore, Mayor

ATTEST: _____
James K. Byrd, Town Clerk

**CORPORATION STREET TRAFFIC PATTERN
ORDINANCE 2015-1**

WHEREAS, The Town of Wilkesboro has conducted a traffic study to determine whether or not Corporation Street should remain a two-way street or be converted to a one-way street; and

WHEREAS, the Town's primary concerns on Corporation street is safe traffic flow and vehicle visibility at the intersection of Corporation and Main Street to ensure the welfare of pedestrians and motorists; and

WHEREAS, the Wilkesboro Police Department's traffic study has found two-way traffic to be unsafe at the intersection of Corporation and Main Street as well as unsafe for oncoming vehicles to meet one another on Corporation Street due to the nature of the narrow street;

WHEREAS, the Wilkesboro Police Department traffic study concluded that the multiple safety concerns in regards to Corporation Street resulted in the need to convert the current two-way street to a one-way street;

NOW THEREFORE BE IT RESOLVED, that Corporation Street be made a one-way street from Main Street until it meets East Henderson Drive at the entrance to Cub Creek Park with all traffic flowing south.

Approved this the 3rd day of August, 2015.

BY: _____
Mike Inscore, Mayor

ATTEST: _____
James K. Byrd, Town Clerk

AMENDMENT TO THE TOWN CODE OF ORDINANCES
TITLE IX, Chapter 97
ORDINANCE # 2015-02

Whereas, the Town of Wilkesboro operates a public cemetery as a service to our citizens, and

Whereas, the Town of Wilkesboro requires that all individual graves have a permanent identification marker; and

Whereas, Section 97.08(A) requires that markers be placed at the grave within six months, and

Whereas, the Cemetery Committee has recommended a deposit be put in place to encourage compliance of placing a permanent marker at each grave site.

Now, Therefore be it Resolved that the Town Council amend Section 97.08(A) to add the following language to the end of the existing paragraph. "The town shall require a refundable deposit as listed in the Wilkesboro Schedule of Fees to be held until a permanent marker is purchased and evidence of same is presented to the Cemetery Administrator."

Let It Be Further Resolved, the 2015-2016 Schedule of Fees will be amended to include a One-Hundred dollar deposit fee to be changed at the Town Council's discretion.

Adopted this the 5th day of October 2015.

Mike Inscore, Mayor

ATTEST: _____
James Byrd, Town Clerk

SEAL:

CAPITAL PROJECT ORDINANCE
WASTEWATER TREATMENT FACILITY SLUDGE HANDLING IMPROVEMENTS
Ordinance # 2015-03

Be It Ordained by the Governing Board of the Town of Wilkesboro, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following project ordinance is hereby adopted.

Section 1: The project authorized is improving the Wastewater Treatment Facility's process of handling Sludge. The project is to be financed through local funds.

Section 2: The Town Manager is hereby directed to proceed with the capital project within the terms of the budget contained herein.

Section 3: The following amounts are approved for the project:

1. Construction	\$ 250,000
2. Equipment	\$ 200,000
3. Contingency	<u>\$ 50,000</u>

Total Project Costs:	\$ 500,000
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Section 4: The following amounts will be available to complete this project:

1. Local Funds	\$ 500,000
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Total Revenue:	\$ 500,000
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Section 5: The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the grantor agency, the grant agreements, and any federal or state regulations that may apply.

Section 6: The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 7: Copies of this capital project ordinance shall be furnished to the Clerk, to the Governing Board, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this 9th day of November, 2015 in Wilkesboro, North Carolina.

Mike Inscore, Mayor

James K. Byrd, Town Clerk

SEAL:

NORTH CAROLINA
WILKES COUNTY
TOWN OF WILKESBORO

**CLOSING A PORTION OF RUFFIN STREET
WITHIN THE CORPORATE LIMITS OF THE TOWN OF WILKESBORO
ORDINANCE # 2015-04**

The Town Council of the Town of Wilkesboro received a Petition under date of October 6, 2015, by the Town of Wilkesboro, by and through Mike Inscore, Mayor, requesting that the Town of Wilkesboro close a portion of Ruffin Street within the corporate limits of the Town of Wilkesboro. Specifically, said Petition does request that a portion of said street which lies within the corporate limits of the Town of Wilkesboro be closed and is described as follows:

DESCRIPTION OF A PORTION OF RUFFIN STREET TO BE CLOSED

BEING A CERTAIN AREA OF RIGHT-OF-WAY FOR RUFFIN STREET, BEING LOCATED IN THE WILKESBORO TOWNSHIP, WILKES COUNTY, NORTH CAROLINA, RUFFIN STREET A FIFTY FOOT RIGHT-OF-WAY AS SHOWN ON A PLAT ENTITLED "HENDERSON VALE" AS RECORDED IN PLAT BOOK 5, PAGE 39 AT THE WILKES COUNTY PUBLIC REGISTRY, 0.101 ACRE AREA OF RIGHT-OF-WAY TO BE ABANDONED, AS DESCRIBED BY BLUE RIDGE GEOMATICS, PA, FIRM #C-3576 ON NOVEMBER 9, 2015, BEARING REFERENCED TO THE ABOVE SAID PLAT BOOK 5, AGE 39; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERN RIGHT-OF-WAY LIMITS OF NORTH CAROLINA HIGHWAY 16 (A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY); THENCE FROM SAID BEGINNING POINT AND RUNNING WITH THE AFOREMENTIONED SOUTHERN RIGHT-OF-WAY OF HIGHWAY 16, N30°28'47"E 82.53' TO A POINT ON THE INTERSECTION OF THE SOUTHERN RIGHT-OF-WAY LINE OF HIGHWAY 16, AND THE EASTERN RIGHT-OF-WAY LINE OF RUFFIN STREET; THENCE WITH THE SAID EASTERN RIGHT-OF-WAY OF RUFFIN STREET AND THE PROPERTY LINE OF MARY C. HENDERSON D.B. 866, PG. 307; S12°02'00"E 114.57' TO A POINT; THENCE LEAVING SAID RIGHT-OF-WAY AND RUNNING WITH THE APPROXIMATE END OF PAVEMENT OF RUFFIN STREET S77°58'07"W 50.00' TO A POINT ON THE WESTERN RIGHT-OF-WAY LINE OF RUFFIN STREET; THENCE WITH THE WESTERN RIGHT-OF-WAY LINE, AND THE LINE OF JOHN H. GROCE D.B. 961, PG. 270; N12°02'00"W 53.73' TO A POINT; THENCE S77°58'00"W 5.77' TO THE **POINT AND PLACE OF BEGINNING**.

THE ABOVE DESCRIPTION BEING A PORTION OF RUFFIN STREET, CONTAINING 0.101 ACRES (4383.14 Sq. Ft) BY COORDINATE GEOMETRY.

The Town of Wilkesboro passed a resolution on October 12, 2015, which directed that a hearing be held in declaring its intent to close a portion of the above described street. The Town of Wilkesboro has complied with the notice provisions of G.S. 160A-299 and did advertise in the Wilkes Journal-Patriot, a local newspaper of general circulation within the Town of Wilkesboro, that a hearing would be held on November 9, 2015, at 7 p.m. at the Town Hall of the Town of Wilkesboro, 203 West Main Street, Wilkesboro, North Carolina, and certified letters, return receipt requested have been mailed to adjoining and abutting property owners advising them of said request and their right to appear and be heard for or against said request to close the aforesaid portion of Ruffin Street as set forth hereinabove and described.

The Town Council of the Town of Wilkesboro does hereby CLOSE the above described portion of Ruffin Street as of November 9, 2015.

The Town of Wilkesboro reserves its right, title and interest in any and all utility improvements or easements within the above described property within the street which the Town of Wilkesboro has closed pursuant to G.S. 160A-296 and G.S. 160A-299.

Adopted the 9th day of November, 2015

ATTEST:

Michael Inscore, Mayor

James K. Byrd, Town Clerk

ZONING ORDINANCE AMENDMENT Ordinance 2016-01

WHEREAS, the Wilkesboro Town Council wishes to make modifications to Section 4.3 – Table of Permitted Uses of the Town Zoning Code; and

WHEREAS, these changes are consistent with the intent of the M1-Industrial zoning district;

STATEMENT OF CONSISTENCY

The requested zoning action **is consistent** with the *Town of Wilkesboro 2008 Comprehensive Land Use Plan* and/or other adopted policies/plans because:

Approval of the text amendment permitting the above described uses in the M-1 Industrial District is in keeping with the Town of Wilkesboro's Comprehensive Land Use Plan because it supports the following policy:

Economic Development Policy 5.1: The Town will support new and expanding industries and businesses that diversify the local economy, utilize a more highly skilled labor force and increase the income of area residents.

The requested zoning action **is reasonable** and in the public interest because:

The text amendment as described above is reasonable and in the public interest because it allows for uses compatible with the intent of the M-1 Industrial District, including the "repairing" and "painting" of goods or equipment.

NOW THEREFORE BE IT RESOLVED that the current section 4.3 – Table of Permitted Uses of the Zoning Code be amended with the following language and made effective upon passage.

Wilkesboro Zoning Ordinance Section 4.3 – Table of Permitted Uses

Amendment:

Table of Permitted Uses 4.3

USE TYPE	R20A	R20	R8	R6	B1	B2	B3	M1	M2	Standards
Motor Vehicle, Body and Paint Shop						P		P	P	6.15
Motor Vehicle Repair (without open storage)	C					P		P	P	

APPROVED THIS THE 12TH DAY OF SEPTEMBER, 2016.

Mike Inscore, Mayor

James K. Byrd, Town Clerk

**CAPITAL PROJECT ORDINANCE
FOR PSG CUSTOM FABRICATORS CDBG GRANT**

ORDINANCE 2014-08

TOWN OF WILKESBORO

November 3, 2014

Be It Ordained by the Governing Board of the Town of Wilkesboro, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted.

Section 1: The project authorized is the facilitation of grant funds between the North Carolina Department of Commerce and PSG Custom Fabricators to fund the expansion of PSG's plant. As a result of these dollars being dedicated by the NC Department of Commerce, PSG has committed to the creation of 38 jobs at the facility. The Town's roll is simply to be the conduit by which grant funds will flow.

Section 2: The Town Manager is hereby directed to proceed with the capital project within the terms of the grant documents and the budget contained herein.

Section 3: The following amounts are approved for the project:

1. Building Repair & Renovation	<u>\$750,000.00</u>
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Total Project Costs:	\$750,000.00
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Section 4: The following amounts will be available to complete this project:

1. CDBG Block Grant	<u>\$750,000.00</u>
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Total Project Funds:	\$750,000.00
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Section 5: The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the grantor agency, the grant agreements, and any federal or state regulations that may apply.

Section 6: The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 7: Copies of this capital budget ordinance shall be furnished to the Clerk, to the Governing Board, and to the Budget Officer and the Finance Officer for direction in the carrying out of this project.

Adopted this 3rd day of November, 2014 in Wilkesboro, North Carolina.

ATTEST:

Mike Inscore, Mayor

James K. Byrd, Clerk

SEAL:

NORTH CAROLINA
WILKES COUNTY
TOWN OF WILKESBORO

**CLOSING AN UNNAMED 60' RIGHT-OF-WAY
WITHIN THE CORPORATE LIMITS OF THE TOWN OF WILKESBORO
ORDINANCE # 2017-01**

The Town Council of the Town of Wilkesboro received a Petition under date of November 15, 2016, by Spectrum Hospitality requesting that the Town of Wilkesboro close an unnamed 60' right-of-way within the corporate limits of the Town of Wilkesboro. Specifically, said Petition does request that a portion of said street which lies within the corporate limits of the Town of Wilkesboro be closed and is described as follows:

DESCRIPTION OF A 60' UNNAMED RIGHT-OF-WAY

BEING 0.419 A CERTAIN RIGHT-OF-WAY AREA OF A UNNAMED 60' RIGHT-OF-WAY TO BE ABANDONED, LOCATED IN THE WILKESBORO TOWNSHIP, WILKES COUNTY, NORTH CAROLINA, A SIXTY FOOT RIGHT-OF-WAY AS SHOWN ON AN EXHIBIT MAP BY, BY BLUE RIDGE GEOMATICS, PA FIRM #C-3576 ON NOVEMBER 17, 2016, BEARING AND GRID COORDINATES DERIVED FROM AN UNRECORDED MAP BY FORESIGHT SURVEYING; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8" REBAR FOUND ON THE WESTERN RIGHT-OF-WAY LIMITS OF COLLEGIATE DRIVE (SR. 1168), SAID REBAR BEING S01°14'45"E 239.76' FROM THE SOUTHERN RIGHT-OF-WAY LIMITS OF NORTH CAROLINA HIGHWAY 268; SAID BEGINNING POINT HAVING N.C. CAROLINA GRID-NAD 83 COORDINATES OF N877,100.90', E=1,357,011.68' PER MAP BY FORESIGHT SURVEYING; THENCE FROM SAID BEGINNING POINT AND WITH THE WESTERN RIGHT-OF-WAY LINE OF THE AFOREMENTIONED COLLEGIATE DRIVE, WITH THE ARC OF A CIRCULAR CURVE TO THE RIGHT, HAVING A RADIUS OF 463.10', AN ARC DISTANCE OF 62.02' (BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF S10°34'49"W 61.97') TO A COMPUTED POINT ON THE NORTHERN PROPERTY LINE OF WILKES LAND COMPANY, DEED BOOK 734, PAGE 225; THENCE WITH WILKES LAND COMPANY'S NORTHERN LINE S87°08'57"W 311.20' TO A 1/2" REBAR, HAVING NORTH CAROLINA GRID-NAD 83 COORDINATES OF N.877,024.51, E=1,356,689.49', PER MAP BY FORESIGHT SURVEYING; THENCE RUNNING WITH A SOUTHEAST LINE OF GLENN HILL LIMITED, DEED BOOK 623, PAGE 423, N25°50'16"E 68.71' TO A 5/8" REBAR, HAVING NORTH CAROLINA GRID-NAD 83 COORDINATES OF N=877,086.35', E=1,356,719.43' PER MAP BY FORESIGHT SURVEYING; THENCE RUNNING WITH THE SOUTHERN LINE OF SPECTRUM HOSPITALITY, LLC DEED BOOK 798, PAGE 178; N87°08'57"E 292.61 TO THE **POINT AND PLACE OF BEGINNING**.

THE ABOVE DESCRIPTION BEING A UNNAMED 60' RIGHT-OF-WAY, CONTAINING 0.419 ACRES BY COORDINATE GEOMETRY.

The Town of Wilkesboro passed a resolution on January 9, 2016, which directed that a hearing be held in declaring its intent to close a portion of the above described street. The Town of Wilkesboro has complied with the notice provisions of G.S. 160A-299 and did advertise in the Wilkes Journal-Patriot, a local newspaper of general circulation within the Town of Wilkesboro, that a hearing would be held on February 6, 2016, at 7 p.m. at the Town Hall of the Town of Wilkesboro, 203 West Main Street, Wilkesboro, North Carolina, and certified letters, return receipt requested have been mailed to adjoining and abutting property owners advising them of said request and their right to appear and be heard for or against said request to close the aforesaid unnamed 60' right-of-way as set forth hereinabove and described.

The Town Council of the Town of Wilkesboro does hereby CLOSE the above unnamed 60' right-of-way as of February 6, 2016.

The Town of Wilkesboro reserves its right, title and interest in any and all utility improvements or easements within the above described property within the street which the Town of Wilkesboro has closed pursuant to G.S. 160A-296 and G.S. 160A-299.

Adopted the 6th day of February, 2016

ATTEST:

Michael Inscore, Mayor

James K. Byrd, Town Clerk

**An Ordinance To Allow the Sale of Alcoholic Beverages Before Noon on Sundays
at Licensed Premises**

Ordinance 2018-01

WHEREAS, on June 29, 2017, the North Carolina General Assembly enacted Senate Bill 155, entitled "An Act to Make Various Changes to the Alcoholic Beverage Control Commission Laws"; and

WHEREAS, Section 4 of Ratified Senate Bill 155 authorizes city and county governments to adopt an ordinance to allow alcohol sales beginning at 10 am on Sundays; and

WHEREAS, Ratified Senate Bill 155 was signed into law by Governor Roy Cooper on the 30th day of June, 2017 and became effective on that date (Session Law 2017, Chapter 87); and

WHEREAS, by enacting Senate Bill 155, North Carolina joins 47 other States in allowing alcohol service before noon on Sunday; and

WHEREAS, Sunday morning alcohol service will allow the hospitality community and retail merchants in our community to meet the needs of their customers; and

WHEREAS, Sunday morning alcohol service will benefit our small business community, bring people into business districts earlier in the day, and generate increased tax revenues; and

WHEREAS, our community has a diverse and growing population with different religious beliefs, each of which has various times and multiple days for worship;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Wilkesboro, North Carolina that:

Section 1. Pursuant to the authority granted by S.L. 2017-87 any establishment

located in the corporate limits of Wilkesboro and holding an ABC permit issued pursuant to G.S. 18B - 1001 is permitted to sell beverages allowed by its permit beginning at 10 A.M. on Sundays.

Section 2. All laws and clauses of law in conflict herewith are repealed to the extent of any such conflict.

Section 3. This ordinance is effective on the 6th day of February, 2018

Adopted this 5th day of February, 2018

Mike Inscore, Mayor

James K. Byrd, Town Clerk

ORDINANCE TO EXTEND THE CORPORATE LIMITS OF
THE TOWN OF WILKESBORO, NORTH CAROLINA
Ordinance 2018-02

WHEREAS, the Town Council of the Town of Wilkesboro has been petitioned under G.S. 160A-31, as amended, to annex the area described herein: and

WHEREAS, the Town Council of the Town of Wilkesboro has by resolution directed the Town Clerk to investigate the sufficiency of said petition; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at Wilkesboro Town Hall, 203 West Main Street, Wilkesboro, North Carolina, at 5:30 pm on the 9th day of April, 2018, after due notice by publication on March 27, 2018; and

WHEREAS, the Town Council of the Town of Wilkesboro does hereby find as a fact that said petition meets the requirements of G.S. 160A-31, as amended;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Wilkesboro, North Carolina that:

SECTION 1. By virtue of the authority granted by G.S. 160A-31, as amended, the following described territory is hereby annexed and made part of the Town of Wilkesboro as of the 9th day of April, 2018.

That the annexation is a 3.42 +/- acres associated with Parcel ID # 1501878 (County Tax ID# 3848-91-4282 & 3848-91-7256) at the Wilkes County Register of Deeds.

SECTION 2. Upon and after the 9th day of April, 2018, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Wilkesboro and shall be entitled to the same privileges and benefits as other parts of the Town of Wilkesboro. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

SECTION 3. The Mayor of the Town of Wilkesboro shall cause to be recorded in the office of the Register of Deeds of Wilkes County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly

certified copy of this ordinance. Such a map shall also be delivered to the Wilkes County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 9th day of April, 2018.

Michael Vestal Inscore, Mayor
Town of Wilkesboro

ATTEST:

James K. Byrd, Town Clerk



TOWN OF WILKESBORO

"Where the Mountains Begin"

P.O. Box 1056 • 203 West Main Street

Wilkesboro, North Carolina 28697

www.wilkesboronc.org

Phone (336) 838•3951 • Fax (336) 838•7616

Ordinance to Rezone Property on Kennedy Street Ordinance 2018-03

WHEREAS, following due advertisement announcing a public hearing as provided by law, the Town Council of the Town of Wilkesboro, held said public hearing on April 9, 2018 to consider a request to rezone the property at the corner of Dancy Road and Kennedy Street; and

WHEREAS, the Planning Board at their regular meeting on February 27, 2018 made the following recommendation:

1. Rezone the property with the following Parcel ID #1501878, from R20A - Residential/Agricultural to R6 - General Residential.
2. Rezone the property with the following Parcel ID #1504853, from B2 - General Business to R6 - General Residential.

WHEREAS, the Town Council heard all presented evidence, arguments, and reports pertaining to said rezoning;

NOW THEREFORE, the Town of Wilkesboro Official Zoning Map is hereby amended by rezoning the property at Parcel ID # 1501878 from R20A - Residential/Agricultural to R6 - General Residential and Parcel ID # 1504853, from B2 - General Business to R6 - General Residential.

Adopted this 9th day of April, 2018.



Mike Inscore, Mayor

James K. Byrd, Town Clerk

MIKE INSCORE
Mayor

KENNETH D. NOLAND
Town Manager
townmanager@wilkesboronc.org

JAMES K. BYRD
Town Clerk

NELLIE ARCHIBALD
JIMMY HAYES
J. GARY JOHNSON
Council Members

RUSSELL F. FERREE
Mayor Pro Tem



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ZONING TEXT AMENDMENT

Article IV Section 4.3 Permitted Use Table Ordinance 2018-04

WHEREAS, the Planning Board at their regular meeting on February 27, 2018 made the following recommendation to amend Section 4.3: Table of Permitted Uses:

1. Remove Public/Institutional Uses - Campgrounds as a permitted conditional use from R6 - General Residential in Section 4.3: Table of Permitted Uses; and
2. Add Public/Institutional Uses - Campgrounds as a permitted conditional use in R20 - Suburban Residential in Section 4.3: Table of Permitted Uses; and

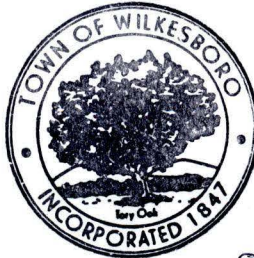
WHEREAS, the Wilkesboro Town Council wishes to modify Article IV Section 4.3 - Table of Permitted Uses of the Wilkesboro Zoning Ordinance; and

NOW THEREFORE LET IT BE ORDAINED, that the Wilkesboro Zoning Ordinance Article IV Section 4.3 - Table of Permitted Uses be amended to reflect the following:

1. Remove Public/Institutional Uses - Campgrounds as a permitted conditional use from R6 - General Residential in Section 4.3: Table of Permitted Uses; and
2. Add Public/Institutional Uses - Campgrounds as a permitted conditional use in R20 - Suburban Residential in Section 4.3: Table of Permitted Uses;

BE IT FURTHER ORDAINED, that the attached RV Park and Campground Standards be made a part of the conditional use process and included in the Zoning Ordinance in the appropriate Article and Section.

Adopted this 9th day of April, 2018.



Mike Inscore, Mayor

James K. Byrd, Town Clerk

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ZONING TEXT AMENDMENT

Section 156.120

Ordinance 2018-05

WHEREAS, the Planning Board at their regular meeting on March 27, 2018 made the following recommendation to amend Section 156.120 Telecommunications Towers and Antennae:

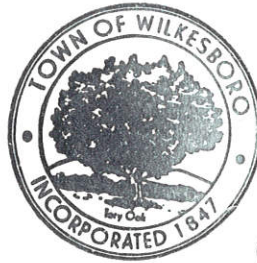
1. To repeal the existing standards and replace Section 156.120 with new language titled *Wireless Telecommunications Facilities or Complexes*.

WHEREAS, the Wilkesboro Town Council wishes to update the telecommunications guidelines taking into account the technological advances made in the industry since the original standards were approved.

NOW THEREFORE LET IT BE ORDAINED, that the Wilkesboro Zoning Ordinance Section 156.120 - be amended to reflect the following:

1. Repeal the existing standards and replace Section 156.120 with new language titled *Wireless Telecommunications Facilities or Complexes*.

Adopted this 4th day of June, 2018.



Mike Inscore, Mayor

James K. Byrd, Town Clerk



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ZONING TEXT AMENDMENT RV Park & Campground Standards Ordinance 2018-06

WHEREAS, The Town Council at its regular meeting held on April 9, 2018 requested that the Planning Board review the proposed allowable length of stay for campgrounds and bring back a new recommendation, and

WHEREAS, the Planning Board at their regular meeting on April 24, 2018 made the following recommendation related to item **9) Time of Stay Each Year** within the **General Operation & Maintenance Requirements of RV Park & Campground Standards**:

No camper, including gear and vehicles, shall stay a length of time which exceeds 90 days sequentially. Additionally, No camper, including gear and vehicles, shall stay a length of time which exceeds 180 days per calendar year.

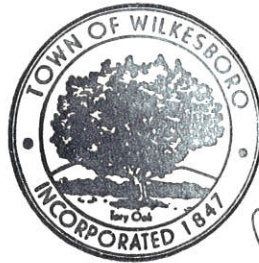
WHEREAS, the Wilkesboro Town Council wishes to modify The RV Park & Campground Standards to include the time of stay recommendation proposed by the Planning Board.

NOW THEREFORE LET IT BE ORDAINED, that the Wilkesboro Zoning Ordinance shall be amended to include the following length of stay requirement within the RV Park & Campgrounds Standards:

No camper, including gear and vehicles, shall stay a length of time which exceeds 90 days sequentially. Additionally, No camper, including gear and vehicles, shall stay a length of time which exceeds 180 days per calendar year.

Adopted this 4th day of June, 2018.

Mike Inscore, Mayor



James K. Byrd, Town Clerk



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TOWN OF WILKESBORO

MORATORIUM ORDINANCE # 2018 - 10

AN EMERGENCY ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT OF ANY MEDICAL AND DENTAL OFFICE THAT DISPENSES OR PRESCRIBES MEDICATIONS

WHEREAS, any business classified as "medical and dental offices" raises substantial questions and concerns about their impact upon a small town such as Wilkesboro including the adequacy of streets for additional traffic, alternate transportation, parking, the compatibility with residential and commercial zones and any potential health and safety impacts upon the community; and

WHEREAS, the Wilkesboro Zoning Ordinance does not currently distinguish between types of "medical and dental offices" and the Town is beginning the process to update such sections based on best management practices used in other communities; and

WHEREAS, the Town has not had adequate time to study the potential impacts of differing types of "medical and dental offices" upon the community and anticipates that that process could take 180 days or longer to complete; and

WHEREAS, the Town through its zoning powers has authority to impose reasonable restrictions, conditions and limitations upon "medical and dental offices"; and

WHEREAS, broad definitions in the existing Wilkesboro Zoning Ordinance do not provide adequate guidance as to potential uses; and

WHEREAS, the Wilkesboro Town Council concludes that the application of the existing Zoning Ordinances which fail to distinguish between differing types of "medical and dental offices" that dispense and/or prescribe medications are or could be inadequate to prevent the risk of serious public harm when zoned inappropriately; and

WHEREAS, the Town of Wilkesboro requires a reasonable amount of time to study the land use implications of types of "medical and dental offices" and to develop reasonable regulations governing their location and operation; and

WHEREAS, the Wilkesboro Town Council anticipates that related studies, reviews, reports, recommendations and draft ordinances shall require at least 180 days from the date the Town of Wilkesboro enacts this Emergency Moratorium Ordinance; and

WHEREAS, the Town of Wilkesboro finds it necessary for the public health, safety and welfare to adopt this ordinance imposing a temporary moratorium on the establishment or operation of new "medical and dental offices" that dispense and/or prescribe medications for all zoning districts within the Wilkesboro Zoning Ordinance; and

WHEREAS, the Town of Wilkesboro declares that passage of this Ordinance is both reasonable and necessary for the health, safety and welfare of the residents of the Town of Wilkesboro.

NOW, THEREFORE, BE IT ORDAINED BY THE WILKESBORO TOWN COUNCIL, WILKES COUNTY, NORTH CAROLINA, AS FOLLOWS:

Section 1. During the effective term of this Ordinance no Town department shall accept or process an application for the land use approval, building permit, or any other license or permit relating to the operation of a business zoned "medical and dental offices" that dispenses and/or prescribes medications in any zoning district within the Wilkesboro Zoning Ordinance, as it now exists or is hereafter modified.

Section 2. The Wilkesboro Town Council hereby directs the Wilkesboro Planning Board and other groups and committees it may appoint to study the land use requirements for differing types of "medical and dental offices" and to consider what locations might be appropriate for the location of such facilities;

Section 3. All ordinances heretofore passed and adopted by the Town of Wilkesboro are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

Section 4. This moratorium imposed by this ordinance shall expire ninety (90) days from the date of enactment of this ordinance unless extended, repealed or amended.

Section 5. Should any section or provision of this Emergency Moratorium Ordinance be deemed invalid by a court of competent jurisdiction, such decision shall not invalidate

any other section or provision and the remaining sections or provisions shall remain in full force and effect.

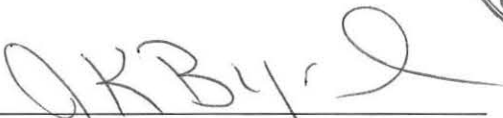
Section 6. This Ordinance shall take effect on the date of enactment by vote of the Wilkesboro Town Council and shall remain in effect for one hundred eighty (180) days thereafter, unless amended or repealed or extended by a subsequent vote of a majority of the Wilkesboro Town Council.

Section 7. The Town Council hereby finds and declares that an emergency exists which requires the immediate implementation of a policy restricting any "medical and dental offices" which dispense and/or prescribe medications from being established or operating within any and all zoning districts of the Town of Wilkesboro and that without this ordinance the health, safety and welfare of the citizens of the Town as well as systematic town planning could be jeopardized.

Section 8. The Town Clerk shall certify the passage of this ordinance and cause notice of its contents to be published or posted. This Ordinance shall become effective upon adoption.

BE IT ORDAINED BY THE WILKESBORO TOWN COUNCIL, THIS EMERGENCY ORDINANCE WAS INTRODUCED, PASSED, APPROVED AND ADOPTED this 5th day of March, 2018 by the Town Council of the Town of Wilkesboro by a vote of 4 for and 0 against constituting the affirmative vote of at least three-fourths of the members of the governing body.





James K. Byrd, Town Clerk



Mike Inscore, Mayor



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ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF WILKESBORO, NORTH CAROLINA Resolution 2018-11

WHEREAS, the Town Council of the Town of Wilkesboro has been petitioned under G.S. 160A-31, as amended, to annex the area described herein: and

WHEREAS, the Town Council of the Town of Wilkesboro has by resolution directed the Town Clerk to investigate the sufficiency of said petition; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at Wilkesboro Town Hall, 203 West Main Street, Wilkesboro, North Carolina, at 5:30 pm on the 9th day of April, 2018, after due notice by publication on March 27, 2018; and

WHEREAS, the Town Council of the Town of Wilkesboro does hereby find as a fact that said petition meets the requirements of G.S. 160A-31, as amended;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Wilkesboro, North Carolina that:

SECTION 1. By virtue of the authority granted by G.S. 160A-31, as amended, the following described territory is hereby annexed and made part of the Town of Wilkesboro as of the 9th day of April, 2018.

That the area proposed for annexation is 3.42 acres +/- described as follows:

County Tax Book 1193, Page 172, Wilkes County Registry, Parcel ID #1501878 described as follows:

Being all of Lot1B, as shown on the plat entitled "Recombination Plats of Lots 1B and 3B" recorded in Plat Book 11, Page 366 of the Wilkes County Registry.

SECTION 2. Upon and after the 9th day of April, 2018, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town

MIKE INSCORE
Mayor

KENNETH D. NOLAND
Town Manager
townmanager@wilkesboronc.org

JAMES K. BYRD
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RUSSELL F. FERREE
Mayor Pro Tem

of Wilkesboro and shall be entitled to the same privileges and benefits as other parts of the Town of Wilkesboro. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

SECTION 3. The Mayor of the Town of Wilkesboro shall cause to be recorded in the office of the Register of Deeds of Wilkes County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Wilkes County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 9th day of April, 2018.



Michael Vestal Inscore, Mayor
Town of Wilkesboro

ATTEST:


James K. Byrd, Town Clerk

ORDINANCE NO. 2018-12

AN ORDINANCE TO CREATE OUTDOOR SEATING
REGULATIONS IN THE TOWN OF WILKESBORO.

Whereas, certain areas of the *Town* include spacious sidewalks that exceed minimum standards required for pedestrian passage; and

Whereas, limited business use of sidewalks for outdoor seating can provide a vibrant environment and enhance the character of the *Town* while still preserving pedestrian and other public uses; and

Whereas, private use of sidewalks can carry with it harmful secondary effects, such as overcrowding, littering, and late-night noise; and

Whereas, the *Town* wishes to allow limited use of spacious sidewalks that will enhance the *Town* while preserving appropriate public rights.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WILKESBORO THAT:

Section 1. Town of Wilkesboro Town Code, section 11-119, is hereby created as Town of Wilkesboro Town Council as follows:

“SECTION 11-119. OUTDOOR SEATING AREAS ON PUBLIC SIDEWALKS OR SPACES.

(a) Definitions.

Operator means any *person* who owns, operates, or manages a business that uses or applies to use an *outdoor seating area*.

Outdoor seating area means a permitted seating area on a public sidewalk or *public space* that is *used for* seating purposes by a *permit holder*.

Permit Holder means any *person* who holds a current permit for an *outdoor seating area*.

Permitted business means the business that regularly and customarily sells food or drink and is allowed to use an *outdoor seating area* as authorized under this section.

(b) Sidewalk Use Limited; *Outdoor Seating Area* Permit.

- (1) No business may use a public sidewalk or *public space* to seat its patrons without first obtaining a *permit* for an *outdoor seating area* issued by the *Town*. No *person* shall place tables, chairs, or other seating on a public sidewalk or *public space* in conjunction with a business without first obtaining a *permit* for an *outdoor seating area* that is issued by the *Town*.
- (2) A business that regularly and customarily sells food or drink may obtain a permit from the *Town* to operate an *outdoor seating area* on the terms and conditions set out in this section. The permit shall specify the area to be *used for* outdoor seating, the furniture to be used within the *outdoor seating area*, and the proposed arrangement of the furniture.
- (3) An *outdoor seating area* permit authorizes a limited use of the public sidewalk or *public space* so long as that private use does not interfere with the public interest or public use of the sidewalk.

- (4) The *Town* may temporarily suspend a *permit holder's* use of an *outdoor seating area* for any reason and for any length of time. During periods of temporary suspension, the *permit holder* must remove its furnishings from the *outdoor seating area* and *shall* not use the area. *Outdoor seating areas* may be prohibited during special events, parades or pickets, or for any other reason deemed appropriate by the *Town*. The *Town* will endeavor to give *permit holders* reasonable advance notice before issuing a temporary suspension, including a suspension related to a special event, parade, or picket.
- (5) The *Town* will endeavor to give permitted businesses a minimum of twenty-four (24) hours advanced notice, using information as provided on the permit application or renewal, of any pressure washing of the sidewalk or *public space* to allow for the relocation of outdoor furniture.

(c) Sidewalk Areas Eligible for Outdoor Seating.

An *outdoor seating area* shall meet all of the following requirements:

- (1) The building in which the *permitted business* operates must share a common boundary line with a public sidewalk or *public space*.
- (2) The *outdoor seating area* shall not extend beyond the boundaries fronting the *permitted business*.
- (3) The operation of the *outdoor seating area* must be related to the sale of food or drink from the *permitted business*.
- (4) The *outdoor seating area* shall allow a minimum five-foot-wide unobstructed pedestrian corridor at all times. Wider pedestrian corridors or increased clearances may be required where warranted by pedestrian traffic or other circumstances or to comply with the North Carolina Building Code, Americans with Disabilities Act, or other laws. Furniture in an *outdoor seating area* may be located next to the curb (with 2 feet clearance) and/or adjacent to the building, so long as clearances are maintained.
- (5) Where curbside abuts on-street parking, curbside tables shall be placed parallel to the street. A minimum 2 foot setback should be maintained from the curb edge.
- (6) A minimum clearance of 5 feet must be maintained between the *outdoor seating area* and edge of driveways, alleys, and handicapped ramps.
- (7) *Outdoor seating area* at corners must not extend to within sight triangles at street intersections or driveway entrances.
- (8) Clear unobstructed height of 7 feet must be maintained between the sidewalk surface and overhead objects including umbrellas.
- (9) The *outdoor seating area* must not block access to public amenities like street furniture, trash receptacles, and way finding, or directional signs.
- (10) Furniture must be made of durable material. No plastic, or unfinished or pressure treated wood furniture is permitted.
- (11) Planters or pots may be used to define the outdoor dining space but are not required.

- (12) Tabletop signage is limited to menus and must not exceed 4 square feet in area.
- (13) Lighting must not cause glare to pedestrians or vehicular traffic.
- (14) Lighting must not be affixed to *Town* landscaping for site furniture without a permit from the *Town*.

(d) Application; Permit Requirements.

- (1) A *person* owning, operating, or managing a business that regularly and customarily serves food or drinks *may* apply for an *outdoor seating area* permit. At a minimum, the application *shall* require:
 - a. The name, address, and telephone number of the business desiring to operate an *outdoor seating area*;
 - b. The name, address and telephone number of each of the *Operators* of the business;
 - c. The hours of operation of the business and the proposed hours of operation of the *outdoor seating area*;
 - d. A scaled drawing or site plan of architectural design standard quality showing of the proposed *outdoor seating area* boundary and surrounding streetscape details covering seven feet on either side of the frontage of the associated business, including but not limited to property lines, sidewalks, curb lines, lighting, trees (including tree size), tree grates, planters, street signs, bicycle parking, benches, bus stops, and fire hydrants. The drawing *shall* show the section of any public right of way to be *used for* the *outdoor seating area* and the section to be kept clear for pedestrian use, and depict the proposed materials and placement of tables, chairs, barriers, and other furnishings on the public right of way; and,
 - e. The furniture to be used in the *outdoor seating area* and its proposed arrangement.
- (2) An applicant *shall* also provide:
 - a. An application fee as provided in the *Town* fee schedule to cover the cost of processing and investigating the application and issuing the permit.
 - b. Evidence of a valid insurance policy, through an insurance carrier authorized or eligible to do business in the State of North Carolina for any damage to the public right of way, and for any damages for which the *Town* might incur liability because of property damage or personal injury arising out of the use of the public right of way for seating purposes. The minimum liability limit of the policy *shall* be \$1,000,000.00. The Town of Wilkesboro *shall* be listed as an “additional insured as its interests may appear” on all Certificates of Insurance;
 - c. An indemnity agreement, approved by the Town Attorney, whereby the *permit holder* and the *permitted business* agree to indemnify and hold harmless the *Town* and its officers, agents and employees from any claim arising or resulting from the operation of the *outdoor seating area*;

- d. A copy of all permits and licenses issued by the *State*, County or *Town* that are necessary for the operation of the business, including health permits, ABC permits and business licenses. If no permit has been issued, the applicant *shall* provide a copy of the application submitted.
- (3) No permit *shall* be issued until the applicant has submitted a completed application and all items required by this section.

(e) Permit Renewals.

- (1) A permit issued under this section *shall* be valid from the date of issuance and *shall* expire on June 30. Permits must be renewed annually by the applicant; applications must be submitted on or before May 31.
- (2) The Permit Renewal process shall consist of re-submission of the following:
 - a. Certificate of Insurance;
 - b. Indemnity Agreement;
 - c. A copy of all permits and licenses issued by the *State*, County or City that are necessary for the operation of the business, including health permits, ABC permits and business licenses. If no permit has been issued, the applicant *shall* provide a copy of the application submitted; and,
 - d. Permit Fee

No scaled drawing shall be required for a permit renewal unless the *permit holder* has rearranged or reconfigured the tables, chairs, or other furnishings *used for* outdoor seating purposes or otherwise revised the *outdoor seating area* from the previous permit year.

(f) Denial of Application; Reconsideration.

- (a) The *Town shall* notify the applicant in writing if it is determined that the proposed *outdoor seating area* does not meet the criteria established by this section. The notice *shall* identify which criteria were not met.
- (b) Within thirty (30) days of denial, the applicant may submit for reconsideration *one* revised plan for an *outdoor seating area* for the same business. The payment of a new application fee is not required.
- (c) A revised plan that is submitted for reconsideration after the thirty (30) day period has expired must be accompanied by a new application, including the application fee.

(g) Operation of *Outdoor Seating Areas*.

- (1) An *outdoor seating and dining area* may be used only by the *permitted business* identified in the *permit* and only for the seating of patrons in the furniture provided by the *permit holder*.
- (2) A *permit holder* may place one host station, removable tables, chairs, or other items used in conjunction with seating within an *outdoor seating area* in the arrangement shown on the permit. No cash registers, tents, minibars or similar appurtenances *shall* be permitted. Furniture in an *outdoor seating area shall* be kept clean and in good repair.

- (3) A *permit holder* may rearrange or reconfigure approved tables, chairs, and other furnishings in the permitted *outdoor seating area* without submitting a new application and without any fee only if:
 - a. No prior rearrangement or reconfiguration had been submitted within the permit year.
 - b. The Permit Holder within seven (7) days of the reconfiguration provides the department with a scaled drawing or site plan of architectural design standard quality of the new placement; and
 - c. The furnishings or their new placement do not:
 - i. Extend outside of the approved area;
 - ii. Constitute a danger to the health or safety of a patron or the public; or
 - iii. Otherwise violate the terms of the permit.
- (4) *Outdoor seating areas* shall be open to the air, except that seating may be located under approved umbrellas, awnings, or canopies.
- (5) A *permit holder* must provide stanchions or other portable, visible, above-ground barrier between the approved *outdoor seating area* and the remainder of the public sidewalk whenever the *outdoor seating area* is in use.
- (6) Nothing shall be permanently affixed to a sidewalk or to other public property.
- (7) The *permit holder* and the *permitted business* shall not operate outside the area specified in the permit.
- (8) *Permit holders* and *operators* shall keep all licenses and permits required for their business operations continuously in effect.
- (9) *Permit holders* and *operators* shall ensure that the *permitted business* obeys all laws related to alcohol service and consumption. *Permit holders* shall post visible signs at all exit points from the *outdoor seating area* to the public sidewalk reminding patrons that they cannot possess open containers of alcohol outside the *public seating area*. To retain an *outdoor seating area permit*, *permit holders* and *operators* shall ensure that no alcohol is served or consumed outside the permitted *outdoor seating area*.
- (10) An *outdoor seating area* may be used by the *permit holder* only when the *permitted business* is open to customers.
- (11) No *outdoor seating area* shall operate after 2:00 a.m. on Saturday or Sunday. No *outdoor seating area* shall operate after 12:00 a.m. on any other day of the week. *Permit holders* shall ensure that their *outdoor seating areas* are not available for use after the hours specified in this subsection.
- (12) The maximum occupancy permitted in the *outdoor seating area* shall be posted on the exterior of the building in a conspicuous place. The *permit holder* shall ensure that the number of occupants in the *outdoor seating area* does not exceed the posted limit at any time. A server or other *person* employed by the permit holder who briefly enters and exits an *outdoor seating area* shall not be considered an occupant for the purposes of this subsection.
- (13) The *permit holder* shall keep the *outdoor seating area* and the adjacent seven (7) feet of public space surrounding it clean of any solid waste, including, food debris, paper, cups, bottles, cans, and other garbage associated with the operation of the *outdoor*

seating area space on a daily basis. The public right of way within and adjacent to the *outdoor seating area* must be washed down with water and detergent when needed and cleaned on a daily basis. Any stains from spills must be removed. The Permit Holder must properly dispose of all waste and trash.

- (14) The permit holder is responsible for the maintenance, upkeep, and security of furniture and accessories used in the *outdoor seating area*.

(h) Additional Requirements for N.C. DOT Streets

In addition to the requirements set out in this section, when an *outdoor seating area* is located on a sidewalk along an N.C. Department of Transportation street or highway, applicants and *permit holders* shall meet all requirements established by the N.C. Department of Transportation. Those requirements are contained within North Carolina General Statute 136-27.4 and can be found at:

https://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_136/GS_136-27.4.pdf

(i) Assignment Prohibited; Effect of Ceasing Business Operations.

- (a) An *outdoor seating area* permit is not transferrable or assignable. The permit authorizes use of the *outdoor seating area* by the *permit holder* for the *permitted business*. Any change in the ownership of a business after the issuance of an *outdoor seating area* permit shall cause the permit to be immediately invalid and require the new owner to reapply for the permit. A change in ownership shall mean acquisition of more than ten percent of the stock in a publicly traded corporation, any change in the ownership of shares in a privately held corporation, sale of all or part of a sole proprietorship, or any change in the membership of any form of limited liability organization.

(j) Enforcement.

Civil Penalties.

Violations of any of the provisions of this section will result in the *following* civil penalties:

- (a) First offense in any twelve-month period: \$100.00
(b) Subsequent offense in any twelve-month period: \$500.00

The Town Manager or the Manager's designee may issue a notice of violation assessing civil penalties. The notice shall be issued in writing and shall set forth with reasonable specificity the basis for the civil penalty. The notice of violation shall be served by registered or certified mail, or by personal service. When service is made by registered or certified mail, a copy of the notice may also be sent by first class mail. Service shall be deemed sufficient if the first class mail is not returned by the Post Office within ten (10) days after the mailing. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty.

The notice of violation shall contain a time period by which the violation must be corrected. From and after the date specified in the notice, each subsequent day that the violation continues in existence shall constitute a separate and distinct offense subject to additional civil penalties.

If a *person* fails to pay any civil penalty within thirty (30) days after the decision becomes final, the *Town* may recover the penalty, together with all costs allowed by law, by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt.

Other Remedies.

In addition to civil penalties and permit suspension, a violation of this division is a misdemeanor and *may* also be enforced through injunctive or other equitable relief, or a combination of remedies

Appeals.

A party aggrieved may appeal any decision under this section to the Town Manager within fifteen (15) calendar days after the contested decision. An appeal must be made in writing and *shall* contain the reasons supporting the appeal and any evidence that supports it. The *person* appealing *may* review the evidence that is the basis of any suspension or violation during the *Town's* normal business hours. The Town Manager or his designee *shall* review the information provided and *shall* issue a *written* decision determining whether a violation has occurred.

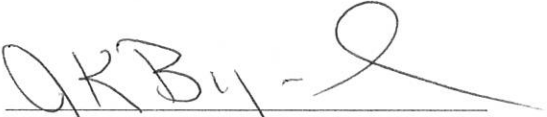
- (c) After receiving a determination from the Town Manager or his designee, a party aggrieved *may* appeal to the *Town Council* within twenty-one (21) calendar days after the Town Manager's decision (or the decision of his designee) was mailed. The scope of the *Town Council's* review *shall* be limited to verifying the facts supporting a *written* decision or Findings of Fact made on a suspension. If the *Town Council* finds that the facts as found are correct, the civil penalty, administrative fee, or suspension *shall* not be disturbed."

Adopted: August 6, 2018

Effective: August 6, 2018




Mike Inscore, Mayor


James K. Byrd, Town Clerk

Ordinance Number 2018-13

**AN ORDINANCE AFFECTING THE REGULATION OF SOLID WASTE: AMENDING
CHAPTER 51 OF THE CODE OF ORDINANCES OF THE TOWN OF WILKESBORO**

WHEREAS, The Town of Wilkesboro strives to be a high service provider to citizens and businesses alike; and

WHEREAS, in accordance with General Statute 103(A)-309.04 the state of North Carolina directs municipalities to reduce the municipal solid waste stream by forty percent; and

WHEREAS, The Town of Wilkesboro understands that it is our civic duty to reuse, recycle, and compost, not only because of a state mandate, but because it is the responsible action to take to preserve our local environment that we all hold dear; and

WHEREAS, to endeavor to work hand-in-hand with local businesses to keep our communities clean and landscapes healthy for years to come; and

WHEREAS, The Town of Wilkesboro strives to provide modern solid waste solutions to modern solid waste problems; and

**THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
WILKESBORO, NORTH CAROLINA**, that Title V, Public Works, Chapter 51: Garbage; Solid Waste, of the Code of Ordinances of the Town of Wilkesboro, North Carolina, is hereby repealed; and

LET IT BE FURTHER RESOLVED,

PART ONE. That Title V, Public Works, Chapter 51: Garbage; Solid Waste, of the Code of Ordinances of the Town of Wilkesboro, North Carolina, is hereby replaced as follows:

§ 51(A).01 DEFINITIONS.

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

ASHES. Residue resulting from the burning of wood, coal or other combustible material.

BUILDING MATERIAL. Lumber, brick, stone, carpet, plumbing materials, plaster, concrete, floor coverings, roofing material, gutters or other materials or substances accumulated as a result of construction, repairs or additions to existing structures or accessory structures or demolition of those.

BULK CONTAINER (DUMPSTER). A metal container with a minimum size of 400 gallons and a maximum size of 1600 gallons, watertight, constructed with two opening side and top doors so that it can be emptied mechanically by specially equipped trucks.

BULKY ITEMS. Items such as household furnishings, white goods, mattresses, box springs, lawn equipment (i.e. mowers, wheelbarrows) and similar household items.

BUSINESS BUILDING. Any structure, whether public or private, that is adapted for transaction of business, for rendering of professional services, for amusement, for the display or sale or storage of goods, wares, merchandise, article or equipment, including hotels, apartment houses, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, abattoirs (slaughterhouses), warehouses, sheds, barns and other structures on premises used for or adapted to business purposes.

BUSINESS TRASH. Any waste accumulation of paper, cardboard, packaging materials, rags or accumulations of incidental garbage other than household trash which is associated with the operation of stores, offices and nonresidential units.

COLLECTION. The act of removing solid waste from a point of generation to an approved disposal site. Collection shall be at the curb for rollout (or backyard in special circumstances), trash, yard waste and recyclable collection.

DESIGNATED COLLECTION AREA(S). That geographic location to which the town is responsible for providing solid waste collection services. Collection points shall be at the curb for the rollout, trash, yard waste and recyclables collection.

ESTABLISHMENTS. Single-family units, special residential units, multifamily units, nonresidential units and town-owned nonresidential units.

FOUL ODOR. Offensive odors emanating from, but not limited to, garbage.

GARBAGE. The byproduct of animal or vegetable foodstuffs resulting from the handling, preparation, cooking and consumption of food or other matter which is subject to decomposition, decay, putrefaction and/or the generation of noxious or offensive gases or odors or which during and/or after decay may serve as breeding or feeding material for flies, insects and/or animals. All refuse to result from the use and maintenance of the property, regardless of the nature of the action thereon.

HAZARDOUS WASTES. The following is an explanation of hazardous waste as published in the North Carolina Hazardous Waste Law adopted for the Federal Environment Protection Agency (EPA). For the purposes of this chapter, the definition of hazardous waste has been condensed. The items defined are not inclusive of all items specified by the EPA regulations. Hazardous waste is defined as potentially dangerous byproducts of our highly industrialized society that cannot be handled, treated or disposed of without special precautions. It includes ignitable, corrosive, reactive and toxic wastes such as acetone, gasoline and industrial alcohol, alkaline cleaners, acids, cyanide and chlorine, arsenic, pesticide wastes, drugs, paint, caustics, infected material, offal, fecal matter (human and animal), explosives and any other material of similar nature.

HOUSEHOLD TRASH. Any waste accumulation of paper, sweepings, rags, bottles, cans or other matter of any kind, which is usually attendant to housekeeping, excluding recyclables and garbage.

INDUSTRIAL WASTE. All waste, including solids, semi-solids, sludge and liquids created by factories, processing plants or other manufacturing enterprises.

INSPECTOR. The person or persons designated by the Town Manager to perform the duties and responsibilities assigned by this chapter to the inspector.

LITTER. Any discarded man-made materials including, but not limited to, solid waste materials, industrial materials, household trash, business trash, building materials, scrap materials and hazardous waste as terms are defined in this chapter.

MULTIFAMILY RESIDENTIAL UNIT. Any apartment, group of apartments or condominiums used for dwelling places of 3 or more families.

NONRESIDENTIAL UNIT. Any retail, manufacturing, wholesale, institutional, religious, nonprofit organization, governmental or another unit not primarily used for residential purposes.

PERSON. Any person, owner, agent, corporation, partnership, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, occupant, lessee, tenant or representative or group of individuals or entities of any kind.

PHYSICAL DISABILITY. A medical condition verified by a registered physician that makes an individual either physically unable to bring a rollout container to the curbside for collection and/or that makes undertaking that act clearly and seriously threatening to that person's health.

PORTABLE PACKING UNIT. A metal container not exceeding 4,500 pounds gross weight with an 800 to 1600 gallon capacity that contains a packing mechanism and an internal or external power unit.

PREMISES. Lots, sidewalks, rights-of-way, grass strips or curbs up to the edge of the pavement of any public street.

RECYCLABLES. Material designated as capable of being sorted, processed, transported and sold to markets for the remanufacture of like or different products. Items include newspapers and accompanying inserts, glass, food and beverage containers, plastic soft drink and liquor bottles, aluminum cans, bi-metal cans, steel or tin cans, yard waste and other items determined to be recyclable by the Solid Waste Department.

RECYCLABLES BIN. A 21-gallon plastic container furnished by the town or town-designated private collector and distributed for use in the residential recyclables collection program.

REFUSE. Solid waste accumulations consisting of garbage, household trash, yard waste and business trash as herein defined.

REFUSE RECEPTACLE. A metal or plastic container resistant to rust, corrosion or rapid deterioration.

REGULAR COLLECTION. All collection services offered recurrently, at least once per week, which includes the collection of vegetable and food wastes in a manner safe to public health.

RESIDENTIAL SOLID WASTE. Garbage and trash, which may include glass jars, bottles, steel cans, plastic soda and liquor bottles, newspaper and inserts, plastic milk and water jugs and other solid waste including yard waste.

RESIDENTIAL SOLID WASTE. shall not include discarded building materials, trees, brush and other material resulting from the activities of building contractors or lawn services, larger quantities of sod, dirt, and trash from land clearing or other material requiring special handling.

ROLL-OUT CART. A container having wheels and a hinged lid, issued by the town or by a firm under contract with the town, for the disposal of refuse and recycling as defined and prepared in accordance with this article.

SEPARATE COLLECTION. All collection of specifically defined materials not associated with regular collection practices.

SCRAP METAL. Any item creating a littered condition including, but not limited to, dilapidated furniture, appliances, machinery, equipment, building material, automotive parts, tires or other similar items which are either in a wholly or partially rusted, wrecked, junked dismantled or inoperative condition.

SINGLE-FAMILY RESIDENTIAL UNIT. Any dwelling occupied by 1 family.

SOLID WASTE. Accumulations consisting of any combination of business trash, garbage, household trash, bulky items, yard waste, recyclables and scrap materials and shall be collected through curbside trash, rollout, recyclables, yard waste, bulky items or business trash collection activities.

SPECIAL RESIDENTIAL UNIT. Any duplex, triplex, quadruplex or mobile home park.

TRASH. The byproduct of animal or vegetable food waste resulting from the handling, preparation, cooking and consumption of food or other matter which is subject to decomposition, decay, putrefaction and/or the generation of noxious or offensive gases or odors or which during and/or after decay may serve as breeding or feeding material for flies, insects and/or animals. All refuse to result from the use and maintenance of the property, regardless of the nature of the activity thereon except garbage. (Sometimes referred to as GARBAGE)

WASTE. All useless, unwanted or discarded materials resulting from industrial, commercial, agricultural and residential activities (excluding sewage).

WHITE GOODS. Large electrical goods used domestically typically white in color. Large white goods, such as refrigerators, microwaves, washers, dryers or dishwashers will be accepted.

YARD WASTE. Grass, weeds, leaves, tree trimmings, plants, shrubbery pruning's and other similar materials which are generated in the maintenance of yards and gardens, and which are separated from other solid waste materials and placed in a designated recycling collection area. Yard waste shall not include trees, tree limbs, brush and other material resulting from commercial tree trimmers and/or commercial lawn care services. Items that are over 6 feet long and 3 inches in diameter will not be accepted. Stumps will not be collected.

§ 51(A).02 SUPERVISION OF COLLECTION; REGULATIONS.

(A) The Field Operations Supervisor, with the approval of the Public Works Director, shall supervise the collection, removal, disposition and processing and sale of all refuse of bulky items, yard waste, and recyclables.

(B) The Public Works Director, with the approval of the Town Manager, may prepare and publish rules for the effective administration and enforcement of the provisions of this chapter. It shall be unlawful for any person to fail, neglect or refuse to comply with these rules and regulations.

(C) The Town Manager and Public Works Director shall have all authority to vary the level of refuse collection service for experimental purposes and on a temporary basis at the direction of the Town Council. Service elements that may be altered include, but are not limited to, the frequency of collection, container type and allowable volume per customer per pickup.

(D) No owner or occupant of a residential premise shall prohibit or prevent weekly solid waste collection services, including recyclables collection, at the premises.

§ 51(A).03 COLLECTION ROUTES, SCHEDULES AND PLACEMENT OF CONTAINERS.

(A) The Public Works Director shall establish collection routes and schedules and may alter these routes and schedules from time to time. A copy of the current routes and schedules shall be kept on file in Town Hall and in the office of the Public Works Director.

(B) The Town Council may establish and revise from time to time a policy relating to the number of times per week the town will collect solid wastes from various classifications of premises and the maximum number of solid waste receptacles that the town will service on any one premise.

(C) Normal refuse collection service will consist of one collection per week of refuse, prepared in accordance with this chapter and placed in one or more 96-gallon roll out carts or glass recycling containers

(D) 96-gallon roll out carts and 21-gallon glass recycling containers, and no other containers, for refuse and recycling, shall be set out for collection only upon those days designated for the premises involved in the schedule provided for in this chapter.

(E) Where the curbside collection is available, containers shall be placed by the street within 10 feet of the curb line or where the rollout is delivered, and not in the traveled portion of the street, by 6:00 a.m.

(F) Rollout carts and glass recycling containers for refuse shall be removed from the street or alley by 7:00 p.m. on the day of collection. The Town of Wilkesboro reserves the right to charge a fee for noncompliance with this requirement as noted in the current schedule of fees. Section 51.99 of this ordinance, entitled Penalties and Remedies may also be referenced.

§ 51(A).04 CONTAINER, STORAGE AND COLLECTION PRACTICES.

(A) Each residential customer will be provided with a 96-gallon roll out cart by the town. Implementation will be done according to a schedule prepared by the Public Works Director, recommended by the Town Manager and approved by the Town Council.

(B) The Public Works Director may exempt customers from using the 96-gallon roll out carts if requiring use causes a hardship related to a topographic site restriction or another similar type of hardship. Exemptions will be made on a case by case basis at the discretion of the Public Works Director and may be changed or amended at any time.

(C) Customers using the rollout cart may not fill the cart in a manner that the cart lid will not close tightly over the cart body or so full that the mechanical lifters mounted on refuse packers or sanitation workers cannot lift the cart. If the customer cannot comply with this requirement another rollout cart will be provided for them. The monthly fees will be assessed at the rate in the current schedule of fees at the time the cart is provided.

(D) Each 96-gallon rollout carts used in the residential garbage collection program are the property of the town and the town provides general maintenance for them at no cost to the resident. A replacement fee will be charged for rollout carts that are damaged, defaced or removed from the premises by the resident. The fee will be assessed according to the current schedule of fees.

(E) Trash and recycle rollout carts shall be used for the disposal of residential and approved commercial garbage only.

(F) Spilled materials or overflow caused by the property owner or occupant shall be cleaned up immediately after spillage or overflow occurs by the owner or occupant.

(G) Spilled solid waste materials caused by the town collection crew of the town's authorized collection agent shall be cleaned up immediately after spillage occurs by the crew.

(H) Rollout carts will be collected from the curbside provided they are easily accessible to collection personnel without having to unlock or open a door, unlock a gate or similar obstacle, or encounter a vicious animal. Town collection personnel shall not provide service if required to ascend or descend multiple steps to obtain access to rollout containers, or if denied reasonable access by parked vehicles, equipment or other objects. Additionally, the Town waives liability for any property damage incurred during the collection of improperly placed rollout carts.

(I) Garbage placed in rollout carts shall be wrapped, bagged or enclosed in paper or plastic material. Any liquid waste, such as grease, shall be sealed in its own separate container before being placed in the rollout container. Failure to comply with this rule may result in the customer being charged as stated in the current schedule of fees for the cleaning and/or replacement cost of their rollout cart.

(J) All potentially dangerous trash items and all waste material of a hazardous nature, such as broken glass, light bulbs, needles, and sharp pieces of metal, shall be securely wrapped to prevent injury to the collection crews. It is illegal to place fluorescent tubes in the landfill, therefore, refuse of this description WILL NOT be picked up the Public Works.

(K) Trash of a hollow or bulky nature shall be flattened out or broken up prior to depositing it in authorized containers.

(M) Request for additional rollout containers at the same property address shall be reviewed on a case-by-case basis. Approval of additional container(s) shall be contingent upon an investigation by the town to determine whether an actual need exists. Owner or occupant will be charged a monthly fee for each cart as per the current schedule of fees.

§ 51(A).05 PHYSICALLY DISABLED SERVICE.

(A) The Public Works Director may exempt customers from putting the roll-out cart(s) on the street if requiring placement causes a hardship related to the customer's age, an infirmity, a topographic site restriction, or another similar type of hardship. Exemptions will be recorded in writing and kept in the office of the Public Works Director. All exempt customers must comply with the requirements of § 51.04.

(B) In order to qualify for an exemption, every member of the household shall be physically disabled as verified by a physician. Based on a physician's note, the Solid Waste Division will grant physically disabled status.

(C) For physically disabled persons, rollout containers will be collected from a location mutually agreed upon by the Public Works Director and resident. The Public Works Director shall have final authority to determine the most advantageous and safe location during disputed situations.

(D) The town reserves the right to verify the need to continue physically disabled services to residents that have been approved to receive those services. The town shall also reserve the right to continue or discontinue service.

§ 51(A).06 CONTROL OF SOLID WASTE.

(A) It shall be unlawful for any person owning or occupying property to cause or allow solid waste to be placed, deposited or to accumulate on his or her property except in 96-gallon roll-out carts and glass recycling bins as authorized by this chapter. All solid waste stored shall be stored so as to eliminate wind-driven debris and unsightly litter on the property and any spillage or overflow shall be cleaned up and containerized immediately. Once properly stored, all solid waste that the town will collect shall be immediately placed in an appropriate location for removal by the town. All other waste not subject to town collection shall be immediately removed from the property by the occupant and/or property owner. Any unauthorized accumulation of litter is hereby declared to be a public nuisance in accordance with Chapter 132.12 of the Town of Wilkesboro, North Carolina Code of Ordinances and is prohibited.

(B) The person in possession of property shall maintain the property, including sidewalks, grass strips, 1/2 of ally, curbs or right-of-way up to the edge of the pavement of any public street in a clean and litter free manner.

(C) All commercial establishments shall, particularly with respect to their loading and unloading areas, store their refuse in bulk containers (dumpsters) so as to eliminate wind-driven debris and litter in and about the establishments. Approved methods of containerization include Town issued rollout carts and bulk containers (dumpsters). The establishment shall immediately clean up spillage and overflow when and as it occurs.

(D) Parking lots shall be maintained by the person in possession in a clean, litter-free manner, with all trash generated therein containerized and prevented from spreading to adjoining property. It shall be the responsibility of the person in possession of the parking lot to collect the refuse and trash deposited on the lot and place this material in containers.

(E) It shall be unlawful for any person undertaking any construction, renovation or demolition activities to fail to provide on-site receptacles for containerizing all debris and waste material produced by those working on site which is capable of being windblown or scattered from the site. Examples of appropriate receptacles shall include but not be limited to dump trucks, trailers, bulk containers and containers made of fencing material. All waste shall be containerized and secured so as to prevent being windblown by the end of each day, and the site shall be kept in a reasonably clean condition. Dirt, mud, construction materials or other debris deposited on any public or private property as a result of the construction or demolition shall be immediately removed by the contractor. Construction sites shall be kept clean and orderly at all times.

(F) Every owner and every occupant of any premises shall maintain that area of the street right of way between the edge of the traveled road curb line and the adjacent property line in a reasonably safe condition and shall remove dangerous plantings, shrubbery, limbs, tall grass and weeds and other noxious growth from the area of the street right of way.

Penalty, see § 51.99

§ 51(A).07 TOWN SERVED NONRESIDENTIAL UNITS.

(A) Approved service to the town served nonresidential/commercial units shall be at least once a week. Collection shall be limited to two 96-gallon containers per tenant. A second container may be leased from the Town as noted in § 51.04 and according to the current schedule of fees.

(B) Until the time that collection practices are amended by the Town Council, when refuse accumulates at stores, hotels, apartments, duplexes, triplexes, quadruplexes, condominiums, theaters, office buildings, schools, clubs, mobile home parks, commercial establishments, industrial establishments or at any other place in quantities of 192 gallons or less, the same will

be collected by the solid waste division if refuse is placed in the town approved 96-gallon roll-out carts and meeting the standards set forth in other sections of the chapter.

(C) Where the refuse at any of the indicated establishments exceeds 192 gallons, exclusive of special collections, the owner shall be required to contract with a private company providing bulk container/dumpster refuse service. The Public Works Director or designee will determine the type of service to be provided. Unless refuse is placed in the 96-gallon container as outlined in this chapter, the Town will not collect it.

(D) Designated representatives of the solid waste division shall have the authority to determine whether any unit is generating more than the maximum capacity per collection and, if so, those units shall be required to convert from rollout service to bulk container service with a private contractor. Bulk containers must be shielded from view in such a way that complies with the requirements of the Wilkesboro Zoning Ordinance and the planning department must approve the shielding.

§ 51(A).08 BULK CONTAINERS / DUMPSTERS.

(A) (1) The property owner of any apartments, group of apartments, condominium, mobile home park, or residential structure, containing 6 or more units shall provide at least one bulk container/dumpster for the purpose of refuse collection. The Town of Wilkesboro will not provide curbside service to these units.

(2) Institutional and businesses required to have bulk container/dumpster if they exceed more than two 96-gallon roll-out containers for refuse.

(B) The Public Works Director or designee shall have the authority to assist in determining the quantity, size, and location of bulk containers and to determine whether those bulk containers are serviceable. In making this determination, the public works director and the business administrator shall consider the needs of the occupants of the premises, the welfare of the occupants and neighbors and the town's need to facilitate collection and minimize the cost of service.

(C) The owner of the premises shall provide at least one or more bulk containers so that the following criteria relating to capacity are satisfied:

(1) Approximately 100 gallons of storage capacity shall be provided for each dwelling unit or fraction thereof; and

(2) The owner or occupant shall provide the smallest number of bulk containers capable of satisfying the requirements stated in division (C)(1) of this section.

(3) The containers shall at all times be kept clean, neat, painted, in a good state of repair and easily accessible to collection personnel. No bulk containers shall be placed

in front of a residence, in front of the building setback line closest to the street or in a public right-of-way. Container lids shall be kept closed at all times. All doors and lid springs will be in working condition. Businesses or occupants leasing the containers shall be responsible for notifying their service contractor of any damaged conditions. Cleaning up spilled materials shall be the responsibility of the property owner or occupant and shall occur immediately after any spillage or overflow occurs.

(4) All containers shall have an all-weather driveway surface from the public street to the bulk container; access driveway surface may be paved, but must, at a minimum, be well graded and graveled.

§ 51(A).09 RECYCLABLES.

(A) In compliance with North Carolina General Statute 130A-309.04, and in recognition of the Town of Wilkesboro's commitment to extend the life of the Wilkes County Landfill and set a standard of environmental conscientiousness by which all Wilkesboro residents may follow, the Town of Wilkesboro does hereby set for itself a goal of 40% reduction in the present solid waste stream now being landfilled by initiating a mandatory recycling program. The mandatory program and policy shall consist of commercial and residential collections implemented in a manner to promote the most cost-effective method of compliance with local goals and state mandates.

(B) (1) All residential and commercial establishments are required to participate in the mandatory recycling program. Residential and commercial establishments participating in the mandatory recycling program shall endeavor to recycle all newspapers and all inserts that come with the newspaper, cardboard boxes, pasteboard boxes, cereal boxes and metal cans and aluminum pans by collapsing and/or breaking down boxes and placing boxes/cans in a 96-gallon roll-out cart, labeled RECYCLABLES. No wax boxes or plastic-coated boxes are to be recycled and participants should not place wax boxes or plastic-coated boxes in recycling containers.

(2) All residential and commercial establishments in the mandatory recycling program shall also endeavor to recycle all glass containers regardless of color. The following glass items cannot be recycled: light bulbs, plate glass, glass cookware, mirrors, ceramics, or any glass that is not a container. Paper labels do not need to be removed. All bottle caps and lids must be removed. Glass recyclables must be placed in a separate, 21-gallon, recyclables bin marked GLASS RECYCLABLES.

(3) All residential and commercial establishments in the mandatory recycling program shall also endeavor to recycle all #1 and #2 plastic containers. This includes plastic bottles and milk jugs. The following items are not recyclable: plastic wrap and hard plastics other than types 1 and 2. Procedure to recycle plastic: rinse out bottles and jugs, remove the lids, and place in the recycling container. Lids that are left on recyclable

containers present a hazard to our town employees during the compacting process. For the most up-to-date recyclables, please refer to www.wilkesboronc.org

(4) The Town of Wilkesboro will collect recyclable materials from residential and approved commercial establishments on a schedule to be determined by the Public Works Director and the Town Manager for the Town of Wilkesboro.

(C) The following regulations shall govern all persons who utilize the Town's recyclables collection program:

(1) Recycling bins are to be used for recyclable items only.

(2) All recyclables, except yard waste, shall be placed in a town-authorized receptacle bin. Additional 21-gallon bins can be purchased by citizens if needed according to the current schedule of fees.

(3) Curbside recyclables collection service will be provided on a day designated by the Public Works Director or designee for curbside collection service. The recyclables rollout cart and glass container shall be placed at curbside separate from other items. Any material not placed inside of the appropriate receptacle shall not be picked up by the Town.

(4) It shall be unlawful to place the recyclables bin at curbside for collection prior to 7 pm the evening before the approved collection date and to fail to remove the container by 7pm on the day of collection.

(D) The purchase of a 21-gallon glass recycling container is made at the Town of Wilkesboro at the Town Hall for in an amount as set out in the current town schedule of fees and for participation in the mandatory recycling program as authorized by the Town of Wilkesboro as set forth herein.

Penalty, see § 51.99

§ 51(A).10 OWNERSHIP OF MATERIALS.

Recyclable materials and yard waste which are properly placed by an owner or occupant of a property at curbside for collection are deemed to be abandoned by those person(s) and become the property of the town or its authorized agent.

§ 51(A).11 SCAVENGING; PRIVATE COLLECTION.

It shall be unlawful for any unauthorized person to scavenge, sort, pick through or remove refuse, trash, yard wastes or recyclables stored or set out for collection, or for any person other than the Town or its contractors to collect recyclables in the town where those

materials have been prepared and set out for collection by the town in accordance with this chapter.

Penalty, see § 51.99

§ 51(A).12 UNAUTHORIZED COLLECTION PROHIBITED.

It shall be unlawful for any person not authorized by the Town to collect, pick up or cause to be collected or picked up any solid waste including recyclables and yard waste.

Penalty, see § 51.99

§ 51(A).13 REMOVAL FROM UNIMPROVED PREMISES.

Refuse shall not be removed from an unimproved property, except when refuse meets the conditions set forth in this chapter, such as creating a health and safety hazard, and then not in excess quantities and only when the property owner can be identified. All applicable fees apply in accordance with this chapter.

Penalty, see § 51.99

§ 51(A).14 ILLEGAL DUMPING.

(A) It shall be unlawful for any person to place, discard, throw, drop or deposit, or cause to be placed, discarded, thrown, dropped or deposited any solid waste on:

- (1) Any public street, sidewalk or alley within the town or on any property owned or operated by the town or any other public property except in properly designated receptacles;
- (2) Any property not owned by a person without the written consent of the owner, occupant or lessee thereof; or
- (3) In any stream or body of water.

(B) When litter is thrown from a vehicle, the driver will be held responsible, regardless of who throws the litter. In accordance with G.S. 14-399, the police have full enforcement power over this section.

(C) This section shall not prohibit the dumping or placing of fill on private or public property without the owner's permission of clean sand, dirt, broken concrete, broken pavement, and

natural land debris, uncontaminated by other materials or other material deemed suitable by the Public Works Director and that would not create a nuisance or health hazard. The Town of Wilkesboro shall deem the consent of the Town Manager permission for all town-owned property.

Penalty, see § 51.99

§ 51(A).15 BURNING GARBAGE AND YARD WASTE.

It shall be unlawful for any person to burn or set fire to garbage for the purpose of disposal, and garbage shall be disposed of only as authorized by this chapter.

Penalty, see § 51.99

§ 51(A).16 DUMPING BY NONRESIDENTS.

(A) It shall be unlawful for any person to bring construction debris, business trash, garbage, household refuse, household trash, industrial waste, litter, refuse, solid waste, yard waste or any other kind of trash or rubbish into the Town of Wilkesboro from a point outside the town for the purpose of materials to become subject to pick up by the Town of Wilkesboro.

(B) It shall be unlawful for any person to knowingly permit the use of his or her receptacles or any other portion of his or her property by any other person for the disposal of any construction debris, business trash, garbage, hazardous refuse, household trash, industrial waste, litter, refuse, solid waste, yard waste or any other kind of trash or rubbish brought in to the Town of Wilkesboro from a point outside the town for the purpose of disposing of materials to become subject to pick up by the town.

Penalty, see § 51.99

§ 51(A).17 CONTAINERS REQUIRED TO REDUCE LITTER.

(A) Whenever the Public Works Director determines that solid wastes are commonly or routinely deposited by the customers, employees, licensees or invitees of the premises onto the parking areas or other open spaces of the premises or adjacent properties or streets, the Public Works Director may require that the person in possession of the premises provides a refuse containers on the premises. In locations specified by the Public Works Director to be necessary to minimize the litter problem to the extent reasonably possible and practicable under circumstances. This section is specifically intended to apply, but shall not be limited, to those establishments commonly known as fast food restaurants, strip shopping centers, and convenience stores.

(B) The presumptions established by this section are that to satisfy the standard set forth in division (A) above. There shall be 1 refuse receptacle for every 20 parking spaces or fraction thereof, with a minimum of 2 receptacles per parking lot. This is required for businesses establishments. However, this is only a presumptive standard to guide the discretion of the Public Works Director, and the Director may find in any case that more or fewer receptacles are necessary to satisfy the standard set forth in division (A) above.

(C) Whenever premises served by bulk containers (dumpsters) are required under division (A) above, other refuse receptacles for the use of employees must be located on the premises for the use of employees, customers, licensees or invitees. Whenever other refuse receptacles are furnished voluntarily, the person in possession of the premises shall collect or make arrangements for a private contractor to collect the solid waste deposited in refuse receptacles and place the solid waste in bulk containers serviced by the private contractor.

(D) No person on the parking area or other open spaces of any premises may place, discard, throw, drop or deposit, or cause to be placed, thrown, dropped or deposited any solid wastes on premises except in properly designated receptacles. This shall be considered littering and will be enforced by G.S. 14-399.

Penalty, see § 51.99

§ 51(A).18 DUMPING OF BUILDING AND DEMOLITION MATERIALS.

It shall be unlawful to maintain or operate a disposal site for the burial of material resulting from building, construction, renovation or demolition. Provided, however, this section shall not prohibit dumping or depositing clean fill material as set forth in § 51.14.

Penalty, see § 51.99

§ 51(A).19 TRANSPORTATION OF LOOSE MATERIALS AND WASTES.

(A) No person may transport or cause to be transported any solid waste on the public streets of the town unless the solid wastes are secured so as not to escape from the transporting vehicle. In addition, any garbage so transported shall be carried in closed containers that prevent the escape of noxious odors or liquids.

(B) No person may transport or cause to be transported on the public street of the town any loose, solid or liquid materials capable of being easily blown, dropped, scattered or otherwise deposited on the streets or adjacent areas unless materials are properly covered, secured and contained to prevent escape from the transporting vehicle. This division shall not apply to the transportation of poultry or livestock or silage or other grain used in the feeding of poultry or livestock as stated in G.S. 14.399 (b)

(C) It shall be unlawful for any refuse collector to haul refuse over the streets of the town unless he or she uses a watertight vehicle provided with a tight cover and so operates it as to prevent offensive odors escaping therefrom and refuse from being dropped, blown or spilled.

Penalty, see § 51.99

§ 51(A).20 SPECIAL COLLECTION; YARD WASTE AND BULK ITEMS.

(A) Yard Waste:

(1) Yard waste collection shall be provided only to single-family and special residential units served by the town. Yard waste collection shall not be provided to commercial cut limbs.

(2) There may be occasions when the amount of yard waste in a designated area exceeds processing capacity. When this occurs, the yard waste will be picked up at the earliest convenience or next scheduled pickup, whichever is sooner according to the availability of manpower and equipment. Yard waste shall be separated from curbside trash and shall not be placed together to constitute a single, separate collection in order for the town to carry out its other collection program. Collection forces shall collect an amount of yard waste that is customarily and reasonably associated with the residential unit(s) served so long as it is properly prepared or containerized and in compliance with these regulations.

(3) Yard waste, such as grass trimmings, twigs, hedge trimmings, plant trimmings, hay, straw, pine straw and pine cones, shall be collected at curbside provided that they are placed in neat piles.

(4) Loose leaves shall be piled loosely adjacent to and behind the curb or in front of a ditch (not in street, gutter or roadside ditch) for collection by special vacuum equipment. Loose piles of leaves will not be collected unless they are free of trash, such as broken glass, rocks, twigs, cans or other debris that might damage collection equipment. During the seasons when the leaves most commonly fall, the specialized leaf collection equipment will collect leaf refuse on a residential basis. During the fall collection period, no appointments for leaf collection can be made. During the fall the town crews start the collection at one end of town and collect throughout town until the whole town is collected. At which point, the route begins again. Refer to 51(A).20 (9) for penalties.

(5) All tree trimmings and limbs or portions thereof will be collected when the trimmings and limbs are cut from the stump or body of the tree and placed at the edge of the lot adjoining the street or alley. They must be cut in lengths not to exceed 6 feet and not be over 3 inches in diameter and shall not exceed the measurements hereinabove specified of 6 feet in length or 3 inches in diameter and shall be placed on the edge of

the lot with the larger ends placed in the same direction and neatly piled substantially perpendicular to the curb. It will be considered excessive collection if the collection of limbs shall require more than 1 load with a truck or more than 1 hour with the chipper, extra loads or extra chipping will be performed at the rate set in the current schedule of fees, which will be invoiced by the Billing Department Town Hall according to the current schedule of fees. Town collection forces or its authorized agent will not collect tree stumps.

(6) The Town of Wilkesboro does not allow bagged yard waste of any kind.

(7) No materials, such as trees, shrubbery or underbrush resulting from land being cleared or building materials occurring from a construction.

(8) No commercially cut limbs or debris will be accepted curbside. No commercially cut limbs shall be placed for collection by the town but materials shall be disposed of by the contractor, builder or owner. In the event that the contractor or builder fails to remove material, the removal thereof shall be the responsibility of the owner of the property.

(a) If property is within the town limits, a contractor may haul their yard waste to the town compost site and disposed of for free.

(b) When excess compost/mulch is available, citizens will be allowed to pick up compost/mulch at the compost site. Citizens must provide their own vehicle for collection of compost/mulch.

(9) The solid waste division may decline to collect any yard waste that is not prepared or placed for collection in accordance with these regulations or exceeds the maximum amount. Damage to equipment due to improper preparation of material will result in a separate fine as determined by the schedule of fees.

(B) Curbside Bulk item collection:

(1) Residential and approved businesses that are paying for solid waste on their monthly utility bill are eligible for bulk item collection by the town of Wilkesboro.

(a) Residents are allowed one free bulk item pick-up per year. Additional bulk item pick-ups will be performed for a fee. Fees are assessed on the current schedule of fees. Business bulk item pick-ups will be assessed on a case-by-case basis as per the Public Works Director.

(2) Residents shall notify the Public Works Department of bulk items to be collected by the Town of Wilkesboro. Per notification, a truck will be delivered and, at the discretion of the Public Works Director, loaded by the resident. Each resident must

complete and sign a Town of Wilkesboro Truck Policy Statement. Charges for collection will be invoiced by the Billing Department of Town Hall.

(3) The town will collect and dispose of the following properly prepared items on a scheduled basis based on request for services from the town's regular residential customers:

(a) Bulky items, such as discarded furniture and appliances not practical to containerize and appliances (white goods) will be picked up. The town will collect normal household discarded furniture and appliances, including sofas, chairs, beds, carpets, box springs and similar items. The cost for bulk item disposal will be indicated in the current schedule of fees.

b) Items not collected by the town include, but are not limited to furnaces, central air conditioning units, roofing materials, tires, hazardous materials, lead acid batteries (such as vehicle or equipment batteries), or similar items. These items require special handling that local governments are not equipped to perform.

(c) Bulk items from a regular residential customer that became the property of a landlord will be removed by the Town as a part of the bulk collection procedure detailed above with any fees incurred becoming the responsibility of the landlord.

(4) Special service collection for bulky items and/or scrap materials shall only be provided to single-family and special residential units. This service is not available for:

(a) Appliance and equipment changes that are related to the operation of a business or leasing of a property. Those business-related activities are the responsibility of the rental agent and/or owner of the property;

(b) Items from businesses operated from a residential unit;

(c) Items that are the consequence of a fire at a business or residential structure. The Public Works Director shall have the authority to provide special services collection when, as a result of a fire, there is only a single bulky item or what would otherwise be a normal collection amount as opposed to clearing the premises of burned or scrap material items; or

(d) Oxygen tanks and other medical equipment; propane tanks; large oil tanks used for household purposes; parts of campers, boats, camper shells, trailers; automotive parts, including but not limited to: motors, doors, tires, fenders, car or seats from residentially used premises and the like.

(5) The Public Works Director shall have the authority to determine whether bulky items or scrap material are subject to town collection and shall have the discretion to determine whether a request for service is consistent with the eligibility standards as described above. Special collection service requirements are as follows:

- (a) Bulky item or scrap materials shall not be collected if it is too large to be placed on the solid waste service's division collection vehicle.
- (b) Any appliance accepted for collection must be empty of its contents.
- (c) Large furniture items shall be dismantled prior to collection so that a reasonable person can expect 2 individuals to easily load them onto or off of the special collection vehicle. The only exception to this policy is for pianos, which do not have to be dismantled for collection.
- (d) Gasoline must be removed from all lawn mowers prior to collection.
- (e) Tires must be removed from all bicycles prior to collection.
- (f) All glass in windows, doors, mirrors and other items with large expanses of glass must have the glass taped with an X mark so that it will not shatter in the collection process.
- (g) Any bulky item or scrap material collected shall be of the weight or size that a person would reasonably expect 2 individuals to easily pick each item up for disposal.

(6) The Public Works Director shall have the authority to require items to be prepared for ease of collection and to ensure the safety of the employees performing the collection task. An item not prepared properly may be refused for collection at the Public Works Director's discretion.

(7) It shall be unlawful to place trash refuse out for collection along with a scheduled bulk item pickup.

Penalty, see § 51.99

§ 51(A).21 SOLID WASTE NOT TO BE COLLECTED BY TOWN.

- (A) The town will not collect the following types of solid wastes, and no person may place any of the following in any container or receptacle intended for collection by the town:

(1) All hazardous refuse and industrial waste shall be stored in suitable leak-proof containers sufficient to ensure that no refuse or waste leaks or spills onto any public or private property. Customer will be held responsible for any leaks, spills, or damage caused by improperly sealed containers. It shall be the responsibility of the person in possession of the premises where hazardous refuse or industrial waste is generated to see that it is disposed of properly;

(2) The removal of clothing, bedding or other refuse from homes or other places where highly infectious diseases have occurred shall be performed under the supervision and direction of the County Health Department;

(3) Building materials shall be removed by the owner of the property or by the contractor. No new certificate of compliance or occupancy shall be issued until the owner or contractor has removed the material. The town may pick up small amounts not associated with repairs, alterations, construction, and demolition;

(4) Human and animal tissues or waste from operation, autopsy or obstetrical procedures or any other material of similar nature;

(5) A material of any nature, including ashes, that contains any hot or live coals or fire;

(6) No person may dispose of or discard any hypodermic syringes, needle or any instrument or device for making hypodermic injections in the waste stream of the town before first breaking, disassembling, destroying or otherwise rendering the instrument or device inoperable and incapable of reuse and without further safeguarding the disposal thereof by placing in either a milk jug, coffee can with a lid or similar containers. Medical or other biohazard materials shall be removed and disposed of under the supervision and direction of the County Health Department.

(B) The following materials will not continue to be collected by town personnel along with other garbage and refuse routinely collected by the Town of Wilkesboro through the town's sanitation service:

(1) Wax or plastic coated, or otherwise contaminated corrugated sheets and boxes which will not be accepted by any recycling agency.

§ 51(A).22 ACCUMULATION OF SOLID WASTES PROHIBITED.

(A) No person may cause, suffer or permit refuse to accumulate or remain on premises under their control except in accordance with the provisions of this chapter. The remaining divisions of this section are not intended to limit the generality of the foregoing.

(B) It shall be the responsibility of the general contractor to see that all construction and demolition contractors keep the site in a reasonable clean and litter-free condition as possible for a construction or demolition site. All loose debris, paper, building material waste, yard waste, scrap building materials and other trash produced by those working on the site shall be containerized or disposed of in any other reasonable manner by the contractor. Construction materials or other debris deposited on any public or private property as a result of construction or demolition shall be immediately removed by the contractor. The burning of refuse is prohibited in the Town of Wilkesboro

§ 51(A).23 DISTRIBUTION OF HANDBILLS.

No person, firm, corporation or organization shall deposit in, paste on or attach to any motor vehicle or public property any handbills, advertisements, cards, circulars, leaflets, folders, banners, letters or pamphlets or cause that material to be deposited in, pasted on or attached to any motor vehicle or property without the consent of the owner of the vehicle or property, with exception to utility bill distributed from the Town of Wilkesboro. This is in accordance with G.S. 14-399 (k).

Penalty, see § 51.99

§ 51(A).99 PENALTIES AND REMEDIES.

(A) A violation of any of the provisions of this chapter shall constitute a misdemeanor, punishable as provided in G.S. § 14-4.

(B) A violation of any of the provisions of this chapter shall also subject the offender to a civil penalty of \$50. If a person fails to pay this civil penalty within 10 days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of debt.

(C) A second offense at the same location shall warrant a civil penalty of \$75.

(D) A third offense at the same location shall warrant a civil penalty of \$100.

(E) The town may seek to enforce this chapter through the appropriate equitable action. The Public Works Director or designee shall have authority to issue notices of violation and/or civil citations to any person if there is reasonable cause to believe that the person has violated any of the provisions of this chapter. A code enforcement designee may seek enforcement through § 132.12 of the Code of Ordinances.

(F) Any notice of violation or citation shall be delivered personally to the violator or shall be sent by registered or certified mail to the last known address of the violator.

(G) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

(H) The town may seek to enforce this chapter by using any one or combination of the foregoing remedies.

Statutory reference:

Enforcement of ordinances, see G.S. § 160A-175

PART TWO. All ordinances or part of ordinances in conflict with the provisions of this ordinances are hereby to the extent of such conflict.

PART THREE. This Ordinance shall become effective upon its adoption by the Town Council of the Town of Wilkesboro, North Carolina.

PART FOUR. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holdings shall not affect the validity of the remaining portions hereof.

PART FIVE. This ordinance shall be in full force and effect from and after the date of its adoption.

LET IT BE FURTHER RESOLVED, that the 2018-2019 Schedule of Fees will be amended to include all changes put forth in the proposed schedule of fees.

Adopted this the 10th day of September 2018.

Mike Inscore, Mayor

ATTEST:

Approved as to from:

James K. Byrd, Town Clerk

John S. Willardson, Town Attorney

ZONING TEXT AMENDMENT
156.105 Accessory Dwelling Unit
Ordinance 2018-14

WHEREAS, the Wilkesboro Planning Board has met and recommends changes to 156.105 of the zoning code; and

WHEREAS, the Town Council gave further direction for the Planning Board to review the criteria to allow for accessory dwelling units.

NOW THEREFORE BE IT RESOLVED, that the Town Council does hereby approve the following changes to the zoning code as it relates to accessory dwelling units:

156.105 (B) SHALL READS AS FOLLOWS:

(B) Dwellings in R-8 Single Family Residential, R-6 General Residential, R-20 Suburban Residential and R-20A Suburban Residential / Agricultural

And 156.105 (B)(6) SHALL READS AS FOLLOWS:

(6) Owner Occupancy. Accessory dwelling

Adopted this 10th day of September, 2018

Mike Inscore, Mayor

James K. Byrd, Town Clerk

**CAPITAL PROJECT ORDINANCE
CLARIFIER PROJECT AT WASTEWATER TREATMENT FACILITY
TOWN OF WILKESBORO
APRIL 3, 2017**

Be It Ordained by the Governing Board of the Town of Wilkesboro, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following project ordinance is hereby adopted.

Section 1: The project authorized is improving the Wastewater Treatment Facility's process by adding an additional clarifier. The project is to be financed through both grant and local funds.

Section 2: The Town Manager is hereby directed to proceed with the capital project within the terms of the contained herein.

Section 3: The following amounts are approved for the project:

1. Construction	\$ 1,908,420
2. Administration/Application	\$ 40,000
3. Engineering	\$ 85,000
4. Contingency	\$ <u>101,580</u>

Total Project Costs: \$ **2,135,000**

Section 4: The following amounts will be available to complete this project:

1. Local Funds	\$ 235,000
2. Grant Funds	\$ <u>1,900,000</u>

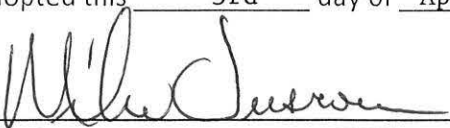
Total Revenue: \$ **2,135,000**

Section 5: The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the grantor agency, the grant agreements, and any federal or state regulations that may apply.

Section 6: The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 7: Copies of this capital project ordinance shall be furnished to the Clerk, to the Governing Board, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this 3rd day of April, 2017 in Wilkesboro, North Carolina.



Mike Inscore, Mayor



James K. Byrd, Town Clerk



SEAL:

AMENDMENT TO


BROWN'S FORD LOOP CAPITAL PROJECT BUDGET ORDINANCE

BE IT ORDAINED by the Town Council of the Town of Wilkesboro, North Carolina; Section 1. The CAPITAL PROJECT BUDGET of the Town of Wilkesboro, North Carolina, BROWN'S FORD LOOP PROJECT, adopted on SEPTEMBER 8, 2014 and appearing at page _____ of the Minute Book No. _____ of the Town Council of the Town of Wilkesboro, North Carolina is hereby amended as provided by Section 159-15 of the General Statutes of North Carolina as follows:

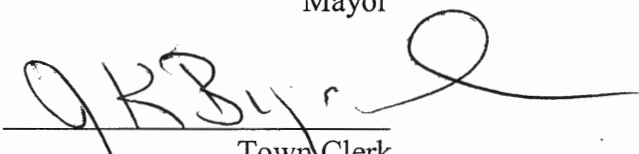
<u>Acct. No.</u>	<u>APPROPRIATION Name</u>	<u>Amount</u>
60.2014.0200	LAND	\$ 250,000.00
60.2014.0100	ENGINEERING	\$ 100,000.00
60.2014.0400	CONSTRUCTION	\$ 988,891.00
60.2014.0500	CONTINGENCY	\$ 91,962.00
REVENUE		
60.2014.4000	WEST WILKES	(\$ 145,000.00)
60.2014.1000	LOCAL FUNDS	(\$3,624,147.00)
60.2014.6000	FINANCING PROCEEDS	\$ 4,500,000.00
60.2014.5000	COMMERCE GRANT	\$ 700,000.00

Section 2. This Ordinance is effective upon its adoption.
Adopted this the 6th day of FEBRUARY, 2017

ATTEST:



Mayor



Town Clerk





TOWN OF WILKESBORO

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Wilkesboro, North Carolina 28697

www.wilkesboronc.org

Phone (336) 838-3951 • Fax (336) 838-7616

CAPITAL PROJECT ORDINANCE BROWN'S FORD WATER LOOP AND TANK ORDINANCE 2014-07

BE IT ORDAINED by the Town Council of the Town of Wilkesboro, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1. The project authorized includes replacement of water lines connecting to the Town of Wilkesboro's water system, a booster pump station and an elevated tank for storage and fire protection to be financed by a NC Dept of Commerce IDF grant, a GoldenLEAF Economic Catalyst grant and local funds provided by the Town of Wilkesboro.

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the bond resolution, grant documents, and the budget contained herein.

Section 3. The following amounts are appropriated for the project:

Construction	\$5,084,350
Construction Observation and Admin.	125,000
Engineering	375,000
Contingency (5%)	<u>254,200</u>
	<u>\$5,838,550</u>

Section 4. The following revenues are anticipated to be available to complete this project:

IDF Grant	\$1,110,000
GoldenLEAF Grant	200,000
West Wilkes Water Association Contribution	150,000
Town of Wilkesboro	<u>4,378,550</u>
	<u>\$5,838,550</u>

Section 5. The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the grantor agency, the grant agreements, and federal regulations. The terms of the bond resolution also shall be met.

Section 6. The use of Contingency Funds shall only be used after Town Council approval of amendment dictating the amount and documentation detailing need for contingency.

Section 7. Funds may be advanced from the Utility Fund for the purpose of making payments as due. Reimbursement requests should be made to the grantor agency in an orderly and timely manner.

Section 8. The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and on the total grant revenues received or claimed.

Section 9. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 10. Copies of this capital project ordinance shall be furnished to the Clerk to the Town Council, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this the 8th day of September 2014.

BY: _____
Mike Inscore, Mayor

ATTEST: _____
James K. Byrd, Town Clerk



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Ordinance to Rezone Property on South Brook Street Ordinance 2017-02.1

WHEREAS, following due advertisement announcing a public hearing as provided by law, the Town Council of the Town of Wilkesboro, held said public hearing on October 2, 2017 to consider a request to rezone a property on S. Brook Street; and

WHEREAS, the Planning Board at their regular meeting on August 29, 2017 made the following recommendation:

1. Rezone the property on S. Brook Street with the following Parcel ID #2200099, from M1- Industrial to R6 - General Residential.

WHEREAS, the Town Council heard all presented evidence, arguments, and reports pertaining to said rezoning;

NOW THEREFORE, the Town of Wilkesboro Official Zoning Map is hereby amended by rezoning the property at Parcel ID #2200099 from M1 – Industrial to R6 – General Residential.

Adopted this 2nd day of October, 2017.

Mike Inscore, Mayor

James K. Byrd, Town Clerk





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ZONING TEXT AMENDMENT

Article IV Section 4.3 Permitted Use Table Ordinance 2017-02

WHEREAS, the Wilkesboro Town Council wants to promote growth and economic revitalization in the Central Business District, also referred to as Historic Downtown Wilkesboro;

WHEREAS, the Central Business District has a limited number of buildings and properties zoned B1–Central Business available for residential, retail, and commercial purposes to encourage economic revitalization; and

WHEREAS, the Wilkesboro Town Council wishes to modify Article IV Section 4.3 – Table of Permitted Uses of the Wilkesboro Zoning Ordinance; and

NOW THEREFORE LET IT BE ORDAINED, that the Wilkesboro Zoning Ordinance Article IV Section 4.3 – Table of Permitted Uses be amended to reflect the removal of "Churches" from said table as a Permitted Use by Right in the B1 – Central Business District.

Adopted this 6th day of March, 2017.

Mike Inscore, Mayor

James K. Byrd, Town Clerk





TOWN COUNCIL
STATEMENT OF CONSISTENCY

Application #: 2016-003 – Text Amendment: Churches in B1 – Central Business
Type of Request: Text Amendment
Meeting Date: March 6, 2017

☒ The Town Council **recommends approval** of the application as presented.

Prohibit the following use in the B1 – Central Business District: Church

☐ The Town Council **recommends denial** of the application as presented.

☒ The requested zoning action **is consistent** with the *Town of Wilkesboro 2008 Comprehensive Land Use Plan* and/or other adopted policies/plans because:

Approval of the text amendment prohibiting churches in the B1 – Central Business District is in keeping with the Town of Wilkesboro's Comprehensive Land Use Plan because it supports the following policy:

Economic Development Policy 5.5: The Town will advocate for the revitalization and the adaptive reuse of currently unused or under-utilized structures and sites in appropriately located commercial, institutional, office and industrial areas.

☐ The requested zoning action **is not consistent** with the *Town of Wilkesboro 2008 Comprehensive Land Use Plan* and/or other adopted policies/plans because:

☒ The requested zoning action **is reasonable** and in the public interest because:

The text amendment as described above is reasonable and in the public interest because it promotes the use of limited building stock within the central business district for retail, commercial, and residential purposes. The Town seeks to encourage economic development and growth in Historic Downtown Wilkesboro to accomplish its Small Town Main Street goals and provide a revitalized area for residents and visitors to shop, dine, live, and enjoy.

☐ The requested zoning action **is not reasonable** and in the public interest because:

Mike Inscore, Mayor

3/6/2017

Date

Jim Byrd, Town Clerk

3/6/2017

Date



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Ordinance to Rezone Properties on New Browns Ford Road Ordinance 2017-03

WHEREAS, following due advertisement announcing a public hearing as provided by law, the Town Council of the Town of Wilkesboro, held said public hearing on March 6, 2017 to consider a town initiated request to rezone properties on New Brown's Ford Road; and

WHEREAS, the Planning Board at their regular meeting on January 31, 2017 made the following unanimous recommendations to rezone properties:

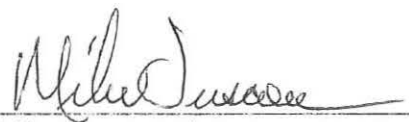
1. Rezone properties on New Browns Ford Road with the following Parcel ID #1504049, 1505057, 1505058, 1506773, and 1506653 from M2 – Limited Industrial to M1 – Industrial.
2. Rezone one property on New Browns Ford Road with the following Parcel ID #1504102 from M2 – Limited Industrial to R20A – Residential/Agricultural.


WHEREAS, the Town Council heard all evidence and arguments presented and reports from Town staff pertaining to said rezoning;

NOW THEREFORE, the Town of Wilkesboro Official Zoning Map is hereby amended by rezoning the properties at Parcel ID #1504049, 1505057, 1505058, 1506773, 1506653 from M2 – Limited Industrial to M1 – Industrial and rezoning property at Parcel ID #1504102 from M2 – Limited Industrial to R20A – Residential/Agricultural.

Adopted this 6th day of March, 2017.




Mike Inscore, Mayor


James K. Byrd, Town Clerk



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February 21, 2017

Dear Property Owner:

This letter is to notify you that the Town of Wilkesboro has requested the rezoning of the following parcels:

Parcel ID:	Address	Current Zoning District	Requested Zoning District
1504049	638 New Browns Ford Rd.	M2 – Limited Industrial	M1 - Industrial
1505057	660 New Browns Ford Rd.	M2 – Limited Industrial	M1 - Industrial
1505058	No E911 Address	M2 – Limited Industrial	M1 - Industrial
1506773	740 New Browns Ford Rd.	M2 – Limited Industrial	M1 - Industrial
1506653	798 New Browns Ford Rd.	M2 – Limited Industrial	M1 - Industrial
1504102	898 New Browns Ford Rd.	M2 – Limited Industrial	R20A – Residential/Agriculture

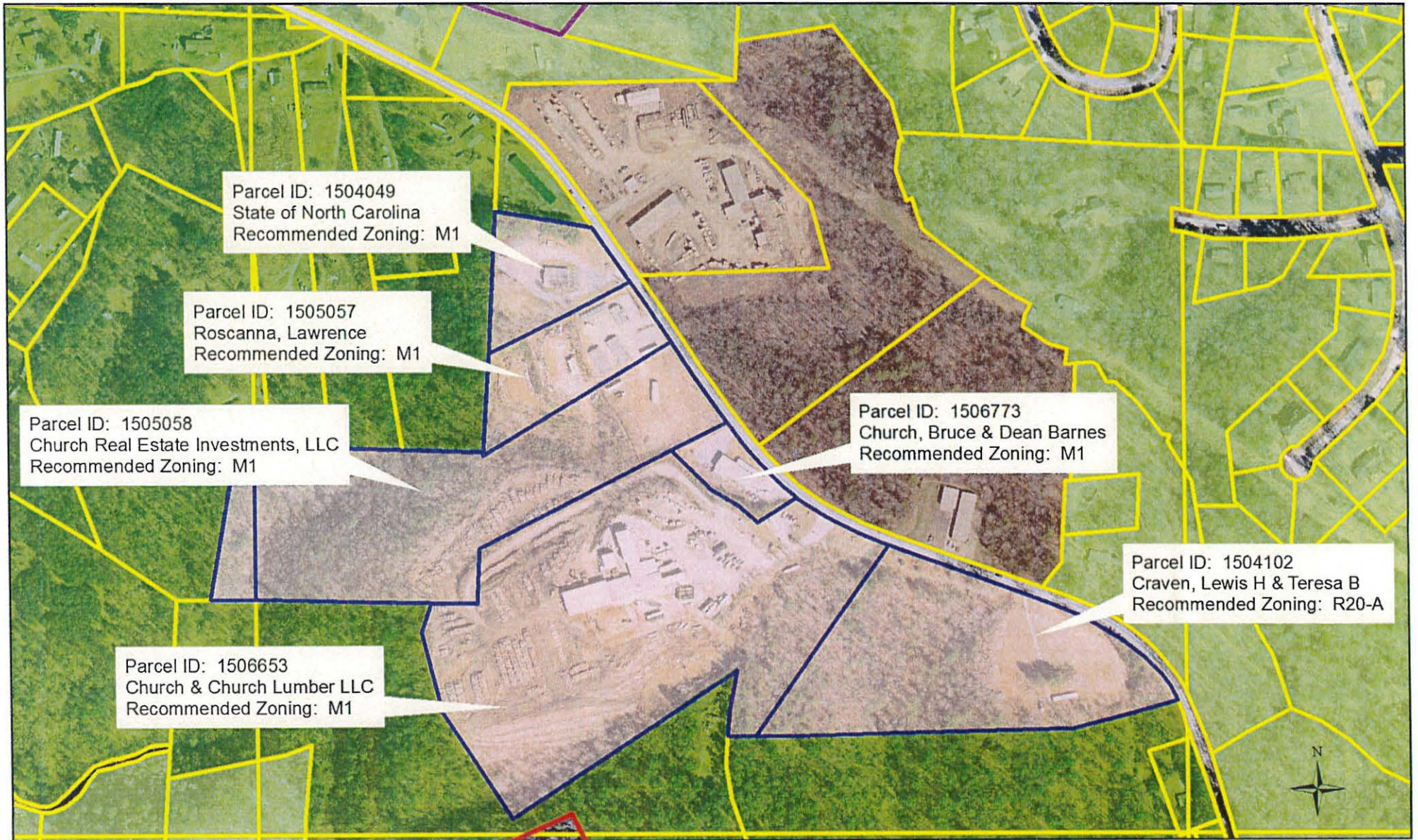
The Wilkesboro Town Council will hold a public hearing on the request during the regularly scheduled meeting on **Monday, March 6, 2017, at 5:30 p.m.** in Wilkesboro Town Hall, located at 203 West Main Street. All persons interested for or against this rezoning request may appear and be heard.

The purpose of the town initiated rezoning is to more accurately reflect historic and present day activities on the properties in question. Please refer to the enclosed map for the location of the parcels being considered in this rezoning request and a copy of the Wilkesboro Zoning Ordinance Table of Permitted Uses. If you have any questions regarding this matter, please contact Andrew Carlton, Wilkesboro Planning & Community Development Director, at (336) 838-3951 ext. 1010 or planning@wilkesboronc.org.

In public service,

Ken Noland
Town Manager

Rezoning Request 2017-001: New Browns Ford Road Planning Board Recommendation

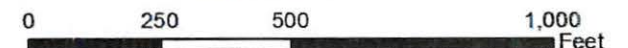


Zoning

B3 - Limited Business	M1 - Industrial
B1 - Central Business	M2 - Limited Industrial
B2 - General Business	R20 - Suburban Residential

R20A - Suburban Residential/Agriculture
R6 - General Residential
R8 - Single Family Residential

Parcels Requested for Rezoning
Wilkesboro Town Limits
Wilkesboro ETJ



NOTICE OF PUBLIC HEARING
North Carolina, Wilkes County
Town of Wilkesboro

The Town of Wilkesboro has requested the rezoning of selected parcels on New Browns Ford Road. The following parcels are requested to be rezoned from M2 – Limited Industrial to M1 – Industrial: Parcel ID #1504049, 1505057, 1505058, 1506773, and 1506653.

The follow parcel is requested to be rezoned from M2 – Limited Industrial to R20A – Residential/Agriculture: Parcel ID #1504102.

The Wilkesboro Town Council will hold a public hearing on the request during the regularly scheduled meeting on **Monday, March 6, 2017, at 5:30 p.m.** in Wilkesboro Town Hall, located at 203 West Main Street. All persons interested for or against this rezoning request may appear and be heard.



TOWN COUNCIL STATEMENT OF CONSISTENCY

Application #: 2017-001: New Browns Ford Road

Type of Request: Rezoning from M2 - Limited Industrial to M1 - Industrial
Parcel ID: 1504049, 1505057, 1505058, 1506773, 1506653, & 1504102

Meeting Date: March 6, 2017

☒ The Town Council **approves** the application as presented.

The Town Council **approves** the application with the following modifications as recommended by the Planning Board:

☐ Rezoning from M2 - Limited Industrial to M1 - Industrial
Parcel ID: 1504049, 1505057, 1505058, 1506773, 1506653

Rezoning from M2 - Limited Industrial to R20A - Residential/Agriculture
Parcel ID: 1504102

☐ The Town Council **denies** the application as presented.

☒ The requested zoning action **is consistent** with the *Town of Wilkesboro 2008 Comprehensive Land Use Plan* and/or other adopted policies/plans because:

Approval of the rezoning of the above reference properties is in keeping with the Town of Wilkesboro's 2008 Comprehensive Land Use Plan because it supports the following policies:

Growth Management Policy 5.1: The Town will support new and expanding industries and businesses that diversify the local economy, utilize a more highly skilled labor force and increase the income of area residents.

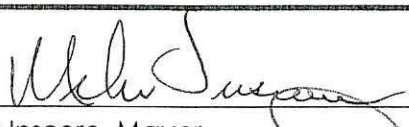
The Future Land Use Map calls for the parcels to be zoned Mixed Use. These areas are located primarily within the Town's corporate limits or along major thoroughfares. Areas designated Mixed Use may be either new development that includes a mix of housing and commercial uses or an area that contains a mixture of existing housing types, commercial uses, institutional uses and occasionally a light industrial use.

☐ The requested zoning action **is not consistent** with the *Town of Wilkesboro 2008 Comprehensive Land Use Plan* and/or other adopted policies/plans because:

☒ The requested zoning action **is reasonable** and in the public interest because:

The rezoning of the above referenced properties is reasonable and in the public interest because it more accurately reflects historic and present day activities on the properties in question.

☐ The requested zoning action **is not reasonable** and in the public interest because:


Mike Inscore, Mayor

3/6/2017
Date


Jim Byrd, Town Clerk

3/6/2017
Date



TOWN COUNCIL STATEMENT OF CONSISTENCY

Application #: 2017-001: New Browns Ford Road

Type of Request: Rezoning from M2 - Limited Industrial to M1 - Industrial
Parcel ID: 1504049, 1505057, 1505058, 1506773, 1506653, & 1504102

Meeting Date: March 6, 2017

☒ The Town Council **approves** the application as presented.

The Town Council **approves** the application with the following modifications as recommended by the Planning Board:

☐ Rezoning from M2 - Limited Industrial to M1 - Industrial
Parcel ID: 1504049, 1505057, 1505058, 1506773, 1506653

Rezoning from M2 - Limited Industrial to R20A - Residential/Agriculture
Parcel ID: 1504102

☐ The Town Council **denies** the application as presented.

☒ The requested zoning action **is consistent** with the *Town of Wilkesboro 2008 Comprehensive Land Use Plan* and/or other adopted policies/plans because:

Approval of the rezoning of the above reference properties is in keeping with the Town of Wilkesboro's 2008 Comprehensive Land Use Plan because it supports the following policies:

Growth Management Policy 5.1: The Town will support new and expanding industries and businesses that diversify the local economy, utilize a more highly skilled labor force and increase the income of area residents.

The Future Land Use Map calls for the parcels to be zoned Mixed Use. These areas are located primarily within the Town's corporate limits or along major thoroughfares. Areas designated Mixed Use may be either new development that includes a mix of housing and commercial uses or an area that contains a mixture of existing housing types, commercial uses, institutional uses and occasionally a light industrial use.

☐ The requested zoning action **is not consistent** with the *Town of Wilkesboro 2008 Comprehensive Land Use Plan* and/or other adopted policies/plans because:

☒ The requested zoning action **is reasonable** and in the public interest because:

The rezoning of the above referenced properties is reasonable and in the public interest because it more accurately reflects historic and present day activities on the properties in question.

☐ The requested zoning action **is not reasonable** and in the public interest because:

Mike Inscore, Mayor

3/6/2017

Date

Jim Byrd, Town Clerk

3/6/2017

Date



TOWN COUNCIL STATEMENT OF CONSISTENCY

Application #: 2016-003 – Text Amendment: Churches in B1 – Central Business
Type of Request: Text Amendment
Meeting Date: March 6, 2017

☒ The Town Council **recommends approval** of the application as presented.

Prohibit the following use in the B1 – Central Business District: Church

☐ The Town Council **recommends denial** of the application as presented.

☒ The requested zoning action **is consistent** with the *Town of Wilkesboro 2008 Comprehensive Land Use Plan* and/or other adopted policies/plans because:

Approval of the text amendment prohibiting churches in the B1 – Central Business District is in keeping with the Town of Wilkesboro's Comprehensive Land Use Plan because it supports the following policy:

Economic Development Policy 5.5: The Town will advocate for the revitalization and the adaptive reuse of currently unused or under-utilized structures and sites in appropriately located commercial, institutional, office and industrial areas.

☐ The requested zoning action **is not consistent** with the *Town of Wilkesboro 2008 Comprehensive Land Use Plan* and/or other adopted policies/plans because:

☒ The requested zoning action **is reasonable** and in the public interest because:

The text amendment as described above is reasonable and in the public interest because it promotes the use of limited building stock within the central business district for retail, commercial, and residential purposes. The Town seeks to encourage economic development and growth in Historic Downtown Wilkesboro to accomplish its Small Town Main Street goals and provide a revitalized area for residents and visitors to shop, dine, live, and enjoy.

☐ The requested zoning action **is not reasonable** and in the public interest because:

Mike Inscore, Mayor

3/6/2017

Date

Jim Byrd, Town Clerk

3/6/2017

Date



TOWN OF WILKESBORO

"Where the Mountains Begin"

P.O. Box 1056 • 203 West Main Street

Wilkesboro, North Carolina 28697

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Ordinance to Rezone Property on Cherry Street Ordinance 2017-04

WHEREAS, following due advertisement announcing a public hearing as provided by law, the Town Council of the Town of Wilkesboro, held said public hearing on December 4, 2017 to consider a request to rezone the property at 104 S. Cherry Street; and

WHEREAS, the Planning Board at their regular meeting on October 31, 2017 made the following unanimous recommendation:

1. Rezone the property at 104 S. Cherry Street with the following Parcel ID # 2201074, from R6 - General Residential to B2 - General Business.

WHEREAS, the Town Council heard all presented evidence, arguments, and reports pertaining to said rezoning;

NOW THEREFORE, the Town of Wilkesboro Official Zoning Map is hereby amended by rezoning the property at Parcel ID # 2201074 from R6 - General Residential to B2 - General Business.

Adopted this 4th day of December, 2017.

Mike Inscore, Mayor

James K. Byrd, Town Clerk

