

**November 29, 2018**

Joint Legislative Oversight Committee on Justice and Public Safety  
Attn: Rep. James L. Boles, Jr., Rep. Ted Davis, Jr., and Sen. Shirley B. Randleman

Re: Session Law 2018-69 (HB 379) "An Act to Assist the Criminal Law Recodification Working Group"

Co-Chairs,

With regards to the General Assembly's enacted law (referenced above), Lincoln County has prepared a document summarizing, and in some instances detailing, the elements of its ordinances that would constitute a misdemeanor or have not been decriminalized as referenced in Section 3 of the Act.

The report included herein comprises of a list of applicable ordinances with a description of the conduct subject to criminal punishment in each ordinance. The County has utilized, for the baseline when compiling this information, the latest updated version of its Code of Ordinances as published through the American Legal Publishing Corporation, One West Fourth Street, Third Floor, Cincinnati, Ohio 45202. A link to that website is provided here, [http://www.amlegal.com/codes/client/lincoln-county\\_nc/](http://www.amlegal.com/codes/client/lincoln-county_nc/)

If you have any further questions or concerns you may contact us at:

The Deaton Law Firm, PLLC

PO Box 2459

704-489-2491

Encl.

## **Chapter 30 County Policies**

### **30.03 SMOKING AND THE LIKE IN COUNTY BUILDINGS AND VEHICLES PROHIBITED**

**Smoking prohibited in county buildings.** It shall be unlawful for any person to smoke in any building or facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed, or controlled by the county.

**Smoking prohibited in county vehicles.** It shall be unlawful for any person to smoke in any vehicle now or hereafter owned or leased by the county.

**Consumption or use of other tobacco products prohibited in county buildings.** It shall be unlawful for any person to chew, dip, or otherwise use or consume any tobacco product in any building or facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed, or controlled by the county.

**Use or consumption of other tobacco products prohibited in county vehicles.** It shall be unlawful for any person to chew, dip, or otherwise use or consume any tobacco product in any vehicle now or hereafter owned or leased by the county.

## **Chapter 32 Emergency Management**

### **32.04 PROHIBITIONS AND RESTRICTION**

**It shall be noted that a violation of this subchapter is a class 2 misdemeanor. However, the ordinance has not been formally decriminalized and therefore is reason to include in this report.**

A declaration issued pursuant to this chapter shall trigger the prohibitions against excessive pricing during states of emergency or abnormal market disruptions pursuant to G.S. § 75-37 and G.S. § 75-38.

This subsection of the chapter allows the Board of County Commissioners or the Chair to impose the following prohibitions and/or restrictions.

- 1) Curfew OR Mandatory Evacuation including routes of the evacuation, mode of transportation and controlling the ingress and egress of an emergency area
- 2) Restrict the operations of any place or establishment where people may congregate
- 3) Restrict the sale, transport, and consumption of alcoholic beverages
- 4) Restriction on the use of gasoline and dangerous weapons and substances
- 5) Other activities of which may be reasonably necessary to maintain order and protect lives or property during a state of emergency

## Chapter 50 Water Usage

This ordinance defines Water Conservation efforts during times of water shortage. It includes the specific delineations for what each stage of water shortage condition includes. Any person found in violation of the water restrictions as imposed by the local government unit through the utility enterprise is subject to the penalties as set forth therein.

This ordinance also addresses Cross-Connection Control as in accordance with the Federal Safe Drinking Water Act, being 42 U.S.C. 300f *et seq.*, the North Carolina Administrative Code (Title 15A, Subchapter 18C), and the North Carolina State Building Code (Volume II) as they pertain to cross-connections with the public water supply.

50.27 Outlines Responsibilities of which the consumer and purchaser are addressed. 50.29 addresses right of entry for the County Utility to maintain, repair and diagnose ongoing, past or any issues with the water system. 50.30 Addresses Cross Connections and the elimination thereof where possible. 50.31 and 50.32 spells out the installation requirements and testing and repair of assemblies respectively. 50.35 speaks to Fire Protection systems and associated requirements.

## Chapter 51 Sewer Use

This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the county, and enables the county to comply with all applicable state and federal laws, including the Clean Water Act (33 U.S.C. §§ 1251 *et seq.*) and the General Pretreatment Regulations (40 C.F.R. pt. 403).

51.015 addresses standards for Prohibited Discharge of pollutants, substances or wastewater. 51.016 addresses National Categorical Pretreatment Standards. 51.020 addresses dilution by stating that 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. 51.021 includes provisions for the pretreatment of wastewater while 51.022 addresses the plan for any accidental discharge or slug control. Hauled wastewater and private sewage systems are addressed in 51.023 and 51.024 respectively. 51.050 through 51.065 addresses the application and permitting process for wastewater discharge, which is monitored under requirements as specified in 51.065 with baseline requirements for providing monitoring reports. Compliance Monitoring is also required under 51.090 including inspection and sampling.

It shall be noted that depending on the level of violation of this ordinance, that some are enforced through provisions including misdemeanors, while others are a up to a Class H Felony.

Any user who is found to have failed to comply with any provision of this chapter, or the orders, rules, regulations, and permits issued hereunder, may be fined up to \$10,000 per day violation.

**The following concerns the interfering and tampering with water meters which Public Works could use and is published on our website:**

**G.S. 14-151.1 – This is a Class I Misdemeanor and could be a Class H Felony and then a Class F Felony**

**Interfering with gas, electric and steam appliances or meters; penalties.**

It shall be unlawful for any person to willfully, with intent to injure or defraud, commit any of the following acts:

- (1) Connect a tube, pipe, wire or other instrument or contrivance with a pipe or wire used for conducting or supplying illuminating gas, fuel, natural gas or electricity in such a manner as to supply such gas or electricity to any burner, orifice, lamp or motor where the same is or can be burned or used without passing through the meter or other instrument provided for registering the quantity consumed.
- (2) Obstruct, alter, bypass, tamper with, injure or prevent the action of a meter or other instrument used to measure or register the quantity of illuminating fuel, natural gas, water, or electricity passing through such meter by a person other than an employee of the company owning or supplying any gas, water, or electric meter, who willfully shall detach or disconnect such meter, or make or report any test of, or examine for the purpose of testing any meter so detached or disconnected.
- (3) In any manner whatever change, extend or alter any service or other pipe, wire or attachment of any kind, connecting with or through which natural or artificial gas or electricity is furnished from the gas mains or pipes of any person, without first procuring from said person written permission to make such change, extension or alterations.
- (4) Make any connection or reconnection with the gas mains, water pipes, service pipes or wires of any person, furnishing to consumers natural or artificial gas, water, or electricity, or turn on or off or in any manner interfere with any valve or stopcock or other appliance belonging to such person, and connected with his service or other pipes or wires, or enlarge the orifices of mixers, or use natural gas for heating purposes except through mixers, or electricity for any

purpose without first procuring from such person a written permit to turn on or off such stopcock or valve, or to make such connection or reconnections, or to enlarge the orifice of mixers, or to use for heating purposes without mixers, or to interfere with the valves, stopcocks, wires or other appliances of such, as the case may be.

(5) Retain possession of or refuse to deliver any mixer, meter, lamp or other appliance which may be leased or rented by any person, for the purpose of furnishing gas, water, electricity or power through the same, or sell, lend or in any other manner dispose of the same to any person other than such person entitled to the possession of the same.

(6) Set on fire any gas escaping from wells, broken or leaking mains, pipes, valves or other appliances used by any person in conveying gas to consumers, or interfere in any manner with the wells, pipes, mains, gateboxes, valves, stopcocks, wires, cables, conduits or any other appliances, machinery or property of any person engaged in furnishing gas to consumers unless employed by or acting under the authority and direction of such person.

(7) Open or cause to be opened; or reconnect or cause to be reconnected any valve lawfully closed or disconnected by a district steam corporation.

(8) Turn on steam or cause it to be turned on or to reenter any premises when the same has been lawfully stopped from entering such premises.

(9) Reconnect electricity, gas, or water connections or otherwise turn back on one or more of those utilities when they have been lawfully disconnected or turned off by the provider of the utility.

(10) Alter, bypass, interfere with, or cut off any load management device, equipment, or system which has been installed by the electricity supplier for the purpose of limiting the use of electricity at peak-load periods, provided, however, if there has been a written request to remove the load management device, equipment, or system to the electric supplier and the electric supplier has not removed the device within two working days, there shall be no violation of this section.

(b) Any meter or service entrance facility found to have been altered, tampered with, or bypassed in a manner that would cause such meter to inaccurately measure and register the electricity, gas, or water consumed or which would cause the electricity, gas, or water to be diverted from the recording apparatus of the meter shall be prima facie evidence of intent to violate and of the violation of this section by the

person in whose name such meter is installed or the person or persons so using or receiving the benefits of such unmetered, unregistered, or diverted electricity, gas, or water.

(c) For the purposes of this section, the term "gas" shall mean all types and forms of gas, including, but not limited to, natural gas.

(d) Criminal violations of this section shall be punishable as follows:

(1) A violation of this section is a Class 1 misdemeanor.

(2) A second or subsequent violation of this section is a Class H felony.

(3) A violation of this section that results in significant property damage or public endangerment is a Class F felony.

(4) Unless the conduct is covered under some other provision of law providing greater punishment, a violation that results in the death of another is a Class D felony.

(e) [Whoever is found in a civil action to have violated any provision] of this section [shall be liable to the electric, gas or water supplier in triple the amount of losses and damages sustained or five] thousand [dollars] (\$5,000), [whichever is greater].

(f) Nothing in this section shall be construed to apply to licensed contractors while performing usual and ordinary services in accordance with recognized customs and standards.

## Chapter 52 Solid Waste

52:11 is to enforce private and public property from becoming unsightly or improperly contained that could cause health or welfare of other persons or adjoining property. 52:12 is stating that it is unlawful for any persons to litter the ground on Lincoln County owned property. With also stating that it is unlawful for any person to pilfer or scavenge at any Lincoln County Solid Waste Management Facility. 52:20 states that solid waste that shall be accumulated or stored prior to being disposed of shall be handled in a manner provided in the subchapter. 52.25 No persons may dispose of those solid waste materials in a landfill that are prohibited by N.C.G.S 130A-309.10. 52.30 states collection and transportation of solid waste shall be loaded and moved in an appropriate manner. No waste generated outside Lincoln County boundaries may be disposed of at a Lincoln County Solid Waste Facility. 52.82 states that it is unlawful for any person to enter the Lincoln County Solid Waste Facilities outside of normal operation hours. 52.84 states it is unlawful for any unauthorized person to operate, tamper, enter pilfer, or damage any structure, equipment, or

machinery at any Lincoln County Solid Waste Facility. 52.96 states persons violating any provision are subject to fines or criminal charges.

## **Chapter 90 False Alarms**

The purpose of this chapter is to encourage alarm users and alarm companies to properly use and maintain the operational effectiveness of alarm systems and to reduce or eliminate false alarms; thereby reducing unnecessary use of limited Sheriff's Office resources and hidden costs associated with investigating alarms that are false. This section governs alarm systems intended to summon a law enforcement officer response, establishes fees, provides penalties for violations, establishes a system of administration, and sets conditions for the suspension of response or revocation of registration.

### **90.06 PROHIBITED ACTS.**

It shall be unlawful for any person to activate a burglary or robbery/holdup or panic or fire alarm for the purpose of summoning Sheriff's personnel when no such action or other action dangerous to life or property is being committed or attempted or involved on the premises, or otherwise to cause a false alarm.

It shall be unlawful for an alarm user to fail to reimburse Lincoln County, in accordance with the provisions of this chapter, for response(s) by Lincoln County Sheriff's Office to any false alarm(s).

## **Chapter 91 Health and Safety; Nuisances**

### **NOISE**

#### **91.02 LOUD, RAUCOUS, AND DISTURBING NOISE**

It shall be unlawful for any person or group of persons, regardless of number, to willfully make, continue, or cause to be made or continued any loud, raucous, and disturbing noise, which term shall mean any sound which, because of its volume level, duration, and character, annoys, disturbs, injures, or endangers the comfort, health, peace, or safety of reasonable persons of ordinary sensibilities within the limits of the county. The term LOUD, RAUCOUS, AND DISTURBING NOISE shall be limited to loud, raucous, and disturbing noises heard upon the public streets, in any public park, in any school or public building or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, or in any occupied residential unit which is not the source of the noise or upon the grounds thereof.

### **JUNKYARD CONTROL**

#### **91.20 GENERAL STANDARDS - 91.26 PERMIT REQUIRED FOR JUNKYARDS**

This section establishes criteria for both preexisting junkyards and also new junkyards including screening requirements, distance and setback requirements and maintenance limitations.

91.20 *Pre-Existing*: Prohibits pre-existing junkyards from continuing to operate without meeting screening, separation and visibility requirements.

91.22 *New*: Prohibits new junkyards from operating that do not maintain minimum parcel size, setbacks, visibility restrictions, fencing, screening and separation requirements.

## **Chapter 92 Animals**

The purpose of this subchapter is to protect the citizens of the county from rabies transmitted by unconfined, uncontrolled, unimmunized dogs and cats, to regulate dogs and cats that may be a nuisance or danger to the citizens of the county, and to ensure that dogs and cats are treated in a humane manner, and other purposes.

All owners or custodians shall keep animals under sanitary and humane conditions; provide proper food and potable water daily; provide shelter from weather and maintain clean and sanitary quarters for the animals; provide medical attention for sick, diseased or injured animals and comply with G.S. § 130A-185, which requires all dogs and cats over four months of age to be vaccinated against rabies. A violation of this section shall be considered abuse of animals pursuant to G.S. § 153A-127.

### **ANIMAL CONTROL**

#### **92.07 DANGEROUS DOGS PROHIBITED**

Dangerous dogs are defined as any dog that without provocation has killed or inflicted severe injury on a person; or any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or is determined by the Animal Control Supervisor or his or her designee or the Board of Animal Appeals to be potentially dangerous as prescribed by the ordinance.

#### **92.08 LEASH LAW REQUIREMENTS**

This establishes the areas of the county (mainly subdivisions or neighborhoods) where dogs shall be restrained at all times. It also establishes the process for adding areas to come under the jurisdiction of the leash law including subdivision criteria, required petition, etc.

#### **92.10 DISPOSITION OF DEAD ANIMALS**

The owner/harbinger of a domesticated animal that dies from any cause (and/or the owner or lessee of land where the animal died) must bury the animal in accordance with G.S. § 106-403, at least three feet beneath the surface of the ground, no closer than 300 feet to any flowing stream or public body of water, or completely burn the carcass within 24 hours after death, or in a manner approved by the State Veterinarian.

#### **92.11 IMPOUNDMENT AND ADOPTION**

All owners redeeming any dog or cat from the Animal Shelter shall provide the Animal Services Staff with proof of rabies vaccination. If proof is not provided, the owner will be informed by the Staff that he or she has three days to vaccinate his or her dog or cat for rabies to comply with this subchapter. Failure to have the animal vaccinated within this three-day period will result in a citation.

## **INHERENTLY DANGEROUS ANIMALS**

### **92.26 POSSESSION OR HARBORING PROHIBITED**

Possession of exotic animals, inherently dangerous exotic mammals, inherently dangerous mammals, and inherently dangerous reptiles is illegal in the county. At no time may any person or persons harbor an exotic animal, inherently dangerous exotic mammal, inherently dangerous mammal, or inherently dangerous reptile.

## **Chapter 93 Addressing & Road Naming**

The purpose of this chapter is to provide for the orderly assignment of street addresses to protect the safety and welfare of the general public by facilitating the location of individual dwellings and businesses by emergency response personnel.

This ordinance specifies the policies and procedures for road naming and what is allowed and not allowed in the proper naming of a street or road, both public and private.

### **93.07 POSTING REQUIREMENTS**

This section details the requirements for posting an address including timeframe (90 days), material of the numbers posted, size requirements, and specific dimensional requirements and placement location depending on type of structure.

## **Chapter 94 Hazardous Wastes**

The purpose of this chapter is to:

- (A) Regulate the location, operation, and care of hazardous and/or low-level radioactive waste management facilities dealing with the storage, transfer, treatment, or disposal of hazardous and/or low-level radioactive waste within the county;
- (B) Assure that the best management practices are used in handling the hazardous and/or low-level radioactive waste;
- (C) Assure that the hazardous and/or low-level radioactive waste is not placed into permanent or long-term storage in the county;
- (D) Assure that the treatment of the hazardous and/or low-level radioactive waste, including reuse, recycling, neutralization, detoxification, and incineration, will be permitted with proper regulation;

(E) Assure treatment of hazardous and/or low-level radioactive waste by mass volume reduction must be accompanied by one of the above methods, listed in division (D) above, for the residual volume; and

(F) Assure that the hazardous and/or low-level radioactive waste does not undergo disposal in the county without being rendered nonhazardous by prior treatment.

Any noncompliance with conditions of a county permit or operation of a facility without a permit, any release of hazardous or low-level radioactive waste in amounts sufficient to constitute a hazard to the public health and safety, any noncompliance with the procedural requirements of this chapter or refusal to permit county officials designated under this chapter to enter buildings, structures, enclosed areas, or other areas in the performance of their lawful duties, any refusal to pay taxes and fees as provided for by this chapter, and any failure or refusal to provide information or apply for amendment to permit(s) as may be required by this chapter upon proper notice shall be a misdemeanor, which may be punished as indicated in G.S. Title 14.

## **Chapter 95 Fire Prevention & Protection**

The provisions of this chapter shall apply to all buildings and occupancies in the State Building Code General Construction and the State Building Code Fire Prevention sections. Required operational, construction, or special use permits, as defined by this chapter or the NCBCFP, shall be issued before work is started to erect, construct, enlarge, install, alter, repair, move, improve, remove, convert, or demolish any building, structure, or service system.

**Permits and Inspections**— Permits (1) A current permit is required for all work described in the technical codes unless specifically exempted by the North Carolina General Statutes or the technical codes. (2) Fire protection inspections shall be made in all buildings where any material is used for fire protection purposes. The permit holder or his agent shall notify the inspection department after all fire protection materials are in place. Fire protection materials shall not be concealed until inspected and approved by the code enforcement official. (3) Permits and Inspections are required by 153A-357 and 160A-417 for exceptions.

**Civil Citations and Fees** – (1) No person shall violate the requirements of the North Carolina Fire/Building code (2) The code official is authorized to enforce with fines or charges for any person in violation with the North Carolina Fire/Building code or the Lincoln County Fire Protection Ordinance. (3) 153A-352 and 160A-412 requires the code official to enforce these requirements.

## **Chapter 96 Special Events and Mass Gatherings**

The purpose of this chapter is to establish a structured process for permitting the staging of special planned public events, mass gatherings, and/or television and film activities to ensure proper planning and adequate allocation of county resources for events and to protect the health and safety of the public attending such events. It shall be noted that there are additional specific standards for television and film events.

## **96.99 PENALTY.**

It shall be unlawful for any person to:(1) Carry on a covered event without a required permit or registration receipt;(2) Fail to terminate a covered event upon revocation of a permit; 3) Conduct a covered event in violation of the terms and conditions of a permit issued for such event.

The county, by and through its duly authorized authorities, including, but not limited to, the Lincoln County Sheriff's Office, may seek to enforce the provisions of this chapter through any appropriate equitable remedy issued from a court of competent jurisdiction.

A covered event for which a permit has not been approved, an event exempt from the chapter that otherwise would require a permit except for the exemption, or for which the stipulations of the permit which was approved are not met, or which is otherwise in violation of this chapter, may be shut down by law enforcement, but only if either the County Manager or the Lincoln County Sheriff or designee determines that all of the conditions are present: (1) The covered event constitutes an immediate and direct physical danger to citizens or property; and (2) The above danger is of such an imminent nature that the remedy provided in division (D) above will not prevent the danger prior to its occurrence.

# **Chapter 110 Amusements**

## **COMMERCIAL SHOOTING RANGES**

This subchapter is intended to regulate the establishment and operation of outdoor shooting range facilities. The recreational and training complexes, due to their potential noise impacts and safety concerns, merit careful review to minimize adverse effects on adjoining properties. This subchapter does not otherwise apply to the general discharge of firearms, or the use of bows and arrows in accordance with all other applicable laws or regulations.

The ordinance provisions set forth specific performance standards that must be met in order to be considered in compliance. 1) Shot Containment - referencing the NRA source book entitled "A Guide to Planning and Construction". 2) Noise mitigation - Noise levels measured at the property line where the facility is maintained or, in the case of leased land, at the property line of any leased parcel shall not exceed 65 dBA when located adjacent to residential or commercial property or 75 dBA when adjacent to industrial property.

Operational Requirements include specific hours of operation and do not allow shooting to commence before 12:30pm on Sundays, unless a permit is issued specifically by the Sheriff's Office in advance. Liability Insurance is required with a minimum of \$500,000 carried and a qualified shooting range master must be on site at all times during hours of operation.

## **BILLIARD PARLORS**

No person shall maintain or operate billiard tables of any size regardless of whether or not a charge is made for the maintenance or operation, and no person shall maintain or operate a pool or billiard table or any other similar table for any game or play for which a charge is directly or indirectly made without a license therefore issued by the Tax Collector. This provision does not apply to the tables located in private homes or premises owned and operated by fraternal organizations having a national charter, American Legion Posts, churches, YMCAs, charitable organizations as defined by the Internal Revenue Code, and organizations to which a municipality or county contributes any portion of the operating expense.

This ordinance/code provides for the application process and all requirements to attain a license including requirements for a license tax to be collected by the County Tax Collector, for a \$1,000 dollar bond or two sureties as approved by the county manager and the disallowance of operation between 12:00 a.m. and 8:00 a.m.

## **Chapter 111 Peddlers and Solicitors**

Except as otherwise provided herein, no person shall enter or remain in or upon any private residence or premises within the county, having not been requested or invited by the occupant or occupants thereof, for the purpose of soliciting the immediate or future purchase or sale of goods, merchandise, services, or any other thing of value when a "No Solicitation", "No Trespassing", or similar sign is posted at or near the entrance to such premises.

This chapter shall not apply to sales of any kind or nature by nonprofit organizations (or subgroups thereof) such as schools, churches, volunteer fire departments, rescue squads, historic preservation groups, garden clubs, and/or other charitable organizations.

## **Chapter 112 Emergency Medical Services**

A franchise granted by the Lincoln County Board of Commissioners is required to be engaged in the business or service of emergency and/or non-emergency transportation of patients, medical first responder, ambulance service or other pre-hospital emergency medical services organization within the county.

Ambulances operated in Lincoln County shall consist of a minimum crew of one individual that holds a currently valid certificate as a Medical Responder and at least one individual that holds a currently valid certificate as an EMT, AEMT or Paramedic and hold current license, certification or appropriate registration in North Carolina and are affiliated with the Lincoln County EMS System.

It is undetermined at this time how this ordinance could potentially be violated. However, there is no reference to it being formally decriminalized throughout the document.

## **Chapter 113 Pawnbrokers**

It is unlawful for any person, firm, or corporation to establish or conduct a business of pawnbroker unless the person, firm, or corporation has procured a license to conduct business in compliance with the requirements of this chapter.

This ordinance establishes the requirements for licensure including application process, fee, and the requirement of a clean criminal felony record within a 10 year period. There are also several record keeping requirements that the pawnbroker must meet including the retention of pertinent information to each transaction including the contracts for each transaction and what the terms of the contract entail. Prohibitions include making transactions with anyone under the age of 18, requiring personal liability, acceptance of any waiver, failing to protect goods of the pledgor, failure to return goods to pledgor, sell exchange, barter or remove from the pawnshop any goods pledged, or purchased earlier than 48 hours after the transaction, except in case of redemption by pledgor or items purchased for resale from wholesalers, operate more than one pawn shop under one license, or take a pledge of goods that includes manufactured mobile home, recreational vehicle, or motor vehicle other than a motorcycle.

Also required is a bond requirement of which amounts to \$5,000 or sureties sufficient to satisfy same.

## **Chapter 114 Sexually-Oriented Businesses**

### **PUBLIC DISPLAY OF SEXUALLY EXPLICIT MATERIAL**

This ordinance prohibits the public display of sexually explicit material in establishments frequented by minors. Public display is defined as The placing, exposing, or exhibiting of sexually explicit material in or on a newsstand, display rack, window, showcase, display case, or similar place so that the material is easily visible from a public thoroughfare, sidewalk, or from that portion of the interior of any business or commercial establishment frequented by minors or where minors are or may be invited as part of the general public.

Sexually explicit material is defined as Any book, magazine, or newspaper which contains on the cover any photograph, picture, drawing, depiction, or other visual representation showing human sexual intercourse, masturbation, homosexual acts, direct physical stimulation or touching of unclothed genitals or pubic areas of the human male or female, flagellation or torture by or upon a person who is nude or clad in revealing or bizarre costumes, uncovered or less than opaquely covered post pubertal human genitals or pubic areas.

## **MASSAGE PARLORS**

To protect the general health, safety, welfare, and morals, the following licensing provisions hereinafter specified are ordained for the privilege of carrying on the business, trade, or profession of masseur or masseuse and for the operation or carrying on of the, business, trade, or profession commonly known as massage parlors, health salons, physical culture studios, clubs, or establishments, or similar establishments by whatever name designated, wherein physical culture, massage, hydrotherapy, or other physical treatment of the human body is carried on or practiced.

**114.23** No masseur or masseuse or any person or party engaging in any of the businesses licensed by this subchapter shall engage in the business, trade, profession, occupation, or calling except within and between the hours of 8:00 a.m. and 10:00 p.m. Nor shall any operator of a massage parlor, or establishment or business above enumerated and not specifically accepted hereunder, operate the same except within and between the aforesaid hours.

**114.27** It is unlawful for any person, corporation, or other business organization, without a license being in effect as required by this subchapter, to engage in the business, trade, or profession of masseur or masseuse or the operation or carrying on of any of the businesses, trades, profession of masseur or masseuse, or the operation or carrying on of any of the businesses, trades, professions, occupations.

## **Chapter 115 Alcoholic Beverages**

### **115.01 DRINKING AND LITTERING.**

(A) It shall be unlawful for a person to drink beer while standing, walking, or riding on any of the highways and roads of the county, and, likewise, it shall, be unlawful to drink beer in any of the parking lots, public or private, in the county.

(B) It shall be unlawful for any person to drink whiskey or alcoholic beverages while standing, walking, or riding on the highways and roads of the county, and, likewise, it shall be unlawful to drink whiskey or other alcoholic beverages in parking lots, public or private, in the county.

(C) It shall be unlawful for any person to discard empty beer cans, beer bottles, and whiskey bottles in any of the parking lots, public or private, in the county, or litter any of the properties in the county other than the property owned individually by the person discarding and littering beer cans, beer bottles, and whiskey bottles.

(D) This section shall apply to the county, other than the corporate limits of the City of Lincolnton for the reason that the City of Lincolnton has a similar ordinance applying to the corporation of Lincolnton.

## **Chapter 130 General Offenses**

### **130.01 PROTECTION OF MARKERS AND OPERATION OF BOATS ON LAKE NORMAN**

It shall be unlawful for any person to move, remove, deface, damage or destroy, or obliterate any navigational marker, safety marker, danger marker, or information sign or structure erected upon or in the waters of Lake Norman, or upon the immediate shores thereof, by the Lake Norman Commission acting as the joint regulating authority of Catawba, Iredell, Lincoln, and Mecklenburg Counties.

It shall be unlawful for any person to operate any water-borne craft upon the waters of Lake Norman within 150 feet of any marked boat launching area, dock, pier, marina, boat storage structure, or private or public boat service areas, at greater than "No Wake" speed. No person operating or responsible for the operation of a water-borne craft shall permit it to enter any marked swimming area upon the waters of Lake Norman. *GREATER THAN "NO WAKE"* speed is defined as speed which shall create an appreciable or damaging wake, or shall risk injury to life or property. Where used herein, the word *MARKED* shall mean in accordance with the Uniform Waterway Marking System as adopted by the State Wildlife Commission and its amendments thereto.

## **Chapter 150 General Provisions**

*(Now Codified Separately as Unified Development Ordinance – See content at end of report\*)*

ENHANCED AGRICULTURAL DISTRICTS

LINCOLNTON-LINCOLN COUNTY REGIONAL AIRPORT ZONING

LAND FARMING

LAKE NORMAN SURFACE ZONING

## **Chapter 151 Flood Damage Prevention**

*(Now Codified Separately as Unified Development Ordinance – See content at end of report\*)*

## **Chapter 152 Soil Erosion and Sedimentation Control**

This Ordinance regulates land-disturbing activity within Lincoln County, including such activity within the jurisdiction of the City of Lincolnton.

### **152.99 PENALTY/VIOLATIONS (Summary)**

Any person engaged in land-disturbing activity that fails to file a required plan in accordance with this ordinance should be deemed in willful violation of this ordinance. Any person who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this ordinance.

Whenever there is reasonable cause to believe that any person is violating or threatening to violate this ordinance or any term, condition, or provision of an approved plan, the Erosion Control Specialist may, either before or after the institution of any other action or proceeding authorized by this ordinance, authorize the County Attorney to institute a civil action in the name of the county, for injunctive relief to restrain the violation or threatened violation.

Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter the orders or judgements as are necessary to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this ordinance.

## **Chapter 153 Historic Properties**

*(Now Codified Separately as Unified Development Ordinance – See content at end of report\*)*

## **Chapter 154 Watershed Protection**

*(Now Codified Separately as Unified Development Ordinance – See content at end of report\*)*

## **Chapter 155 Subdivision Regulations**

*(Now Codified Separately as Unified Development Ordinance – See content at end of report\*)*

## **Chapter 156 Zoning Code**

*(Now Codified Separately as Unified Development Ordinance – See content at end of report\*)*

## **Unified Development Ordinance (UDO)\***

*The Unified Development Ordinance combines several of the locally adopted land use regulation ordinances into a single ordinance. Due to the sheer volume of the amount of regulations within the ordinance and due to the nature of the report being requested, each sections' regulations were summarized in the fashion below.*

**2.2 Permitted Land Uses:** Prohibits the enactment of a non-permitted or conditional use without the applicable permit on a property.

**2.4.5 Conventional Subdivision Standard:** Prohibits the establishment of a lot or the construction of a structure that does not meet the dimensional standards (minimum lot size, setbacks and maximum lot coverage).

**2.4.6 Cluster Subdivision Standards:** Prohibits the establishment of a lot or the construction of a structure that does not meet the dimensional standards (minimum lot size, setbacks and maximum lot coverage).

**2.4.7 Non-Residential in Residential Districts Dimensional Standards:** Prohibits the establishment of a lot or the construction of a structure that does not meet the dimensional standards (minimum lot size, setbacks and maximum lot coverage).

**2.4.8 Non-Residential in Non-Residential Districts Dimensional Standards:** Prohibits the establishment of a lot or the construction of a structure that does not meet the dimensional standards (minimum lot size, setbacks and maximum lot coverage).

**2.5.1 F Permitted Land Uses (Eastern Lincoln Development District):** Prohibits the enactment of a non-permitted or conditional use without the applicable permit on a property.

**2.5.1 G Building Standards (Eastern Lincoln Development District):** Prohibits the construction or modification to an already constructed building that would not meet the design requirements.

**2.5.1 H Site Development (Eastern Lincoln Development District):** Prohibits the alteration of approved site features.

**2.5.1 I Signs (Eastern Lincoln Development District):** Prohibits the erection or modification of a sign that does not meet the type, size and illumination requirements of the section.

**2.5.1 J Fencing (Eastern Lincoln Development District):** Prohibits the erection or modification of a fence that does not meet the material or height requirements of the section

**2.5.1 K Outdoor Storage (Eastern Lincoln Development District):** Prohibits the modification of approved screening on a lot or for the Vehicular Sales use.

**3.2 Building Design:** Prohibits the erection or modification of a building that would include prohibited materials, minimum blank wall requirements or service bay orientation.

**3.4 Landscaping and Buffering:** Prohibits the modification, removal or maintenance failure of approved plant materials and densities of planting in approved landscaped buffer zones.

**3.5 Access Management:** Prohibits a modification to site access or obstruction of required site triangles.

**3.6 Off-Road Parking and Loading:** Prohibits the modification of off-road parking, off-road stacking and off-road loading standards.

**3.9 Signs:** Prohibits the erection or modification of a sign that does not meet the type, size and illumination requirements of the section.

**3.10 Outdoor Storage and Display:** Prohibits the creation of outdoor display and storage areas that do not meet the defined dimensional standards of the article.

**4 Specific Use Standards:** Prohibits the establishment or continuation of a use that does not meet specific use standards as defined in sub-articles.

**7.3 Watershed Protection:** Prohibits the modification to approved densities or impervious surface areas in the Watershed Protection Overlay district.

**7.4 Floodplain Protection:** Prohibits the construction or modification of earth or structures in Special Flood Hazard Areas without the issuance of a Floodplain Development Permit.

**7.5 Streamside Buffers:** Prohibits the modification of natural vegetation in the defined streamside buffers.

**9.6 Subdivision Review:** Prohibits the establishment of new lot that meet the statutory definition of a Subdivision without recording a Subdivision Plat.

**9.9 Zoning Permit:** Prohibits the establishment of a structure or use without the issuance of a Zoning Permit.

**10 Nonconformities:** Prohibits the movement or expansion of a nonconforming use and set standards that must be abided by for the continuation of the nonconforming use.

**Disclaimer:** It shall be noted that this document does not provide a comprehensive list of the ordinances enacted in Lincoln County; rather it provides a list of the applicable ordinances as outlined in Session Law 2018-69 (HB 379) "An Act to Assist the Criminal Law Recodification Working Group". This document is for the specific use, and only the use, as defined by the Joint Legislative Administrative Procedure Oversight Committee and Joint Legislative Oversight Committee on Justice and Public Safety in the North Carolina General Assembly. The list herein has been compiled in alphabetical order as derived from both the Clerk to the Board of County Commissioners and the latest version of the County of Lincoln, North Carolina – Code of Ordinances as published and archived by the American Legal Publishing Corporation.