

TITLE I: GENERAL PROVISIONS

Chapter

10. RULES OF CONSTRUCTION

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§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the Town of Ayden, North Carolina, shall be designated as the "Code of Ayden, North Carolina" and may be so cited. ('70 Code, Ch. A, Art. II, § 1)

§ 10.02 INTERPRETATION.

(A) Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of the General Statutes of North Carolina.

(B) Where a section of this code is followed by a reference to the General Statutes of North Carolina, such reference indicates the section is analogous or similar to the cited sections in the General Statutes of North Carolina. Footnotes, cross references, and other comments are by way of explanation only and should not be deemed a part of the text of any section.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) General rule. Words and phrases shall be taken in their plain, or ordinary and usual sense. But technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

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

"BOARD." The Board of Commissioners, except where the context clearly indicates otherwise.

"MUNICIPAL CORPORATION," "MUNICIPALITY," or "TOWN." The Town of Ayden, North Carolina.

"THIS CODE" or "THIS CODE OF ORDINANCES." The municipal code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

"COUNTY." Pitt County, North Carolina.

"IN THE TOWN" or "WITHIN THE TOWN." All territory over which the town now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

"MAY." The act referred to is permissive.

"MONTH." A calendar month.

"OATH." An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "SWEAR" and "SWORN" shall be equivalent to the words "AFFIRM" and "AFFIRMED".

"OFFICER", "OFFICE", "EMPLOYEE", "COMMISSION", or "DEPARTMENT". An officer, office, employee, commission, or department of the town unless the context clearly requires otherwise.

"OWNER." Applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, or joint tenant of the whole or a part of such building or land, either alone or with others.

"PERSON." Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms "PERSON" or "WHOEVER" as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

"PERSONAL PROPERTY." Every species of property except real property.

"PRECEDING" or "FOLLOWING." Next before or next after, respectively.

"PROPERTY." Real and personal property.

"PUBLIC PLACE." Any street or highway, sidewalk, park, cemetery, school yard, or open space adjacent thereto and any lake or stream.

"REAL PROPERTY." Lands, tenements, and hereditaments and all chattels real.

"SHALL." The act referred to is mandatory.

"SIDEWALK." That portion of a street between the curb lines of the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

"SIGNATURE" or "SUBSCRIPTION." Includes a mark when the person cannot write.

"STATE." State of North Carolina.

"STREET." Except as provided in the traffic code, the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right.

"SUBCHAPTER." A division of a chapter, designated in this code by an underlined heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

"TENANT" or "OCCUPANT." Applied to a building or land, shall include any person holding a written or oral lease, or who occupies the whole or a part of the building or land, either alone or with others.

"WRITTEN." Any representation of words, letters, or figures, whether by printing or otherwise.

"YEAR." A calendar year, unless otherwise expressed; equivalent to the words "YEAR OF OUR LORD."

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this town shall be by the following rules, unless such construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(A) "AND" or "OR." Either conjunction shall include the other as if written "and/or," if the sense requires it.

(B) Acts by assistants. When a statute requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(C) Gender; singular and plural; tenses. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) General term. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of the municipality exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or

substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state and federal law, shall be the official time within the town for the transaction of all town business.

§ 10.12 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.14 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.15 RECORDATION; PUBLICATION OF ORDINANCES.

(A) All ordinances passed by the Board of Commissioners shall be recorded by the Town Clerk in a book of ordinances.

(B) The original shall be filed in the Town Clerk's office, and due proof of publication of all ordinances requiring publication by the affidavit of the printer or publisher shall be procured by the Town Clerk and attached thereto, or written and attested thereto, or written and attested upon the face of the ordinance.

§ 10.16 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the Board of Commissioners requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided. ('70 Code, Ch. A, Art. II, § 6)

§ 10.17 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in anywise be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

§ 10.18 PROPOSED ORDINANCES; FORM.

Every ordinance amending or repealing any ordinance, and every new ordinance, shall be proposed in writing, signed by the Commissioner presenting it, and approved as to form by the Town Attorney. ('70 Code, Ch. A, Art. II, § 3)

§ 10.19 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the Board of Commissioners shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance. ('70 Code, Ch. A, Art. II, §§ 4, 5)

§ 10.99 GENERAL PENALTY.

(A) Except as provided in division (B), if any person shall violate any provision of this Code of Ordinances, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$50 or imprisoned for not more than 30 days.

(B) If any person shall violate any provision of this Code of Ordinances regulating the operation of parking vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than \$50. (G.S. § 14-4(a), (b))

(C) A town shall have the power to impose fines and penalties for violation of its ordinances, and may secure injunctions and abatement orders to further insure compliance with its ordinances as provided by this section.

(D) Unless the Board of Commissioners shall otherwise provide, violation of a town ordinance is a misdemeanor or infraction as provided by divisions (A) and (B) of this section. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by divisions (A) and (B) of this section.

(E) An ordinance may provide that violation shall subject the offender to a civil penalty to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance.

(F) An ordinance may provide that it 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 city for equitable relief that there is an adequate remedy at law.

(G) An ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such an ordinance occurs the town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of

the property. 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.

(H) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause.

(1) 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 improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the ordinance.

(2) 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 city may execute the order of abatement. The city 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.

(3) 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 judge.

(4) Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(I) Subject to the express terms of the ordinance, a town ordinance may be enforced by any one, all or a combination of the remedies authorized and prescribed by this section.

(J) A town ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense.

(K) Notwithstanding any authority under this article or any local act of the General Assembly, no ordinance regulating trees may be enforced on land owned or operated by a public airport authority. (G.S. § 160A-175)

TITLE III: ADMINISTRATION

Chapter

- 30. BOARD OF COMMISSIONERS
- 31. TOWN OFFICIALS
- 32. DEPARTMENTS, BOARDS, AND COMMISSIONS
- 33. POLICE DEPARTMENT
- 34. FIRE DEPARTMENT
- 35. MUNICIPAL ELECTIONS
- 36. EMPLOYMENT POLICIES

Section

- 30.01 Town plan of government
- 30.02 Members; election and term of office
- 30.03 Wards
- 30.04 Vacancies, resignation
- 30.05 Compensation
- 30.06 Regular, special, and adjourned meetings
- 30.07 Quorum
- 30.08 Presiding Officer
- 30.09 Record of proceedings
- 30.10 Order of business
- 30.11 Conduct of meeting
- 30.12 Voting

Cross-reference:

For Charter provisions governing the Board of Commissioners, see Charter §§ 3.1 through 3.9

§ 30.01 TOWN PLAN OF GOVERNMENT.

The government of the town and the general management and control of its affairs shall be vested in the Board of Commissioners, which shall exercise its powers in the manner provided by the Charter of the town and as further provided herein. In conformity with the Charter and provisions of this code, the plan of government shall be a modified Council-Manager form of government.
('70 Code, Ch. A, Art. I § 1)

§ 30.02 MEMBERS; ELECTION AND TERM OF OFFICE.

(A) The Board of Commissioners shall consist of five members.

(B) The members of the Board of Commissioners shall be elected by all the qualified voters of the town, and each member shall be a resident of the ward he represents. Beginning in November, 1973 and every two years thereafter, all Commissioners shall be elected on the Tuesday after the first Monday in November for a two-year term.

(C) The terms of office of the members of the Board of Commissioners shall be two years.
('70 Code, Ch. A, Art. I § 2) (Ord., passed 8-13-73)

Statutory reference:

Terms, see G.S. § 160A-66
Time of municipal elections, see G.S. § 163-279

§ 30.03 WARDS.

The town shall be divided into five wards, the boundaries of which shall be established by the Board of Commissioners and may from time to time be changed by the Board in the exercise of its discretion. An accurate map of the town showing the current ward boundaries shall be available for public

inspection at all times in the office of the Town Clerk.
('70 Code, Ch. A, Art. I § 3)

§ 30.04 VACANCIES, RESIGNATION.

(A) Any vacancy caused by the death, resignation, or disqualification of a member of the Board of Commissioners shall be filled by a majority vote of the members of the Board of Commissioners.
('70 Code, Ch. A, Art. I § 4)

(B) Resignation of any member of the Board shall be in writing, and shall lie on the table until the next regular meeting unless considered by unanimous consent.
('70 Code, Ch. A, Art. I § 5)

Statutory reference:

Vacancies, see G.S. § 160A-63

§ 30.05 COMPENSATION.

The salary of each Commissioner will be in such an amount as is established by the Board of Commissioners.
('70 Code, Ch. A, Art. I § 6) (Ord., passed 8-13-73)

Statutory reference:

Compensation, see G.S. § 160A-64

§ 30.06 REGULAR, SPECIAL, AND ADJOURNED MEETINGS.

(A) The Ayden Board of Commissioners designates the second Monday of each month at 7:00 p.m. as the Board's regular business meeting start time. Each meeting will be held at the Town of Ayden Town Hall, Second Floor Boardroom (District Courtroom) or other place within the town as may be selected.

(B) The Mayor, the Mayor Pro Tempore, or any two members of the Board may at any time call a special Board meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the Mayor and each Commissioner, or left at his usual dwelling place at least six hours before the meeting. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a written waiver of notice. In addition to the procedures set out in this division, a person or persons calling a special meeting of the Board shall comply with the notice requirements of Article 33C of G.S. Chapter 143. (G.S. § 160A-71(b)(1))

(C) If a quorum shall fail to attend any regular or a special meeting, or if for any reason such a meeting shall fail to complete the transaction of the business before the meeting, the meeting may be adjourned to any date prior to the next regular meeting, agreed upon by a majority of the members present.
('70 Code, Ch. A, Art. I, §§ 7 - 9) (Am. Ord. 10-11-16, passed 3-28-11)

(D) Whenever a regular meeting of the Board of Commissioners falls on a town observed public holiday, it is automatically rescheduled for the next week day or other date as determined by the Board of Commissioners. The Board of Commissioners may meet on a town observed public holiday for a regular or special meeting only in the event of an emergency where immediate action by the Board of Commissioners is necessary. (Ord. 81-82-4, passed 9-14-81; Am. Ord. 95-96-09, passed 1-8-96; Am. Ord. 97-98-04, passed 9-8-97; Am. Ord. 98-99-08, passed 1-11-99; Am. Ord. 03-04-24, passed 1-12-04; Am. Ord. 08-09-36, passed 4-27-09; Am. Ord. 13-14-08, passed 9-9-13; Am. Ord. 13-14-13, passed 2-10-14)

Statutory reference:

Regular, special, and adjourned meetings, see G.S. § 160A-71

§ 30.07 QUORUM.

A majority of the members of the Board of Commissioners plus the Mayor shall constitute a quorum for the transaction of business. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

(G.S. § 160A-74) ('70 Code, Ch. A, Art. I, § 10)

§ 30.08 PRESIDING OFFICER.

The Mayor, when present, shall preside at meetings of the Board of Commissioners. In the absence of the Mayor, the Mayor Pro Tempore, when present, shall preside. In the absence of both the Mayor and the Mayor Pro Tempore, a Chairman Pro Tempore shall be chosen by the Board to preside. ('70 Code, Ch. A, Art. I § 11)

Statutory reference:

Mayor to preside over Council, see G.S. § 160A-69
Absence of Mayor, see G.S. § 160A-70

§ 30.09 RECORD OF PROCEEDINGS.

The Town Clerk shall make a record of all proceedings at meetings of the Board of Commissioners, and shall preserve that record in a book maintained for that purpose. In the absence of the Town Clerk, or in case of a vacancy in that office, an Acting Clerk may be appointed to make such a record.

(‘70 Code, Ch. A, Art. I § 12)

§ 30.10 ORDER OF BUSINESS.

(A) The order of business at all regular meetings of the Board of Commissioners shall be as follows:

- (1) Call to order.
- (2) Reading of minutes of last meeting.

- (3) Additions or corrections to minutes.
- (4) Oral or written petitions.
- (5) Reports of committees.
- (6) Reports of officers.
- (7) Unfinished business.
- (8) New business.

(B) If the Board directs any matter to be the special business of a future meeting, the same shall have precedence over all other business at such a meeting.

(‘70 Code, Ch. A, Art. I § 13)

§ 30.11 CONDUCT OF MEETING.

Meetings of the Board of Commissioners shall be conducted in accordance with the following:

(A) No proposition shall be entertained by the presiding officer until it has been seconded.

(B) Every proposition shall, when requested by the Mayor or any member, be reduced to writing.

(C) The previous question may be called at any time by a majority of the members present. The ayes and noes may be called for by any member.

(D) When a question is under consideration, no motion shall be received except the following, which shall have precedence in the order named:

- (1) To lay on the table.
- (2) To postpone to a time certain.
- (3) To postpone indefinitely.
- (4) To refer to a committee.
- (5) To amend.
- (6) To strike out or to insert.
- (7) To divide.

(E) A motion to adjourn shall always be in order and shall be decided without debate. (‘70 Code, Ch. A, Art. I § 14)

§ 30.12 VOTING.

All elections by the Board of Commissioners shall be by ballot if requested by any two members present.

(‘70 Code, Ch. A, Art. I § 15)

Statutory reference:

Voting, see G.S. § 160A-75

Section

General Provisions

- 31.01 Authority to appoint, remove
31.02 Duties

Town Officials

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31.11 Mayor Pro Tempore
31.12 Fire Chief
31.13 Police Chief
31.14 Town Accountant
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31.17 Town Manager
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Other Officers and Employees

- 31.25 Director of Parks and Recreation
31.26 Superintendent of Electric Light and Power
31.27 Superintendent of Streets
31.28 Superintendent of Water and Sewer System

GENERAL PROVISIONS

§ 31.01 AUTHORITY TO APPOINT, REMOVE.

Such other officers and employees as the Board of Commissioners shall determine are necessary for the proper government of the town shall be appointed by the Town Manager or a department head under the authority of the Town Manager. Any such officer or employee may be removed by the Town Manager or other appointing officer.

('70 Code, Ch. A, Art. VIII § 1)

§ 31.02 DUTIES.

The officers and employees of the town shall perform such duties as may be required of them by the Town Manager under general regulations of the Board of Commissioners, this code, the Town Charter, or the general laws of the state.

('70 Code, Ch. A, Art. VIII § 2)

TOWN OFFICIALS

§ 31.10 MAYOR.

(A) Election; term. Beginning in 1973 and every two years thereafter, the Mayor shall be elected by the qualified voters of the town on the Tuesday after the first Monday in November, for a two-year term. ('70 Code, Ch. A, Art. III § 1) (Ord., passed 8-13-73)

(B) Vacancy. In case of a vacancy in the office of Mayor, the office shall be filled by a majority vote of the Board of Commissioners. ('70 Code, Ch. A, Art. III § 3)

(C) Compensation. The salary of the Mayor will be in such an amount as is established by the Board of Commissioners. ('70 Code, Ch. A, Art. III § 5) (Ord., passed 8-13-73)

(D) Voting powers. When there is an equal division of the Board of Commissioners upon any question or in the election of officers, the Mayor may vote to break the tie, but he shall have no vote under any other circumstances. ('70 Code, Ch. A, Art. III § 6)

(E) Duties. It shall be the duty of the Mayor to:

(1) Preside over all meetings of the Board of Commissioners.

(2) Vote in case of a tie.

(3) Keep himself informed as to all matters affecting the government of the town.

(4) Sign, with the Town Manager, all warrants or orders for the payment of public funds.

(5) Make such recommendations as he deems necessary or expedient to the Board of Commissioners from time to time.

(6) Sign all ordinances approved by him and state in detail his reasons to the Board for refusing to sign any ordinance.

(7) Appoint such committees as he and the Board of Commissioners shall from time to time deem necessary for the proper and efficient government of the town.

(8) Perform such other duties as the nature of his office may require. ('70 Code, Ch. A, Art. III § 7)

Cross-reference:

For Charter provisions concerning the office of Mayor, see Charter §§ 3.2 through 3.6

Statutory reference:

Election, term, see G.S. § 160A-66
Vacancy, see G.S. § 160A-63
Compensation, see G.S. § 160A-64
Voting, see G.S. § 160A-69

§ 31.11 MAYOR PRO TEMPORE.

(A) Election; term. A Mayor Pro Tempore shall be elected by the Board of Commissioners from among its members, and shall hold office during the term for which he has been elected to the Board of Commissioners. ('70 Code, Ch. A, Art. III § 2)

(B) Vacancy. In case of a vacancy in the office of Mayor Pro Tempore, the

remaining members of the Board of Commissioners shall elect from among their number a successor for the unexpired term. ('70 Code, Ch. A, Art. III § 4)

(C) Duties. In the absence of the Mayor, the Mayor Pro Tempore shall preside at meetings of the Board of Commissioners and perform all other duties of the Mayor. ('70 Code, Ch. A, Art. III § 8)

Cross-reference:

For Charter provisions concerning the office of Mayor Pro Tempore, see Charter § 3.4

Statutory reference:

Mayor Pro Tempore, see G.S. § 160A-70

§ 31.12 FIRE CHIEF.

For provisions concerning the Fire Chief, see Charter § 7.5; see also § 34.03 of this code.

§ 31.13 POLICE CHIEF.

For provisions concerning the Police Chief, see § 33.03 of this code.

§ 31.14 TOWN ACCOUNTANT.

For provisions concerning the Town Accountant, see Charter §§ 7.3 and 7.4. See also G.S. § 159-24.

§ 31.15 TOWN ATTORNEY.

(A) Appointment and compensation. The Board of Commissioners shall appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the town during his tenure. The Town Attorney shall serve at the pleasure of the Board of Commissioners and shall receive such compensation as the Board shall determine. ('70 Code, Ch. A, Art. VI § 1)

(B) Duties. It shall be the duty of the Town Attorney to:

(1) Prosecute and defend suits for and against the town.

(2) Advise the Mayor, Board of Commissioners, Town Manager, or any other official of the town with respect to matters connected with the affairs of the town; obtain rulings from public or office officials as to the legality of matters concerning town affairs.

(3) Attend all meetings of the Board of Commissioners.

(4) Draw all legal documents connected with the affairs of the town.

(5) Draw proposed ordinances when requested to do so.

(6) Inspect and pass upon all agreements, contracts, franchises, and other instruments in which the town may be concerned.

(7) Perform such other duties as may be required of him by virtue of his position as Town Attorney. ('70 Code, Ch. A, Art. VI § 2)

Cross-reference:

For Charter provisions concerning the office of Town Attorney, see Charter §§ 6.1 and 6.2

Statutory reference:

Municipal attorney, see G.S. § 160A-173

§ 31.16 TOWN CLERK.

(A) Appointment and compensation. The Town Manager may appoint a qualified person to serve as Town Clerk. The compensation of the Town Clerk shall be fixed by the Board of Commissioners. ('70 Code, Ch. A, Art. V § 1)

(B) Duties. It shall be the duty of the Town Clerk to:

(1) Attend all meetings of the Board of Commissioners.

(2) Keep a correct record of all the proceedings of the Board of Commissioners.

(3) Perform such other duties as may be assigned him. ('70 Code, Ch. A, Art. V § 2)

Cross-reference:

For Charter provisions concerning the office of Town Clerk, see Charter §§ 7.1 and 7.4

Statutory reference:

Town Clerk, see G.S. § 160A-171

§ 31.17 TOWN MANAGER.

(A) Appointment; compensation. The Board of Commissioners shall appoint a Town Manager who shall be the chief executive officer and the administrative head of the town government. He shall be chosen solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter outlined. He need not be a resident of the town at the time appointed, but during his tenure of office he shall reside within the Town. No person elected Mayor or member of the Board of Commissioners shall be eligible

for appointment as Town Manager until one year has elapsed following the expiration of the term of office for which he was elected. The Town Manager shall serve at the pleasure of the Board of Commissioners and shall receive such salary as the Board shall fix. ('70 Code, Ch. A, Art. IV § 1)

(B) Term; removal. The Town Manager shall be appointed for an indefinite term but may be removed by a majority vote of the members of the Board of Commissioners by giving to the Town Manager a written notice at least 30 days prior to the time when the removal shall become effective. The action of the Board in removing the Manager shall be final. In case of the absence or disability of the Manager, the Board may designate a qualified administrative officer to perform the duties of the Manager during such absence or disability. ('70 Code, Ch. A, Art. IV § 2)

(C) Power of appointment of officers and employees. The Town Manager shall be responsible to the Board of Commissioners for the proper administration of all affairs of the town placed in his charge, and to that end, subject to the provisions of the Town Charter and except as otherwise provided herein, shall have power to appoint all officers and employees in the administrative service of the town. However, the Manager may authorize the head of a department or office responsible to him to appoint subordinates in such department or office. Appointments made by, or under authority of, the Town Manager shall be on the basis of executive and administrative ability and of the training and experience of such appointees in the work they are to perform. All such appointments shall be without definite term unless for provisional, temporary, or emergency services. ('70 Code, Ch. A, Art. IV § 3)

(D) Power of removal of officers and employees. Any officer or employee to whom the Town Manager or a head of a department or office may appoint a successor, may be removed by the Manager or other appointing officer at any time. The decision of the Manager or other appointing officer shall be final, and there shall be no appeal therefrom to any other office, agency, body, or court whatsoever. ('70 Code, Ch. A, Art. IV § 4)

(E) Board not to interfere in appointments or removals. Neither the Mayor, the Board of Commissioners, nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the Town Manager or any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the town. Except for the purpose of inquiry, the Mayor and the Board of Commissioners and its members shall deal

with officers and employees in the administrative service only through the Town Manager, and neither the Mayor, the Board of Commissioners, nor any of its members shall give orders or directions to any subordinate of the Town Manager, either publicly or privately. ('70 Code, Ch. A, Art. IV § 5)

(F) Duties. It shall be the duty of the Town Manager to:

(1) Supervise the administrative affairs of the town.

(2) Act as Director of Finance.

(3) Act as Purchasing Agent.

(4) Act as chief conservator of the peace within the town.

(5) Perform the duties of the municipal accountant in accordance with the provisions of the Municipal Fiscal Control Act.

(6) Perform all duties incident to the collection of town taxes pursuant to G.S. § 105-373, in accordance with the provisions of the Machinery Act.

(7) See that the ordinances of the town and the laws of the state are enforced within the town.

(8) Make such recommendations to the Board of Commissioners concerning the affairs of the town as may seem to him desirable.

(9) Keep the Board of Commissioners advised of the financial condition and future needs of the town.

(10) Prepare and submit to the Board of Commissioners the annual budget estimate.

(11) Prepare and submit to the Board of Commissioners such reports as may be required by that body.

(12) Perform such other duties as may be required of him by ordinances or resolution of the Board of Commissioners. ('70 Code, Ch. A, Art. IV § 6)

(G) Authority to execute contracts and agreements.

(1) The Town Manager shall have the authority to execute contracts and agreements on behalf of and in the best interest of the town for contracts and agreements associated with budgeted matters, items, projects, programs, and grant related capital projects

(2) The Town Manager will inform the Board when a contract or agreement has been executed.

(3) The Town Manager will bring matters not budgeted and requiring the execution of a contract or agreement to the Board for approval prior to having the authority to execute said agreement. (Ord. 07-08-38, passed 6-9-08)

Cross-reference:

For Charter provisions concerning the office of Town Manager, see Charter §§ 5.1 through 5.3
Town Manager to manage, control town utility systems, see § 50.02

Statutory reference:

Town Manager, see G.S. § 160A-147 et seq.

§ 31.18 TOWN TAX COLLECTOR.

For provisions concerning the Town Tax Collector, see Charter §§ 7.2 and 7.4.

OTHER OFFICERS AND EMPLOYEES

§ 31.25 DIRECTOR OF PARKS AND RECREATION.

For provisions concerning the Director of Parks and Recreation, see § 32.06(D) through (H).

§ 31.26 SUPERINTENDENT OF ELECTRIC LIGHT AND POWER SYSTEM.

For provisions concerning the Superintendent of the Electric Light and Power System, see § 52.01 of this code.

§ 31.27 SUPERINTENDENT OF STREETS.

(A) Appointment and compensation. The Superintendent of Streets shall be appointed by the Town Manager. The Board of Commissioners shall fix his compensation. ('70 Code, Ch. D, Art. IV, § 1)

(B) Duties. The Superintendent of Streets shall perform such duties and exercise such authority as may be assigned him by the Town Manager. ('70 Code, Ch. D, Art. IV § 2)

§ 31.28 SUPERINTENDENT OF WATER AND SEWER SYSTEM.

For provisions concerning the Superintendent of the Water and Sewer System, see § 51.01 of this code.

Section

- 32.01 Board of Adjustment
- 32.02 Civil Defense Agency
- 32.03 Library Board of Trustees
- 32.04 Planning Board
- 32.05 Recreation Commission
- 32.06 Traffic Bureau

§ 32.01 BOARD OF ADJUSTMENT.

For provisions concerning the Board of Adjustment, see applicable provisions of the town zoning code, copies of which are on file in the office of the Town Clerk. See also G.S. § 160A-388.

§ 32.02 CIVIL DEFENSE AGENCY.

For provisions concerning the Civil Defense Agency, see § 93.01 of this code.

§ 32.03 LIBRARY BOARD OF TRUSTEES.

For provisions concerning the Library Board of Trustees, see Chapter 97 of this code.

§ 32.04 PLANNING BOARD.

For provisions concerning the Planning Board, see §§ 151.01 through 151.03 of this code.

§ 32.05 RECREATION COMMISSION.

(A) Creation. A commission is hereby created which shall be known as the Recreation Commission.

(B) Members.

(1) The Commission shall be composed of seven members residing within the town limits. Such members will be appointed by the Board of Commissioners and shall serve the following terms: two members for a one-year term; two members for a two-year term; and three members for a three-year term. Upon the expiration of their original term of office, each succeeding term shall be for three years and until their successors qualify for office. Terms will begin the first of each calendar year. Vacancies in the Commission shall be filled for the unexpired term by the Board of Commissioners.

(2) A member of the Board of Commissioners and the Town Manager shall be ex-officio members of the Recreation Commission without voting privileges. The member of the Board of Commissioners shall be selected by the Board, and shall serve at the pleasure of the Board. The Recreation Commission may appoint other ex-officio members as it deems necessary. Recreation Commission members shall serve as such without compensation.

(3) No member shall serve longer than three consecutive full terms. Individuals serving three consecutive full terms must sit off the Board for one calendar year before eligible for reappointment. This policy may be waived if the Board of Commissioners determines that the removal of the individual made ineligible by this statute would place the functioning of the commission at a disadvantage or if the town does not receive any applications from qualified individuals after advertising for two consecutive weeks.

(4) If appointees have unexcused absences which constitute more than 25% of the board meetings in any calendar year which they are required to attend pursuant to their appointment, they are obligated to resign. Excused absences are defined as absences caused by events beyond one's control. If individuals refuse to resign, they may be dismissed by action of the Town Board of Commissioners subject to state or local law. A calendar year is to be defined as a 12 month period beginning on the date of appointment.

(C) Officers; meetings.

(1) The Recreation Commission shall appoint, from its membership, a Chairman and Vice-Chairman and such other officers as it may deem necessary for the orderly procedure of its business, except that the Director of Parks and Recreation shall serve as Secretary.

(2) The Arts and Recreation Commission shall hold at least one meeting quarterly, and all of its meetings shall be open to the public. Whenever a regular meeting of the Arts and Recreation Commission falls on a town observed public holiday, it is automatically rescheduled for the next week day or other date as determined by the Arts and Recreation Commission. No regular or special meeting of the Arts and Recreation Commission should be scheduled on a town observed public holiday. (G.S. § 143-318.9 et seq.)

(3) The Commission may adopt by-laws, rules, and regulations governing its procedure not inconsistent with the provisions of this ordinance or state laws.

(4) A majority of the members of the Commission shall constitute a quorum and the affirmative vote of the majority of the members present at any meeting thereof shall be necessary for any action taken by the Commission.

(D) Director of Parks and Recreation. There is hereby created the Office of Director of Parks and Recreation. The Director shall be appointed by the Town Manager on the basis of his qualifications for the position and he shall serve at the pleasure of the Town Manager.

(E) Powers and duties. The Board of Commissioners hereby delegates to the Commission and its Director the following powers and duties:

(1) Establish and conduct an adequate recreation program for citizens of all ages.

(2) Employ trained personnel as may be necessary in the maintenance and operation of recreational facilities and activities and within the budget appropriations provided.

(3) Advise the Town Manager in matters affecting recreation policies, programs, personnel, finances, and the acquisition and disposal of land and properties related to the total community recreation program.

(4) Establish rules and regulations governing the operation and conduct of all recreational facilities used or operated by the Department of Parks and Recreation.

(5) Accept with the approval of the Board of Commissioners any grant, gift, bequest, or donation of any personal or real property offered or made for recreation purposes. Funds received by gift, bequest, or otherwise for a specific purpose shall be disbursed in accordance with the terms of such gift, bequest, or other source.

(6) Advise in the construction, equipping, operation, and maintenance of parks, playgrounds, recreation centers, athletic fields, and all buildings and structures necessary for recreational functions.

(7) The Director shall maintain a list of all property purchased in whole or part with town funds. Determination as to expendable and non-expendable property rests with the Commission and Director.

(8) The Director shall co-ordinate with the presidents of Little League Baseball, Football, and Softball the use of ball park facilities to insure maximum utilization of same.

(9) Prepare and submit annual budget requests to the Town Manager.

(10) Appoint special committees to assist in the study of specific questions and problems.

(F) Contracts and other obligations. The Director or Commission shall have no authority to enter into any contract or incur any obligation binding upon the town other than current obligations or contracts to be fully executed within the current fiscal year and all within the budget appropriations made by the Board of Commissioners.

(G) Fiscal year. The fiscal year of the Commission shall conform to that of the town.

(H) Reports to Board of Commissioners. The Director through the Commission, shall make full and complete reports to the Board of Commissioners at such time as may be requested and at such other times as the Director and Commission may deem proper. (Ord. 78-79-5, passed 1-8-79; Am. Ord. 02-03-10, passed 9-9-02; Am. Ord. 06-07-33, passed 1-22-07; Am. Ord. 08-09-36, passed 4-27-09; Am. Ord. 10-11-06, passed 11-8-10)

Cross-reference:

Parks and recreation regulations, see Ch. 99

Statutory reference:

Authority to establish Recreation Commission, see G.S. § 160A-354

§ 32.06 TRAFFIC BUREAU.

For provisions concerning the Traffic Bureau, see Charter § 10.1. See also §§ 70.40 through 70.52 of this code.

Section

General Provisions

- 33.01 Organization
- 33.02 Town Manager to supervise
- 33.03 Chief of Police
- 33.04 Police Captain
- 33.05 Sergeant

Department Regulations

- 33.15 Duties, conduct of police officers
- 33.16 Uniforms
- 33.17 Chief, police officers have authority to summon aid
- 33.18 Resisting or abusing police officer

Auxiliary Police Division

- 33.25 Establishment
- 33.26 Control of Division
- 33.27 Oath; training
- 33.28 Duties
- 33.29 Identification
- 33.30 Firearms
- 33.31 Law enforcement powers; power of arrest

Cross-reference:

Police Department to act as town
Traffic Bureau, see §§ 70.40
and 70.41

GENERAL PROVISIONS

§ 33.01 ORGANIZATION.

The Police Department shall consist of a Chief, a Captain, and as many more police officers as the Board of Commissioners shall from time to time determine.
('70 Code, Ch. B, Art. I § 1)

Statutory reference:

Authority to establish Police
Department, appoint Chief of
Police, see G.S. § 160A-281

§ 33.02 TOWN MANAGER TO SUPERVISE.

The Town Manager shall have general control over the Police Department.
('70 Code, Ch. B, Art. I § 2)

§ 33.03 CHIEF OF POLICE.

(A) Appointment. The Chief of Police shall be appointed by the Town Manager and shall supervise the Police Department in cooperation with the Town Manager. ('70 Code, Ch. B, Art. I § 3)

(B) Chief to faithfully perform duties. The Chief of Police shall be required to perform faithfully the duties required of him by the ordinances of the town now in force or hereinafter enacted. In case of failure to do so, or

shall he prove inefficient or unsuited to discharge his duties, or should he exceed the powers or duties of his office, then he shall be removed from office by the Town Manager. ('70 Code, Ch. B, Art. I § 4)

(C) Supervision by Town Manager. The Chief of Police shall be subject to the rules and regulations approved by the Board of Commissioners and subject to the general supervision and orders of the Town Manager. It shall be his duty to see that the laws of the state, the ordinances of the town, and the rules and regulations of the Police Department are duly enforced. ('70 Code, Ch. B, Art. II § 1)

(D) General duties. It shall be his duty at all times to preserve the public peace; prevent the commission of crimes; protect the rights of persons and property; regard the public health; report nuisances in the streets, alleys, and other public places; provide proper police personnel at fires; enforce the criminal laws of the state and ordinances of the town; see especially that the rules and regulations of the Department are effectuated. ('70 Code, Ch. B, Art. II § 2)

(1) Report to the Town Manager. He shall make a written report each month showing the number of arrests, the causes of arrests, and any other data deemed pertinent by him. ('70 Code, Ch. B, Art. II § 3)

(2) Responsible for good order and conduct of the Department. He shall be held responsible for the good order of the town and for the general conduct of the members of the Department. ('70 Code, Ch. B, Art. II § 4)

(3) Issuing of equipment. He shall have charge of and issue all equipment to the personnel of the Department. He shall keep a written record showing the names of the personnel to whom these effects have been issued and a description of all equipment so issued. ('70 Code, Ch. B, Art. II § 5)

(4) Records. He shall be held responsible for all the records of the Department. The records of the Department should be set up so as to conform with the requirements of the Committee on Uniform Crime Reporting of the International Association of Chiefs of Police. ('70 Code, Ch. B, Art. II § 6)

(5) Instruction. He shall be held responsible for the instructions and training of the members of the Department. ('70 Code, Ch. B, Art. II § 7)

(6) Certify bills. He shall be required to certify to the correctness of all bills incurred by the Department of Police by affixing his signature to all requisitions for supplies and materials and by affixing his signature to all invoices for approval for payment by the Town Treasurer or Town Manager. ('70 Code, Ch. B, Art. II § 8)

(7) Governed by rules and regulations. The Chief of Police shall be subject to and governed by the rules and regulations of the Department of Police and the orders of the Town Manager. ('70 Code, Ch. B, Art. II § 9)

(8) Assignments. The Chief will assign the shifts with approval of the Town Manager. ('70 Code, Ch. B, Art. II § 10)

§ 33.04 POLICE CAPTAIN.

(A) Duties and responsibilities.

(1) The Captain shall perform responsible supervisory and active police work in the enforcement of laws, maintenance of order, and in the protection of life and property.

(2) He shall act as Assistant Chief of Police.

(3) He shall assume all responsibility in the absence of the Chief of Police.

(4) He shall assist in investigation of all major crimes in the town.

(5) He shall inspect officers on duty for shaves, uniforms, shoe shines, and the like.

(6) He shall transmit new instructions from the Chief of Police to operating personnel.

(7) He shall make contact for prisoners to assist them in making bond.

(8) He shall assign personnel to traffic regulation during special events and work with them.

(9) He shall assist and train new personnel in work procedure. ('70 Code, Ch. B, Art. III § 1)

(B) Knowledge, skills, and abilities. The Captain shall have the following knowledge, skills, and abilities:

(1) Knowledge of modern law enforcement practices, procedures, and principles.

(2) Knowledge of rules and regulations of the Police Department.

(3) Knowledge of state, federal, and local laws relating to crime.

(4) Knowledge of the streets, and the physical and geographic layout of the town.

(5) Knowledge of traffic laws and ordinances.

(6) Knowledge of court procedures and legal papers served by the Department.

(7) Skill in the use of firearms.

(8) Ability to make appropriate assignments to personnel engaged in a variety of law enforcement activities.

(9) Ability to deal firmly and courteously with the public.

(10) Ability to meet unusual police problems and make emergency decisions.

(11) Ability to establish and maintain effective working relationships with other employees.

(12) Ability to train law enforcement personnel in work procedures. ('70 Code, Ch. B, Art. III § 2)

§ 33.05 SERGEANT.

A Sergeant of Police shall be charged with the following duties and responsibilities:

(A) To carry out all orders issued by the Chief of Police and Captain.

(B) To see that orders are passed to the patrol officers.

(C) To see that all orders that are passed on to patrol officers are carried out.

(D) Assume the responsibility while on duty to make fair and quick decisions.

(E) To see that the police station is in a high state of police, when on duty.

(F) Enforce and maintain high standards that are set by the Town Police Department.

(G) Assist in investigation of all major crimes in the town.

(H) Answer any emergency calls, whether on or off duty, to the best of his ability. ('70 Code, Ch. B, Art. IV § 1)

DEPARTMENT REGULATIONS

§ 33.15 DUTIES, CONDUCT OF POLICE OFFICERS.

(A) The general duties of police officers shall be as follows:

(1) Charges will be preferred against any member who shall, through neglect of duty, fail to discover, report, and take appropriate action in the cases of homicide, burglary, accident, fire, serious breach of the peace, or other act or condition while on duty requiring police attention during his tour of duty, or who shall neglect to take proper measures to arrest any person or persons guilty of such offenses. Failure to discover, report, and take appropriate action in any of such cases within a reasonable time after arriving on duty shall be regarded as neglect of duty.

(2) While on duty each police officer shall be constantly alert, observing everything that takes place within his sight or hearing. He should not hold long conversations with anyone except in the discharge of his duty. He shall immediately report to the Chief of Police anything of a dangerous character or likely to occasion public inconvenience or anything irregular or offensive.

(3) While on duty at night a patrol officer shall patrol the business districts and residential area; learn the time of closing of business places; where lights are ordinarily left burning and the location of safes and valuable merchandise in such premises; be particular to note the time of all persons of known bad character; investigate all suspicious circumstances that may present themselves to him, such as automobiles parked with motor running, or passing over the town streets without headlights lighted, persons passing late at night with bundles, or persons loitering about or acting in a suspicious manner.

(4) Members of the Police Department shall immediately notify the Town Clerk's office of any street lamps not burning or burning dimly and the time at which such lamps are observed. They will also report any street markers or traffic lights or signs needing attention.

(5) Radio car patrol officers shall be required to signal police headquarters by radio at the times and manner prescribed by the Chief of Police.

(6) The records shall be under the immediate supervision of the Chief of Police and shall consist of such personnel as may be deemed necessary for the proper functioning thereof.

(7) All personnel while on detective duty shall be subject to and governed by the rules and regulations of the Department and the orders of the Chief of Police.

(8) All grievances or differences shall be handled first by the Chief of Police, second by the Town Manager, and third by the Board of Commissioners. In no case shall a member of the Police Department go to a member of the Board of Commissioners or the Mayor.

(B) The following rules of conduct shall govern all Police officers:

(1) Each officer and member in his conduct and department must be quiet, civil, and orderly. In the performance of his duties he must maintain decorum, command of temper, patience, and discretion. He must at all times refrain from harsh, coarse, profane, or insolent language yet be firm, resolute, and energetic. He must not use unnecessary force or violence. He must be punctual in attendance to all the calls and requirements of duty and at all times yield prompt obedience to the orders of the Chief of Police or other superior officers.

(2) Any officer or member of the Department while on duty shall not take drink of any kind of intoxicating liquor. If proven guilty of drinking on duty or of being under the influence of intoxicants or narcotics whether on duty or not, he shall be dismissed from the Department. Any officer or member of the Department who reports for duty showing evidence of having consumed intoxicants shall be subject to similar disciplinary measures.

(3) No officer or member shall make a false official report, make a false statement, or gossip about any officer or member of the Department or the business of the Department to the discredit or to the detriment of any such officer or member of the Department or the Department as a whole.

(4) No officer or member of the Department shall upon the street, in any business house, or other place whatever, to any officer or member of the Department, or to any citizen make any remark in regard to any officer or member thereof in disrepute of, or subject it or them to any ridicule. Any such matter should be brought to the attention of the Chief of Police and then to the Town Manager.

(5) All officers and members of the Department, whether on duty or not, who shall in any way disturb the peace by being engaged in any brawl or who shall

be seen intoxicated shall upon conviction be subject to suspension or dismissal.

(6) No officer or member may leave his assigned duty unless authorized to do so by the Chief of Police except in case of emergency. This reason must be furnished to the Chief of Police upon return.

(7) No officer or member of the Police Department shall receive any present, fee, or regard for his services as a police officer other than regular salary.

(8) The fact of an arrest is, in itself, of very little importance. Officers and members of the Department shall bear in mind the important fact that prisoners cannot be convicted without evidence. Criminals, especially old offenders, do not usually tell all they know about themselves; therefore, during the arrest and while on the way to the police station with an important prisoner, police officers will note carefully the conversation and action of the prisoner and get all admissions possible relative to the case; but police officers must not make promises of immunity to a prisoner to get information as information so obtained is not evidence.

(9) Loyalty to duty, government (national, state, and city), and to your officers and brother officers is required and must be rendered by all members of the Department. Prompt and energetic assistance and support must be rendered to one another.

(10) Officers and members of the Department are prohibited from recommending or suggesting to prisoners any attorney or bondsman nor shall they recommend or suggest any attorney to any person interested in criminal or civil proceeding. A list can be kept of all attorneys and bondsmen available from which the prisoner may select one of his choice.

(11) Any member of the Department failing to make any report to the Chief of Police when ordered to do so in a specified time shall be subject to disciplinary action. All official reports and communications shall be sent through the regular channels, which shall be the Chief of Police and then the Town Manager.

(12) Officers and members of the Department, when appearing in court officially, shall appear promptly when court convenes and remain present as long as their presence is required. When testifying they will give their testimony in a quiet, unassuming manner but in a tone of voice sufficiently loud to be

heard by the court. They shall be explicit in their testimony, confining themselves strictly and solely to the facts in the case, avoiding any exaggeration or the appearance of prejudice and vindictiveness, always bearing in mind that in bringing a case before the court, they are performing an official function and that in no event should personal feeling enter into the case. In preparing a case for court they will see that all pertinent witnesses as may be necessary are summoned to appear. All officers and members of the Department appearing officially in court will be attired in uniform prevailing at the time or in full civilian dress. In either event, their appearance shall be neat and their clothing properly worn.

(13) Officers of the Department shall willingly carry out all lawful orders and instructions of the Chief of Police as quickly as possible and shall not quibble or argue about the soundness of such orders or instructions.

(14) Officers and members of the Department shall not publicly criticize the actions of any judge, justice, or officer of any court of justice by word or deed.

(15) Officers and members of the Department shall not engage in political or religious discussions to the detriment of discipline and shall not utter statements in public which would in any way slight the race, color, creed, ancestry, nationality, or religious or political views of any person.

(16) At any time it becomes necessary for any officer to discharge firearms in performance of his official duty, he will complete a detailed report of the circumstances surrounding such use immediately to the Chief of Police.

(17) Loitering during working hours will not be tolerated. Officers are expected to work and produce during the period of duty.

(C) The foregoing set of rules and regulations shall not be held to alter or change any duties vested upon any police officer by virtue of general law, or to limit his rights, privileges, and duties as they are defined and established. The general purpose of the present rules and regulations are to create a more efficient and cooperative Police Department.

(D) Any officer or member of the Department shall be subject to reprimand, forfeiture of furlough, deduction of pay, suspension from duty, reduction in rank, dismissal from the Department, or any one or more of the foregoing penalties according to the nature and aggravation

of his offense for any of the following causes or for any violation of the regulations governing the Department:

- (1) Conduct unbecoming an officer and gentleman.
- (2) Conduct subversive to the good order and discipline of the Department.
- (3) Violation of any criminal law.
- (4) Making known the proposed action or movement of the Department or the provisions of any orders to persons outside of the Department.
- (5) Immorality, indecency, or lewdness.
- (6) Indecent, profane, or harsh language.
- (7) Willful disobedience of order.
- (8) Absence without leave.
- (9) Incompetence, lack of energy, and incapacity mentally or physically.
- (10) Neglect in paying just debts.
- (11) Disrespect to superior officers.
- (12) Intoxication or under the influence of intoxicants.
- (13) Sleeping on duty.
- (14) Neglect of duty.
- (15) Unnecessary violence to prisoners.
- (16) Commenting on the official actions of superior officers.

(E) No officer or member shall secure papers from any Justice of the Peace Court or any other court or act as a collecting agency from any firm or individual on or off duty.

(F) All officers and members shall study the laws and ordinances under which arrest should be made. They should have full knowledge of forms of warrants.

(G) The Chief of Police preferring formal disciplinary charges against members of the Department alleged to be guilty of infractions of the rules and regulations of the Department; of Department orders and instructions; or of conduct to the prejudice of good order, efficiency, or discipline of the

Department shall immediately file same with the Town Manager. The Town Manager on behalf of the Board of Commissioners will render action within three days. ('70 Code, Ch. B, Art. V § 1)

§ 33.16 UNIFORMS.

The following regulations concerning uniforms shall be observed at all times:

(A) Officers and members of the Police Department shall maintain a clean and serviceable uniform at all times on duty. No uniform will be worn until it conforms to the specifications prescribed by the Board of Commissioners. The uniform shall be worn securely buttoned at all times.

(B) Officers and members of the Department shall never wear, use, display, or have in their possession a police shield or similar objects except as authorized by the Chief of Police. They shall at all times carry their shields and when in uniform display it on the outermost garment over the left breast.

(C) Officers and members of the Department are personally responsible for the proper and authorized use of their uniforms and equipment.

(D) Parts of the police uniform will not be worn on the street in conjunction with civilian clothes.

(E) Officers and members of the Department will be required to have a copy of the rules and regulations of the Department and a memorandum or citation book at all times. ('70 Code, Ch. B, Art. VI § 1)

§ 33.17 CHIEF, POLICE OFFICERS HAVE AUTHORITY TO SUMMON AID.

The Chief of Police or any police officer shall have authority, if resisted in the execution of their lawful duties, to summon a sufficient number of persons to aid them in enforcing the law, and it shall be unlawful for any person so summoned to refuse to assist the Chief or other police officer. ('70 Code, Ch. B, Art. VII § 1)

§ 33.18 RESISTING OR ABUSING POLICE OFFICER.

It shall be unlawful for any person to resist or abuse the Chief of Police or any police officer in the discharge of his duties, or to aid or abet in such resistance or abuse. ('70 Code, Ch. B, Art. VII § 2) Penalty, see § 10.99

AUXILIARY POLICE DIVISION

§ 33.25 ESTABLISHMENT.

There is hereby established within the Town Police Department, as a division thereof, an Auxiliary Police Division. The Auxiliary Police Division shall be a volunteer organization composed of as many members as may from time to time be determined by the Board of Commissioners. ('70 Code, Ch. B, Art. VIII § 1) (Ord., passed 10-4-71)

Statutory reference:

Auxiliary Police Department;
authority to establish, see
G.S. § 160A-282

§ 33.26 CONTROL OF DIVISION.

The Auxiliary Police Division shall be under the direct control of the Chief of Police, acting under the general supervision of the Town Manager. ('70 Code, Ch. B, Art. VIII § 2) (Ord., passed 10-4-71)

§ 33.27 OATH; TRAINING.

Each member of the Auxiliary Police Division shall take the oath of office of a regular police officer. The Chief of Police shall provide for adequate training of members of the Auxiliary Police Division, and of candidates for membership. ('70 Code, Ch. B, Art. VIII § 2) (Ord., passed 10-4-71)

§ 33.28 DUTIES.

(A) The duties of the Auxiliary Police Division, subject at all times to the direction, supervision, and control of the Chief of Police, shall be to assist the regular members of the Police Department in the enforcement of law and the maintenance of peace and order when called to active duty by the Chief of Police. The Chief shall by order establish rules and regulations to govern the Auxiliary Police Division, to fix the specific duties of its members, and to provide for the maintenance of discipline. Members of the Auxiliary Police Division shall obey the instructions of regular police officers in carrying out their duties.

(B) The Chief may prescribe other duties than those mentioned herein to be performed by the Auxiliary Police Division, with approval of the Town Manager. ('70 Code, Ch. B, Art. VIII § 3) (Ord., passed 10-4-71)

§ 33.29 IDENTIFICATION.

An identification card and such other insignia or evidence of identity as the

Chief of Police may prescribe shall be issued to each member of the Auxiliary Police Division, who must carry the card and other identification at all times while on duty, and who must surrender them upon the termination of membership. ('70 Code, Ch. B, Art. VIII § 4) (Ord., passed 10-4-71)

§ 33.30 FIREARMS.

No member of the Auxiliary Police Division shall, while on duty, carry or use any firearm except upon the express order of the Chief of Police. All official firearms shall be kept in custody of the Police Department except when issued to a member of the Auxiliary Division for use on active duty while accompanied by and under the supervision of one or more regular police officers. ('70 Code, Ch. B, Art. VIII § 5) (Ord., passed 10-4-71)

§ 33.31 LAW ENFORCEMENT POWERS; POWER OF ARREST.

(A) No member or members of the Auxiliary Police Division shall enforce, nor attempt to enforce, any law except when called to active duty. ('70 Code, Ch. B, Art. VIII § 6)

(B) Members of the Auxiliary Police Division shall, while undergoing official training and while performing duties on behalf of the town, pursuant to orders or instructions of the Chief of Police of the town, be entitled to all powers of arrest, privileges, and immunities afforded by law to regularly employed police officers. ('70 Code, Ch. B, Art. VIII § 7) (Ord., passed 10-4-71)

Section

- 34.01 General organization; compensation
- 34.02 Rules and regulations; dismissal
- 34.03 Fire Chief
- 34.04 Calls from other municipalities

Cross-reference:

Fire prevention regulations, see
Ch. 94

§ 34.01 GENERAL ORGANIZATION; COMPENSATION.

The Fire Department shall consist of a Chief, an Assistant Chief, and a sufficient number of firefighters (voluntary, part time, or full time) to maintain and operate the Department. The Department shall be under the general supervision of the Town Manager. Compensation of the officers and members of the Fire Department shall be fixed in the discretion of the Board of Commissioners.

('70 Code, Ch. C, Art. I § 1)

Statutory reference:

Authority to establish Fire
Department, appoint Fire
Chief, see G.S. § 160A-291

§ 34.02 RULES AND REGULATIONS; DISMISSAL.

The Fire Department shall make such rules for its government as it deems necessary, not inconsistent with the laws of the state or the ordinances of the town.

The rules and regulations shall include provision for at least one training meeting each month. Any member who is absent from three consecutive training meetings or three consecutive fires without a bona fide reason, shall be subject to dismissal by the Department on vote of the majority of the members of the Fire Department.

('70 Code, Ch. C, Art. 1 § 2)

§ 34.03 FIRE CHIEF.

(A) Election. The Fire Chief shall be elected for a two-year term by members of the Fire Department under rules and regulations of the Fire Department; these rules and regulations shall be approved by the Town Manager and the Board of Commissioners. Election of the Fire Chief before the same is valid shall be approved by the Board of Commissioners. (Ord. 89-90-9, passed 1-8-90)

(B) Authority. The Chief or, in his absence, the Assistant Chief, shall command the Fire Department, and his orders shall be obeyed. For any willful disobedience of the orders of the officer in command, the offending member shall be dismissed from the Department. The Chief and Assistant Chief are hereby vested

with all the powers of police officers of the town insofar as to make arrests during the existence of a fire. ('70 Code, Ch. C, Art. I § 4)

(C) Duties. It shall be the duty of the Fire Chief to:

(1) Supervise and direct the extinguishing of fires.

(2) Preserve and keep all fire engines, hose, and other apparatus used by the Department.

(3) Keep all idle, disorderly, and suspicious persons out of the vicinity of fires.

(4) Compel, when necessary, all persons to aid in the extinguishing of fires; in the preservation of property exposed to fire; and the prevention of the theft of any goods during a fire.

(5) Enforce such regulations for the prevention and extinguishing of fires as may be enacted by the Board of Commissioners.

(6) Report all violations of any fire prevention ordinances.

(7) Inspect all equipment of the Department and report all needed repairs to the Town Manager.

(8) Annually report to the Board of Commissioners through the Town Manager the names, residences, and occupations of all firefighters; the number and locality of all fires which have occurred during the year; the cause of each if such can be ascertained; the names of the owners and the value of all property destroyed by fires; the insurance coverage on such property; and such other matters pertaining to the Fire Department, its organization, and operation, as may be required.

(9) Act as Fire Inspector. As such, the Fire Chief shall have authority to enter all buildings at any reasonable time, with reasonable notice given to the owners or occupants of private residences, for the purposes of inspection. He shall make a quarterly inspection of all boarding houses and all buildings which are two or more stories in height, and an annual inspection of all other buildings within the fire district.

(10) Perform such other and further duties as may be necessary for the proper and efficient operation of the Fire Department and the prevention of fires.

(11) Under the direction of the Fire Chief or the Assistant Fire Chief, the Ayden Fire Department will provide extrication for victims of vehicle accidents and other life-threatening situations.
('70 Code, Ch. C, Art. I § 5) (Ord. 98-99-10, passed 2-8-99)

Cross-reference:

For Charter provisions concerning
the Fire Chief, see Charter § 7.5

§ 34.04 CALLS FROM OTHER MUNICIPALITIES.

The sending of town fire equipment to
other municipalities upon the request of
officials of such municipalities shall be in
the discretion of the Fire Chief.
('70 Code, Ch. C, Art. I § 6)

Section

Candidacy Regulations

- 35.01 Filing statement required; fee
35.02 Date of filing

Cross-reference:

For Charter provisions concerning
municipal election procedures,
see Charter Article IV

CANDIDACY REGULATIONS§ 35.01 FILING STATEMENT REQUIRED; FEE.

Each person offering himself as a candidate for election to any municipal office shall do so by filing a notice of candidacy with the Town Board of Elections and shall pay a filing fee of \$10.

('70 Code, Ch. A, Art. VII § 1) (Ord.,
passed 8-13-73)

§ 35.02 DATE OF FILING.

Candidates may file their notice of candidacy with the Town Board of Elections at the times set forth in G.S. § 163-294.2 for plurality method elections. Notices of candidacy which were mailed must be received by the Board of Elections before the filing deadline, regardless of the time they were deposited in the mails.

('70 Code, Ch. A, Art. VII § 2) (Ord.,
passed 8-13-73)

Section

- 36.01 Adoption of personnel regulations by reference
- 36.02 Department heads to attend Board meetings

§ 36.01 ADOPTION OF PERSONNEL REGULATIONS BY REFERENCE.

The town's personnel regulations, including vacation, sick leave, pay plan, and position classification plan regulations are on file in the Clerk's office. ('70 Code, Ch. A, Art. X) (Am. Ord. 96-97-03, passed 8-12-96)

§ 36.02 DEPARTMENT HEADS TO ATTEND BOARD MEETINGS.

Heads of departments within the town government shall attend meetings of the Board of Commissioners only when requested to do so by the Board of Commissioners or the Town Manager. ('70 Code, Ch. A, Art. IX § 2)

TITLE V: PUBLIC WORKS

Chapter

50. GENERAL PROVISIONS

51. WATER AND SEWERS

52. ELECTRIC LIGHT AND POWER

Section

- 50.01 General authority of town as to public utilities
- 50.02 Town Manager to control town utility systems
- 50.03 Scope of town public works regulations

§ 50.01 GENERAL AUTHORITY OF TOWN AS TO PUBLIC UTILITIES.

The town, by virtue of authority granted by its Charter and state law, is authorized and empowered to acquire, provide, construct, establish, maintain, and operate water, sewerage, and electric systems for the town and to extend those systems beyond the town boundaries. In accordance with this authority, there are hereby created a water system, a sewerage system, and an electric system for the town.

('70 Code, Ch. F, Art. I § 1)

Statutory reference:

Authority to operate public service systems, see
G.S. § 160A-312

§ 50.02 TOWN MANAGER TO CONTROL TOWN UTILITY SYSTEMS.

The management and control of the town utility systems is vested in the Town Manager under authority of the Board of Commissioners, and the systems shall be governed by the provisions of Chapters 50 through 52 of this code.

('70 Code, Ch. F, Art. I § 2)

§ 50.03 SCOPE OF TOWN PUBLIC WORKS REGULATIONS.

All pertinent provisions of Chapters 50 through 52 of this code are hereby made a part of the terms and conditions whereby the town shall furnish water, sewer, or electric service to any consumer, or whereby the town makes any water, sewer, or electric connection or performs any work of any kind in connection with the furnishing of such services.

('70 Code, Ch. F, Art. I § 3)

Section

General Provisions

- 51.01 Superintendent of Water and Sewer System
- 51.02 Damage to town sewer system, reservoir prohibited
- 51.03 Shutting off water for alterations, repairs, and the like

Connection Regulations

- 51.10 Connection required
- 51.11 Application
- 51.12 Connection fees
- 51.13 Licensed plumber to make connection
- 51.14 Separate connection, meter required
- 51.15 Connection equipment, meters and property of town
- 51.16 Town to maintain meters
- 51.17 Connections outside town limits

Discharges

- 51.25 Prohibited discharges
- Rates and Charges
- 51.35 Schedule of rates and charges
- 51.36 Deposit required for service; rate schedule
- 51.37 When meters read, bills payable
- 51.38 Disconnection for late payment

Water, Sewer and Street Extension Policy

- 51.50 Water, sanitary sewer and street extension policy

Backflow Prevention and Cross-connection Control

- 51.60 Water cross-connection control
- 51.61 Definitions
- 51.62 Right of entry
- 51.63 Unprotected cross-connection prohibited
- 51.64 Installation and testing of backflow prevention assembly
- 51.65 Degree of hazard
- 51.66 Notice of contamination or pollution

Water Shortage Response Plan

- 51.70 Authority to implement
- 51.71 Factors leading to the implementation of the Water Shortage Response Plan
- 51.72 Water use classifications
- 51.73 Phased response/reduction goals
- 51.74 Enforcement
- 51.75 Variances
- 51.76 Public comment
- 51.77 Effectiveness
- 51.78 Return to normal
- 51.79 Revision

Sewer Use Ordinance

- 51.90 Adoption by reference
- 51.99 Violations; Penalty

GENERAL PROVISIONS§ 51.01 SUPERINTENDENT OF WATER AND SEWER SYSTEM.

The Town Manager shall appoint a Superintendent of the Water and Sewer System who shall have operational control of the water and sewer system under the general supervision of the Town Manager. ('70 Code, Ch. F, Art. II § 1)

§ 51.02 DAMAGE TO TOWN SEWER SYSTEM, RESERVOIR PROHIBITED.

No person shall obstruct, break, remove, or otherwise injure any portion of any man-hole, flush-tank, or other part of any public sanitary or storm sewer, nor throw any rocks into any public reservoir. ('70 Code, Ch. F, Art. II § 12) Penalty, see § 51.99

§ 51.03 SHUTTING OFF WATER FOR ALTERATIONS, REPAIRS, AND THE LIKE.

The town reserves the right at any time to shut off water in the mains in case of accident, or for the purpose of making connections, alterations, or repairs. ('70 Code, Ch. F, Art. II § 20)

Cross-reference:

Discontinuance of service for non-payment of bill, see § 51.38

CONNECTION REGULATIONS§ 51.10 CONNECTION REQUIRED.

Connection to the town's sanitary sewer system is required as provided in Section 2.11 of the town's Sewer Use Ordinance (Ord. No. 93-94-23). ('70 Code, Ch. F, Art. II § 2) (Am. Ord. 06-07-08, passed 8-14-06; Am. Ord. 07-08-19, passed 11-26-07) Penalty, see § 51.99

§ 51.11 APPLICATION.

Any person, firm, or corporation desiring connection to be made with the town water or sewer system shall make application in writing to the Superintendent of the Water and Sewer System, stating the name of the owner of the lot; the location of the lot; the number of the house if there is one; the number and kind of connections desired; and the character of the surface of the abutting street. Every application shall be signed by the person making the application and shall be accompanied by the appropriate connection fee, as set forth in § 51.12. ('70 Code, Ch. F, Art. II § 4)

§ 51.12 CONNECTION FEES.

For the extension of pipe and the tapping of mains, the town will charge such connection fees for water and sewer connections as the Board of Commissioners may from time to time adopt. The current connection fees shall be on file in the office of the Town Clerk or the Superintendent of the Water and Sewer System.

('70 Code, Ch. F, Art. II § 5)

§ 51.13 LICENSED PLUMBER TO MAKE CONNECTION.

The construction of laterals for the connection of the water or sewer pipes on any lot with water or sewer pipes in any street or alley, and the necessary excavation thereof, shall be done only by a licensed plumber with the approval of the Superintendent of the Water and Sewer System.

('70 Code, Ch. F, Art. II § 3) Penalty, see § 51.99

§ 51.14 SEPARATE CONNECTION, METER REQUIRED.

(A) Every house or building abutting any water or sewer main and requiring a water or sewer connection shall be separately connected. ('70 Code, Ch. F, Art. II § 6)

(B) Each building, house, dwelling unit, or commercial unit shall be metered separately. In no case shall two or more users be supplied through one meter. ('70 Code, Ch. F, Art. II § 7) Penalty, see § 51.99

§ 51.15 CONNECTION EQUIPMENT, METERS ARE PROPERTY OF TOWN.

All meters, meter boxes, pipes, and other equipment furnished and used by the town in making any water or sewer connections shall be and remain the property of the town.

('70 Code, Ch. F, Art. II § 8)

§ 51.16 TOWN TO MAINTAIN METERS.

All meters shall be maintained by the town; however, all meters furnished by particular users shall be maintained by the town at the expense of the particular users. ('70 Code, Ch. F, Art. II § 9)

§ 51.17 CONNECTIONS OUTSIDE TOWN LIMITS.

No connection of any water or sewer line or system outside the town shall be made to the town water or sewer system without special permission of the Town Manager, on such terms as the Board of Commissioners shall prescribe.

('70 Code, Ch. F, Art. II § 10) Penalty, see § 51.99

DISCHARGES

§ 51.25 PROHIBITED DISCHARGES.

It shall be unlawful to use house sewers for any purpose other than carrying off house sewage, or to place in any house sewer any foreign matter that may not be promptly dissolved or that may cause obstruction in the sewer. It shall be unlawful to cause or permit the exhaust, blow-off, drip pipe, or sediment from any boiler, or the discharge of large volumes of hot water, to be discharged into the sewer. Water of temperature greater than 120°F. shall not be discharged into the sewer.

('70 Code, Ch. F, Art. II § 11) Penalty, see § 51.99

RATES AND CHARGES

§ 51.35 SCHEDULE OF RATES AND CHARGES.

The rates and charges for water shall be those rates and charges as may from time to time be established by the Board of Commissioners. The current schedule of rates is on file in the office of the Town Clerk or the Superintendent of the Water and Sewer System.

('70 Code, Ch. F, Art. II § 13)

§ 51.36 DEPOSIT REQUIRED FOR SERVICE; RATE SCHEDULE.

Before any water service shall be supplied to any applicant, the applicant shall make a deposit in the amount as may from time to time be established by the Board of Commissioners. The current schedule of deposits is on file in the office of the Town Clerk or the Superintendent of the Water and Sewer System.

('70 Code, Ch. F, Art. II, § 14)

§ 51.37 WHEN METERS READ, BILLS PAYABLE.

Meters shall be read monthly and bills shall be payable on or before the due and cut-off dates indicated on the bill. ('70 Code, Ch. F, Art. II § 15) (Am. Ord. 06-07-08, passed 8-14-06)

§ 51.38 DISCONNECTION FOR LATE PAYMENT.

(A) When it becomes necessary for the town to discontinue water and sewer service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid and any deposit required has been made.

(B) It is the policy of the town to discontinue service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills is provided. All bills shall contain, in addition to the title, address, and telephone number of the town official in charge of billing, clearly visible and easily readable provisions to the effect that:

Superintendent of the Water and Sewer System.

('70 Code, Ch. F, Art. II, § 14)

§ 51.37 WHEN METERS READ, BILLS PAYABLE.

Meters shall be read monthly and bills shall be payable on or before the due and cut-off dates indicated on the bill. ('70 Code, Ch. F, Art. II § 15) (Am. Ord. 06-07-08, passed 8-14-06)

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(A) When it becomes necessary for the town to discontinue water and sewer service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid and any deposit required has been made.

(B) It is the policy of the town to discontinue service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills is provided. All bills shall contain, in addition to the title, address, and telephone number of the town official in charge of billing, clearly visible and easily readable provisions to the effect that:

(1) All monthly bills are due and payable on or before the penalty due date indicated on the face of the bill. Service shall be discontinued for nonpayment on the cut-off date shown on the face of the bill;

(2) If any bill is not paid by the penalty due date, a penalty as established by the town budget ordinance will be added if paid prior to the cut-off date;

(3) An additional penalty as established by the town budget ordinance will be added if the bill is not paid by 5:00 p.m. on the cut-off date.

(4) Failure to receive a bill does not alter these rules.

(C) Any customer disputing the accuracy of a bill shall have the right to a hearing. At that time he may be represented in person and by counsel or any other person of his choosing and may present orally or in writing his complaint and contentions to the town official in charge of billing. This official shall be authorized to order that the customer's service not be discontinued and shall have authority to make a final determination of the customer's complaint.

(D) In the absence of payment of the bill rendered or a request for a hearing as provided above, service will be discontinued at the time specified.

(Am. Ord. 06-07-08, passed 8-14-06)

WATER, SEWER AND STREET
EXTENSION POLICY

§ 51.50 WATER, SANITARY SEWER AND STREET
EXTENSION POLICY.

(A) Policy. It shall be the policy of the town to extend, or allow others to extend, its water, sanitary sewer, and street systems according to the terms and conditions of this subchapter.

(B) Definitions.

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

"SERVICE AREA." The land adjacent or abutting a water main or sanitary sewer main which the pipeline will directly serve (by a customer connecting to the pipeline).

(C) Extensions.

(1) Extensions initiated by and paid for by town.

(a) Water. The Board of Commissioners may at its discretion extend water mains along streets, through dedicated right-of-ways, and through easements, both permanent and temporary. It may elect to do so in order to connect to an additional source of supply or storage tank, to loop lines to improve water pressure and water quality, to improve fire flows, to serve a facility owned by the town, to reach unserved property within the town limits and extra-territorial jurisdiction, to save money in anticipation of higher construction costs later, or to serve a facility it deems is in the best interests of the citizens of the town to serve.

(b) Sanitary sewer. The Board of Commissioners may at its discretion extend sanitary sewer mains along streets, through dedicated right-of-ways, and through easements, both permanent and temporary. It may elect to do so in order to connect to another disposal area, improve transmission of sewage for the existing system, to serve a facility owned by the town, to reach unserved property within the town limits and extra-territorial jurisdiction, to save money in anticipation of higher construction costs later, or to serve a facility it deems in the best interest of the citizens of the town to serve.

(c) Streets. The Board of Commissioners may at its discretion extend streets in dedicated right-of-ways. It may elect to do so in order to alleviate high volume traffic in undesired areas, to alleviate safety hazards caused by road alignment, to reduce response times for police, fire, and rescue by providing a more direct route, or to connect existing streets to new streets within town limits which

would otherwise be unconnected (such as the entrance road to a subdivision not contiguous to the existing street system).

(2) Extensions petitioned for by citizen or land owner and paid for by town.

(a) Within town limits.

1. Water - within town limits. Upon receipt of a valid petition, the town shall, at its expense, extend water mains to the near property line of any property within the town limits, subject to the availability of existing dedicated right-of-ways to route the main. However, the town will not extend lines at the town's own expense into a subdivision which is being privately developed.

2. Sanitary sewer - within town limits. Upon receipt of a valid petition, the town shall, at its expense, extend sanitary sewer to the near property line of any property within the town limits. This is subject to the availability of existing dedicated right-of-ways to route the main. If not feasible because of physical barriers, lack of right-of-way, topography, or economics, alternate sewage disposal may be arranged. The town will not extend lines at the town's expense into a subdivision which is being privately developed.

3. Streets - within town limits. Upon receipt of a valid petition, the town may, at its expense, extend streets to the near property line of any property within the town limits. This is subject to the availability of existing dedicated right-of-ways and available funds. The town will not extend streets at the town's expense into a subdivision which is being privately developed.

(b) Outside town limits.

1. Water - outside town limits. The town is under no obligation to extend water lines outside the town limits. Upon receipt of a valid petition, extensions of water mains at the town's expense may be made at the discretion of the Board of Commissioners. The petition must be signed by a majority of the owners of the property within the Service Area and must represent a majority of all the linear feet of frontage of the property within the Service Area. Voluntary annexation by 100% of the property owners subscribing to the service is required, except for areas remote from the town limits. The extension is subject to the economic feasibility and the availability to town funds. The town will not extend lines at the town's expense into a subdivision which is being privately developed.

2. Sanitary sewer - outside town limits. The town is under no obligation to extend sanitary sewer lines outside the town limits. Upon receipt of a valid petition, extension of sanitary sewer

lines at the town's expense may be made at the discretion of the Board of Commissioners. The petition must be signed by a majority of the owners of the property within the Service Area and must represent a majority of all the linear feet of frontage of the property within the Service Area. Voluntary annexation by 100% of the property owners subscribing to the service is required. The exemption is subject to the economic feasibility and the availability to town funds. The town will not extend lines at the town's expense into a subdivision which is being privately developed.

3. Streets - outside town limits. The town is under no obligation to extend streets outside the town limits. Upon receipt of a valid petition, extensions of streets at the town's expense may be made at the discretion of the Board of Commissioners. The petition must be signed by a majority of the owners of the property to be served and must represent a majority of all the linear feet of frontage of the property to be served. Voluntary annexation by 100% of the property owners is required as well as an adequate dedicated right-of-way. The extension is subject to the economic feasibility and the availability to town funds. The town will not extend streets at the town's expense into a subdivision which is being privately developed.

(3) Extensions initiated and paid for by others.

(a) Water, sanitary sewer and streets within town limits. The town will allow others to extend its water, sewer, and street systems subject to:

1. A valid application for making extension being submitted to the town by the petitioner;

2. The petitioner paying 100% of the costs;

3. Approval of application and engineering plans by the Board of Commissioners and applicable regulatory authorities;

4. Construction meeting town standards, regulations, and ordinances. The minimum pipe diameter required for water mains is six inches. The minimum pipe diameter for sanitary sewer is eight inches;

5. Construction must be done by a contractor licensed for that type of construction by the North Carolina Licensing Board For General Contractors;

6. Construction being within existing dedicated right-of-ways of adequate widths;

7. Acceptance by town for operation and maintenance; or

8. Extensions to be deeded to town.

9. In the case of water and sewer extensions, approval of plans by Town Commissioners will be also be subject to existing systems having capacity to serve proposed extension.

10. The town will not allow the extension of its sanitary sewer system unless the property to be served is also served by the town's water system or a water corporation whose jurisdiction supersedes that of the town.

(b) Water, sanitary sewer and streets outside town limits. The town is not obligated to allow others to extend its water, sanitary sewer, or street system outside of the town limits. The Board of Commissioners will consider proposed extensions based upon the same criteria as those inside the town limits plus the following additional requirements:

1. In the case of only a water extension, voluntary annexation by 100% of the property owners is required except for locations remote from the existing town limits.

2. In the case of sanitary sewer and street extensions, voluntary annexation by 100% of the property owners is required.

3. In the case of a sanitary sewer extension, no property will be served by the town's sanitary sewer system unless it is also served by the town's water system or a water corporation whose jurisdiction supersedes that of the town.

4. In the case of a street extension outside of the town limits, the construction must also meet the requirements of the NC Department of Transportation as well as the town's requirements. The street must be dedicated and accepted for operation and maintenance by the NC DOT rather than by the Town of Ayden.

(e) Participation by town for additional capacity. The town may elect to require larger diameter pipelines than those minimum sizes which would adequately serve the proposed area. One hundred percent of the additional cost of providing larger diameter pipelines shall be borne by the town.

(f) Construction inspection. Construction inspection by the town or a representative of the town is required for all extensions. The developer(s) or person(s) responsible for the extension(s) will be responsible for 100% of the costs for construction inspection. The inspector must be a certified engineer and approved by the town.

(D) Connections. The tap on fees shall be in accordance with the current rate schedule.

(Ord. 91-92-14, passed 12-9-91; Am. Ord. 02-03-33, passed 3-10-03; Am. Ord. 06-07-08, passed 8-14-06)

BACKFLOW PREVENTION AND CROSS-CONNECTION CONTROL

§ 51.60 WATER CROSS-CONNECTION CONTROL.

(A) Purpose. The purpose of this cross-connection control ordinance is:

(1) To protect the public potable water supply of the town from the possibility of contamination or pollution, due to back siphonage or back pressure, by isolating within the consumer's internal distribution system or the consumer's private water systems such contaminants or pollutants which could backflow into the public water system;

(2) To define the authority of the town as the water purveyor entitled to eliminating all cross-connections, new or existing, within its public water system;

(3) To provide a continuing inspection program of cross-connection control which will systematically and effectively control all actual or potential cross-connections which may be installed in the future.

(B) Responsibility: Town.

(1) The Department of Water Resources will be primarily responsible for preventing any contamination or pollution of the public water system. This responsibility begins at the point of origin of the public water supply and includes all of the public water distribution system, and ends at the service connection under the Safe Drinking Water Act. The Backflow Administrator, or his/her designee shall exercise vigilance to ensure that the consumer/customer has taken the proper steps to protect the public potable water system.

(2) When it has been determined that a backflow protection assembly is required for the prevention of contamination of the public water system, the Backflow Administrator, or his/her designee, shall notify the owner, in writing, of any such building or premises, to correct within a time set by this subchapter, any plumbing installed or existing that is in violation of this subchapter.

(3) After surveying the private water system, the Backflow Administrator, or his/her designee, will select an approved backflow prevention assembly required for containment control to be installed at service entrance.

(4) Prior to the installation of any backflow prevention assembly, the owner of the private water system must be notified that the installation of a backflow prevention assembly may create a closed system, and as a result thermal expansion may occur. Under such circumstances, the customer must understand and assume all liability and responsibilities for that phenomenon.

(C) Responsibility: Customer.

(1) The customer has the responsibility of preventing contaminants and pollutants from entering the customer's private water system or the public water system operated by the Town. The customer, at his/her own expense, will install, operate, and maintain all backflow prevention assemblies specified within this subchapter.

(2) If a tenant customer does not maintain the private water system and has no authority to bring the system into compliance with the provisions of this subchapter, the Town may assert any available action against tenant to assure the private water system is brought into compliance with this subchapter.
(Ord. 02-03-21, passed 11-12-02)

§ 51.61 DEFINITIONS.

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

"AIR GAP SEPARATION." An unobstructed vertical distance through the atmosphere between the lowest opening from any pipe or faucet supplying water from any source to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. An approved air gap separation shall be at least double the diameter of the supply pipe. In no case shall the air gap separation be less than one inch. An approved air gap separation is an effective method to prevent backflow and shall be considered as a backflow prevention assembly.

"ATMOSPHERIC VACUUM BREAKER." A device used to prevent back siphonage which is designed so as not to be subject to static line pressure.

"BACK PRESSURE." Any elevation of pressure in the down stream piping system caused by pumps, elevation of piping, or steam and/or air pressure above the supply pressure at the point of consideration which would cause a reversal of the normal direction of flow.

"BACK SIPHONAGE." A reversal of the normal direction of flow in the pipeline due to a negative pressure (vacuum) being created in the supply line with the backflow source subject to atmospheric pressure.

"BACKFLOW." Any reverse flow of water, gas, any other liquid substance, or combination thereof into the public water system from any source due to an unprotected cross-connection.

"BACKFLOW PREVENTION ADMINISTRATOR." An employee of the town designated by the Director to administer and enforce the provisions of this subchapter.

"BACKFLOW PREVENTION ASSEMBLY - APPROVED." An assembly that has been investigated and approved by the Town Water Resources and has been proved to meet the design and performance standards of the American Society of Sanitary Engineers (ASSE), the American Water Works Association (AWWA), or the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California.

"CERTIFIED TESTER." Any individual person who has proven his/her competency to test, repair and overhaul backflow prevention assemblies. This person must hold a certificate of completion from a certified training program in the testing and repair of backflow prevention assemblies and cross connection control.

"CONSUMER/CUSTOMER." Any person, firm, or corporation using or receiving water from the town public water system.

"CONTAINMENT." The prevention of backflow from a private water system by an approved, properly functioning backflow prevention assembly which is installed, operated and maintained in accordance with the provisions of this subchapter.

"CONTAMINATION." An impairment of the quality of the water to a degree which creates an actual hazard to the public health through poisoning or through the spread of disease.

"CROSS-CONNECTION." Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluids, gas or substance which could be harmful or hazardous to the potable water system.

"DOUBLE CHECK VALVE ASSEMBLY." An assembly composed of two single, independently acting, approved check valves, including tightly closing shut-off valves located at each end of the device and suitable connections for testing the water tightness of each check valve.

"DUAL CHECK VALVE." A device composed of two single, independently acting, approved check valves. This is classified as a device and cannot be in-line tested.

"HAZARD-DEGREE." The evaluation of a hazard within a private water system as moderate or high.

"HAZARD-HIGH." An actual or potential threat of contamination to the public water system or to a customer's potable water system that could cause serious illness or death.

"HAZARD-IMMINENT." An actual threat of contamination to the public water system that could cause serious illness or death.

"HAZARD-MODERATE." An actual or potential threat of damage to the physical components comprising the public water system or a customer's potable water system, or of pollution to the public water system or to a customer's potable water system.

"POLLUTION." An impairment of the quality of the water to a degree which does not create an actual hazard to the public health, but which does adversely and unreasonably affect such waters for domestic use.

"POTABLE WATER." Water from any source which has been approved for human consumption by the appropriate agency of the State of North Carolina, Town of Ayden and/or local health agencies.

"PRESSURE VACUUM BREAKER." An assembly suitable for continuous pressure, to be used to provide protection against back siphonage.

"PRIVATE WATER SYSTEM." Any water system located on the customer's premises, whether supplied by public potable water or an auxiliary water supply. The system or systems may be either a potable water system or an industrial piping system.

"PUBLIC WATER SYSTEM." The potable water system owned and operated by the town. This system includes all distribution mains, lines, pipes, connections, storage tanks, and other facilities conveying potable water from the water treatment plants to the service connections of each customer.

"REDUCED PRESSURE ZONE ASSEMBLY." An approved, properly functioning assembly containing two independently acting check valves with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the

first check valve. The assembly must include properly located test cocks and tightly closing shut off valves at each end of the assembly. This assembly is designed to protect against a high hazard.

"SERVICE CONNECTION." The terminal end of a service connection from the public potable water system, i.e., where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's water system.

"USED WATER." Any water supplied by a water purveyor from a public water system to a consumer's water system after it has passed through the point of delivery and is no longer under the control of the water purveyor.

"WATER PURVEYOR." Owner or operator of a public potable water system providing an approved water supply to the public.

"WATER SUPPLY-AUXILIARY." Any water supply on or available to the customer's premises, other than the purveyor's approved public potable water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source such as a well, spring, river, stream, etc., and used or objectionable water and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

"WATER SUPPLY-UNAPPROVED." Any water supply which has not been approved for human consumption by the North Carolina Department of Human Resources.
(Ord. 02-03-21, passed 11-12-02)

§ 51.62 RIGHT OF ENTRY.

(A) Any authorized representative from the town shall have the right to enter any building, structure or premises during normal business hours to perform any duty imposed upon him/her by this subchapter and with in accordance to of the North Carolina State Plumbing and Building Codes. Those duties may include sampling and testing of water, or inspection and observation of all piping systems connected to the public water supply. Refusal to allow these representatives to enter for these purposes will result in the disconnection of water service.

(B) Upon request, the consumer shall furnish to the water purveyor any pertinent information regarding the water supply system on such property where cross-connection and backflow are deemed possible.
(Ord. 02-03-21, passed 11-12-02)

§ 51.63 UNPROTECTED CROSS-CONNECTION PROHIBITED.

(A) No water service connection to any private water system shall be installed or maintained by the town, unless the water supply is protected as required by this subchapter and other applicable laws. Service of water to any premises will be discontinued by the town, if a backflow assembly required by this subchapter is not installed, tested, and maintained, or if a backflow assembly has been removed, bypassed, or if an unprotected cross-connection exists on the premises, service will be restored after all such conditions or defects are corrected.

(B) No customer shall allow an unprotected cross-connection to be made or to remain involving the customer's private water system.

(C) No connection shall be made to an unapproved auxiliary water supply unless the public water supply is protected against backflow by an approved backflow assembly, appropriate to the degree of hazard.

(D) No customer shall fail to maintain in good operating condition any backflow prevention assembly which is part of the customer's private water system and is required by this subchapter.

(E) No customer shall fail to submit to the town any record which is required by this subchapter.
(Ord. 02-03-21, passed 11-12-02) Penalty, see § 51.99

§ 51.64 INSTALLATION AND TESTING OF BACKFLOW PREVENTION ASSEMBLY.

(A) The purpose of this section is to require that all water flowing from the public water system into a private water system must flow through an approved backflow prevention assembly and that each backflow prevention assembly be properly located, installed, maintained and tested, so that the backflow prevention assembly is effective in protecting the public water system from any possible contamination or pollution.

(B) All backflow prevention assemblies must be installed and maintained on the customer's premises as part of the customer's private water system at or near the service connection and before the service line is connected to any other pipes except as authorized by the water purveyor.

(C) If it has been determined that a backflow prevention assembly cannot be installed at the meter service, due to Zoning or Department of Transportation Right-of-Ways, an approved backflow assembly must be installed on any branch of plumbing installed between the service meter and the service backflow assembly.

(D) Any branch of plumbing installed on the private water system that may be of a greater hazard than the supply line, (example: chemical induced irrigation or fire systems, pump systems, etc.) shall be protected with a reduced pressure zone assembly.

(E) Each backflow prevention assembly that is required by this subchapter must be installed in accordance with the provisions of this subchapter and manufacturer's installation instructions. NOTE: All reduced pressure zone assemblies must be installed in a horizontal position and in a location which is not subject to flooding.

(F) Each backflow prevention assembly that is required must function properly at time of installment. Each customer will be required to test, maintain and repair each assembly required which is a part of the customer's private water system. Such test may only be conducted by a certified backflow prevention technician. Testing shall be done immediately following installation of any backflow prevention assembly and on an annual or semi-annual basis, depending the degree of hazard.

(G) If repair is found necessary on an assembly, it must be retested following any repair. A complete duplicate copy of any testing and or repair shall be sent to the town within 30 days of completion of test or repair. Each customer must maintain a complete copy of any test or repair for no less than five years. All test and repair records must be maintained on forms approved by the Backflow Administrator, his/her designee, or the town.

(H) All rubber components must be replaced every five years or as often as needed.

(I) Any customer installing a reduced pressure zone (RPZ) or double check valve assembly (DCVA) must provide the following information to the Backflow Administrator, or his/her designee, within ten days after installation:

- (1) Service address where assembly is located;
- (2) Owner;
- (3) Description of assembly's location;
- (4) Date of installation;
- (5) Type of assembly;
- (6) Manufacturer;
- (7) Model number;
- (8) Serial number; and
- (9) Test results/reports.

(J) Each backflow assembly required by this subchapter must be approved by the Backflow Administrator, or his/her designee. A list of approved assemblies can be obtained through the Backflow Administrator or his/her designee. Any unapproved backflow assembly must be replaced, within a time set by the Administrator, or his/her designee, with an approved backflow assembly.

(K) If it has been determined that a customer must install a backflow prevention assembly, the Backflow Administrator, or his/her designee, will provide the customer with a letter of notification and list of approved backflow assemblies. The following time periods shall be set forth for the installation of the specified assemblies:

- (1) Air gap separation: 30 days;
- (2) Reduced pressure zone assembly: (3/4"- 2") 30 days;
- (3) Double check valve assembly: (3/4"- 2") 30 days;
- (4) Reduced pressure zone assembly: (2-1/2" and larger) 60 days;
- (5) Double check valve assembly: (2-1/2" and larger) 60 days; and
- (6) Other approved assemblies: 30 days.

(L) If an imminent hazard or unreasonable threat of contamination or pollution to the public water system is detected, the Backflow Administrator, or his/her designee, may require the installation of the required backflow assembly immediately or with in a shorter time period than specified in subdivision (K).

(M) If a customer does not wish for water service to be interrupted when a backflow assembly is tested, repaired or replaced, a parallel installation must be made using an approved assembly of the same size in accordance with provisions of this subchapter.
(Ord. 02-03-21, passed 11-12-02) Penalty, see § 51.99

§ 51.65 DEGREE OF HAZARD.

(A) Determining degree of hazard.

(1) No service shall be completed until the Backflow Administrator, or his/her designee, has been provided information or has surveyed the private water system to determine the degree of hazard and made a determination of a backflow prevention assembly to be installed to protect the public water supply.

(2) Any customer making any modification to the private system's configuration or use of which may change the

degree of hazard, shall notify the Backflow Administrator, or his/her designee, before any modification is made. If the Backflow Administrator determines that such modification requires a different backflow prevention assembly, that assembly must be installed before the modifications are made.

(B) Moderate hazard.

(1) If a private water system is subject to any moderate hazard condition in any manner, an approved double check valve assembly must be installed. The following is a list of such conditions requiring a double check valve assembly.

(2) Any industrial or commercial facilities identified as not having a high hazard, fire protection systems and lawn irrigation systems not using chemical additives will be considered a moderate hazard and require the installation of a double check valve assembly.

(C) Low hazard.

(1) All single family residential homes will be considered a low hazard and shall have a minimum of a dual check valve device installed at the meter service by the town.

(2) If no other backflow prevention assembly is specified, a double check valve assembly must be installed on all private water systems.

(D) Imminent hazard.

(1) If it has been determined a customer's private water system has an imminent hazard, such customer must install a backflow prevention assembly specified by the Backflow Administrator, his/her designee, and this subchapter. This assembly must be installed within 24 hours of notification from the Administrator, or his/her designee. If the customer fails to install the specified assembly within the allowed time limit, water service to the customer's private water system will be terminated and may be subject to specified civil penalties. In the event the Backflow Administrator, or his/her designee, is unable to notify the customer in 24 hours of determining an imminent hazard exist, the Administrator or his/her designee may terminate water service until the specified assembly is installed. These actions may be carried out under the Safe Drinking Water Act (Title XIV Section 1431) and the North Carolina State Plumbing Code (Appendix D104.2.6).

(2) Only a backflow prevention assembly offering a greater degree of protection may be installed in place of a specified assembly required by this subchapter. (Ord. 02-03-21, passed 11-12-02) Penalty, see § 51.99

§ 51.66 NOTICE OF CONTAMINATION OR POLLUTION.

(A) In the event the customer's private water system becomes contaminated or polluted, the customer shall notify the Town Water Resources Department immediately.

(B) In the event a customer has reason to believe that a backflow situation has occurred between the customer's private water system and the public water system, the customer must notify the Water Resources Department immediately, in order that appropriate measures may be taken to isolate and remove the contamination or pollution. (Ord. 02-03-21, passed 11-12-02) Penalty, see § 51.99

WATER SHORTAGE RESPONSE PLAN

§ 51.70 AUTHORITY TO IMPLEMENT.

When conditions dictate, the Town Public Works and Utilities Director, upon notification by the Town Distribution and Collections Superintendent and under direction of the Town Manager, may implement a Water Shortage Response Plan. Conditions, which may require the Plan to be enacted, are outlined in § 51.71. (Ord. 05-06-22, passed 12-12-05)

§ 51.71 FACTORS LEADING TO THE IMPLEMENTATION OF THE WATER SHORTAGE RESPONSE PLAN.

(A) Several parameters may require the town to begin the response plan. These include but may not be limited to a significant reduction in well water levels, a significant increase in the average pump run times for predetermined total flows at the wells, contaminants in the water system and/or water main breaks.

(B) If the determining factors are related to well water levels or pump run times the phases will be enacted in the following order:

(1) Phase I will be enacted if a 20% reduction in normal well water levels is noted or if pump run times increase 20% in order to maintain previous rates.

(2) Phase II will be enacted if a 40% reduction in normal well water levels is noted or if pump run times increase 40% in order to maintain previous rates.

(3) Phase III will be enacted if a 60% reduction in normal well water levels is noted or if pump run times increase 60% in order to maintain previous rates. (Ord. 05-06-22, passed 12-12-05)

§ 51.72 WATER USE CLASSIFICATION.

In order to facilitate a fair and equitable Response Plan, every water use will be grouped into one of three classifications:

(A) Class I: Essential water uses. These uses include but may not be limited to water use required to/for:

(1) Sustain human life and the lives of domestic pets.

(2) Maintain minimum standards of hygiene and sanitation.

(3) Health care uses necessary for patient care and rehabilitation.

(4) Firefighting, including training and drills as approved by the Town Manager.

(B) Class II: socially or economically important water uses. These uses include but may not be limited to water use required to/for:

(1) Preserve commercial vegetable gardens, fruit orchards, nursery stock and livestock maintenance.

(2) Outdoor commercial watering, public or private, using conservation measures.

(3) Establish vegetation, using minimal amounts, after construction/earth moving activities (only allowed in areas required by law or regulation).

(4) Filling and operation of municipal swimming pools and private pools that serve 25 or more residences.

(5) Operate commercial care washes, restaurants, laundromats, clubs, schools, churches, and similar commercial establishments.

(C) Class III: non-essential water uses. These uses include but may not be limited to water use required to:

(1) Operate fountains, ornamental pools and recreational swimming pools that serve fewer than 25 residents.

(2) Non-commercially wash motor vehicles, sidewalks, and the like.

(3) Non-commercially water gardens, lawns, parks, playing fields and recreational areas.
(Ord. 05-06-22, passed 12-12-05)

§ 51.73 PHASED RESPONSE/REDUCTION GOALS.

When the Water Shortage Response Plan is implemented, it may be in a phased process as outlined below:

(A) Phase I: Voluntary Conservation.

(1) This phase will be enacted when it is determined that one or more of the parameters outlined in § 51.71 is met. If this occurs, the consumers will be notified promptly by any or all of the following: mailers, door hangers, postings on the town's internet site (www.ayden.com), local news media, public postings at the Town Hall, Post Office, and the like. The public will be asked to begin voluntary conservation measures. Specific conservation methods will be made available to the public by the above listed notification avenues.

(2) If the determining parameter(s) return to seasonal norms, the measures will be lifted. However, failure of the determining parameter(s) to return to a state of seasonal normalcy may require the initiation of Phase II.

(3) During Phase I, industrial facilities will be required to submit to the Town Public Works and Utilities Director a water shortage response program. This program should include methods that will allow the facilities to reduce their water usage by 25%.

(B) Phase II: Mandatory.

(1) This phase will begin when the Town Public Works and Utilities Director issues a water shortage advisory. The consumers will be notified by one or all of the methods noted in Phase I. All users will be required to adhere to the voluntary conservation measures as noted in Phase I. Class III uses will be banned. Class II uses will be allowed although outdoor vegetative watering will be limited according to the resident's street address. Even numbered addresses will be allowed to water on even days of the month. Odd numbered addresses will be allowed to water on odd days of the month. Allowable times for watering will be limited to the hours between 7:00 p.m. and 8:00 a.m.

(2) Failure to adhere to required conditions will result in a written notice of violation for the first offense and/or a \$50 fine. Thereafter, the town may impose a fine of \$50 per violation for the second and third offense. A fourth offense will result in a \$250 fine. Further offenses may require the offending party to have his or her water service disrupted.

(3) During Phase II industrial users will be required to evaluate their Water Shortage Response Plan with the town's Public Works and Utilities Director as it relates to their 25% reduction goal.

(4) If Phase II enactment fails to alleviate the water shortage, the town will enter into the third and final phase.

(C) Phase III: Emergency.

(1) This phase will commence with the issuance of a water shortage emergency declaration from the Town Manager. Users will be notified by any or all of the methods noted in Phase I. All users will be required to use voluntary conservation measures outlined in Phase I. Class III uses will be banned and Class II uses will be allowed although commercial vegetative watering (i.e. nurseries, livestock and the like) may be further reduced.

(2) Industrial users will be required to implement their water reduction program immediately.

(3) Failure to comply with mandates during Phase III will require the offending party to pay a \$100 fine for the first offense, a \$350 fine for the second offense and the disruption of water service for the third offense.

(4) In addition, residential users will be allotted 1,000 gallons per month per bedroom per structure. If the user uses 1,001 - 1,250 gallons per month per bedroom a surcharge of 25% will be added to the monthly water bill. If the user consumes 1,251-1,500 gallons per month per bedroom a surcharge of 75% will be added to the monthly water bill. If the user consumes any amount in excess of 1,501 gallons per month per bedroom a surcharge of 150% will be added to the monthly water bill.

(5) Commercial, industrial and institutional facilities will be required to reduce their monthly water consumption by 25% of the previous 12-month water consumption average to maintain the current water rate for that month. The average water use can be evaluated on an individual basis for facilities with seasonal water demand fluctuations. A 10 - 24% water use reduction from the previous 12-month water use average will require the town to impose a 25% surcharge on the monthly water bill. A 0-9% water use reduction from the previous 12-month water uses average will require the town to impose a 50% surcharge on the monthly water bill. An increase of 1-25% above the previous 12-month water use average will result in a surcharge of 100% on the monthly water bill. Any amount used above 25% of the previous 12-month average water bill. Any amount used above 25% of the previous 12-month average water use will require a monthly water bill surcharge of 150%.

(Ord. 05-06-22, passed 12-12-05)

§ 51.74 ENFORCEMENT.

Enforcement of mandatory conservation and associated fines will be the responsibility of the Public Works Director under direction of the Town Manager.
(Ord. 05-06-22, passed 12-12-05)

§ 51.75 WATER SHORTAGE RESPONSE PLAN DEIMPLEMENTATIONS.

As the determining parameter(s) decrease in severity and return to acceptable levels (seasonal norms), the Town Manager will lift the Water Shortage Response Plan. The deimplementation process will be in reverse order of the Plan implementation.
(Ord. 05-06-22, passed 12-12-05)

SEWER USE ORDINANCE

§ 51.90 ADOPTION BY REFERENCE.

The town sewer use ordinance adopted pursuant Ord. 93-94-23, and as amended from time to time thereafter, is hereby adopted by reference as part of this code of ordinances as if set forth fully herein.
(Ord. 93-94-23, passed 5- -94; Am. Ord. 04-05-14, passed 4-25-05)

§ 51.99 VIOLATIONS; PENALTY.

(A) Notification of violation.

(1) A written notice must be presented to any customer/person who has been found to be in violation of any part of this chapter.

(2) Such notice must explain the violation and give the time period within which the violation must be corrected. The time period set to correct a violation shall not exceed 30 days after receiving notice unless otherwise specified by the time period chart in § 51.64(K). If the violation has been determined by the Administrator, or his/her designee, to be an imminent hazard the customer shall be required to correct the violation immediately.

(3) In the event a customer is found in violation of this chapter and fails to correct the violation in a timely manner or to pay any civil penalty or expense assessed under this section, water service will be terminated.

(B) The violation of any section of this chapter may be punished by a civil penalty listed as followed:

(1) Unprotected cross-connection involving a private water system which has an imminent hazard - \$1,000 per day not to exceed \$10,000.

(2) Unprotected cross connection involving a private water system which is of a moderate or high hazard - \$500.

(3) Submitting false records or failure to submit records which are required by this subchapter - \$500. Failure to test or maintain backflow prevention assemblies as required - \$100 per day.

(C) Reduction of Penalty.

(1) The Administrator, or his/her designee, may reduce or dismiss any civil penalty imposed under this section, if the Administrator, or his/her designee, has determined that the person charged with the violation has no past history of violation or corrects the violation in a timely manner as set by the Administrator or his/her designee.

(2) No civil penalty shall be reduced if it has been determined the violation was intentional.

(3) Any person violating any part of this chapter must reimburse the town for any expenses in repairing damage to the public water system caused by any violation and any expenses incurred for investigating a violation.

(D) Residential Users. Any residential user who shall violate any provision of this chapter shall be subject to civil penalties. Civil penalties for a violation of Stage II and III mandatory restrictions shall be as follows: a warning for the first offense; a civil penalty in the amount of \$100 for the second offense; a civil penalty in the amount of \$250 for the third and successive offenses. In Stage IV, there shall be no warnings given for violations by residential users of the mandatory restrictions of this Stage and the penalties shall be \$100 for the first offense, \$250 for the second offense and successive offenses.

(E) Non-Residential Users. Any non-residential customer who violates any provision of this chapter shall be subject to a civil penalty except as provided in subdivision (F) below. Civil penalties for a violation of any mandatory restriction of any Stage of this subchapter shall be as follows: a civil penalty of \$250 for the first violation; a civil penalty of \$500 for the second violation; and a civil penalty of \$1,000 for the third and successive offenses.

(F) Accumulation of Violations. Violations shall be accumulated by all customers so long as this chapter, in any of its Stages, is continuously in effect and until no Stage of this chapter has been in effect for a period of one calendar year. Violations of any of the mandatory restrictions of any stage shall accumulate with violations of other Stages. Should a customer move, or cease and renew service, during the period described herein, the customer's violations shall continue to accumulate as if such move or cessation had not occurred.

(G) Civil Penalties for Excessive Water Use. Excessive use water rates imposed upon users by Stages III and IV shall constitute the sole monetary penalty for such excessive

use. Other violations by such users shall be subject to the civil penalties set out herein. Other enforcement procedures shall apply to such users for excessive use and other violations.

(H) Whoever violates any provision of this chapter for which no other penalty has been established shall be punished as provided § 10.99

(Ord. 02-03-21, passed 11-12-02; Am. Ord. 02-03-30, passed 1-13-03)

Ordinance # 93-94-23

SEWER USE ORDINANCE
FOR THE
TOWN OF AYDEN

MAY, 1994.

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 Ayden, hereafter referred to as the Town, enables the Town 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) and provides authority for the Contentnea Metropolitan Sewerage District (CMSD), of which the Town is a member, to directly regulate significant industrial wastewater sources within the Town.

The objectives of this Ordinance are:

- (a) To prevent the introduction of pollutants into the CMSD wastewater system that will interfere with the operation of the system or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants into the CMSD wastewater system that will pass through the system, inadequately treated, into any waters of the State or that will otherwise be incompatible with the system;
- (c) To promote reuse and recycling of industrial wastewater and sludges from the CMSD system;
- (d) To protect both municipal personnel who may be affected by sewage in the course of their employment and 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 Town and the CMSD comply with NPDES and Nondischarge Permit conditions, sludge use and disposal requirements and any other Federal or State laws to which their wastewater systems are subject.

This Ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain nondomestic users, either by the Town or by the CMSD, and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, and requires user reporting.

This Ordinance shall apply to all users of the municipal wastewater system. Except as otherwise provided herein, the Director of Public Works and Utilities shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or imposed upon the Director of Public Works and Utilities may be delegated by the Director of Public Works and Utilities to other Town personnel. By discharging wastewater into the wastewater system of the Town, industrial users located outside the Town 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 Environmental Management of the North Carolina Department of Environment, Health 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.
- (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 an industrial user's treatment facility.
 - (7) Categorical Standards. Federal Categorical Pretreatment Standards or Pretreatment Standard.
 - (8) Color. The true color due to the substances in solution expressed in milligrams per liter (mg/L) or such units as the POTW Director specifies.
 - (9) CMSD. The term CMSD shall mean the Contentnea Metropolitan Sewerage District, the legally constituted government body responsible for treatment of the Town wastewater. The Town of Ayden is a member of the CMSD.
 - (10) Control Authority. The term "Control Authority" shall refer to the "Approval Authority," as defined above or the Director of Public Works and Utilities, or the person designated as the POTW Director for the CMSD.
 - (11) Director of Public Works and Utilities. The Director of Public Works and Utilities of the Town of Ayden.
 - (12) 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.
 - (13) Grab Sample. A sample 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.
 - (14) 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.

- (15) 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).
- (16) Industrial User. Any person that is a source of indirect discharge as defined herein, or that is a source of wastewater originating from any source other than residential activities within a residential establishment.
- (17) Inflow. Water other than sewage that enters a sanitary sewer system including water entering through a building sewer from sources such as roof leaders, collar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewer and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage.
- (18) Interference. The inhibition or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, that causes or contributes to a violation of any requirement of the POTW's NPDES or Nondischarge 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.
- (19) Federal 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) that applies to a specific category of industrial users, and that appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.
- (20) Federal 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 Part 403.5.
- (21) 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.
- (22) 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.
- (23) Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (24) Nondischarge Permit. A disposal system permit issued by the State pursuant to N.C.G.S. 143-215.1.
- (25) Nondomestic Discharge. Any substances other than human excrement and household gray water (shower, dishwashing operations, etc.) discharged into the POTW. Common characteristics of nondomestic pollutants in wastewater discharges include, but are not limited to, pH, temperature, total suspended residue (solids), turbidity, BOD, COD, toxicity, odor, and color.
- (26) Pass Through. A discharge that exits the POTW into waters of the State in quantities or concentrations that, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES or Nondischarge Permit, or a downstream water quality standard.
- (27) Person. Any individual, partnership, copartnership, 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.

- (28) 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.
- (29) 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, BOD, COD, toxicity, or odor).
- (30) POTW Director. The person designated by the CMSD to act as the CMSD POTW Director.
- (31) POTW Treatment Plant. The wastewater treatment plant owned and operated by the CMSD.
- (32) Pretreatment or Treatment. 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 pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (33) Pretreatment Program. The program for the control of pollutants introduced into the POTW from nondomestic sources developed by the CMSD in compliance with 40 CFR Part 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 Part 403.11.
- (34) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.
- (35) Pretreatment Standards. Prohibited discharge standards, categorical standards, and local limits.
- (36) 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) owned in this instance by either the Town or the CMSD. 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 used to 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 who are, by contract or agreement with the Town, or in any other way, users of the POTW.
- (37) Sanitary Sewer. A sewer intended to receive domestic sewage and industrial waste, without the admixture of surface water and storm water.
- (38) Severe Property Damage. Substantial physical damage to property, damage to the industrial user's treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that 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.
- (39) Significant Industrial User. Any industrial user of the wastewater disposal system who:
 - (i) has an average daily process wastewater flow of 25,000 gallons or more, or
 - (ii) contributes more than 5% of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge, or
 - (iii) is required to meet a Federal Categorical Pretreatment Standard, or

- (iv) is found by the Town, the CMSD, the Division Of Environmental Management or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.
- (40) Slug Load. Any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards in **Section 2.1** of this Ordinance.
- (41) 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.
- (42) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (43) Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and that is removable by laboratory filtering.
- (44) 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.
- (45) User. Any person who contributes, causes, or has responsible charge over the contribution of wastewater into the POTW including persons who discharge wastewater from mobile sources.
- (46) 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, that are contributed into or permitted to enter the POTW.
- (47) Wastewater Permit. As set forth in **Section 4.2** of this Ordinance.
- (48) Waters of the State. All streams, lakes, ponds, marshes, watercourse, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the State or any portion thereof.
- (b) This Ordinance is gender neutral with respect to masculine and feminine gender. References using either the masculine or feminine gender shall apply to both genders.
- (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 their 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.A.C. - North Carolina Administrative Code
 - (10) N.C.G.S. - North Carolina General Statutes

- (11) NPDES - National Pollution Discharge Elimination System
- (12) O & M - Operation and Maintenance
- (13) POTW - Publicly Owned Treatment Works
- (14) RCRA - Resource Conservation and Recovery Act
- (15) SIC - Standard Industrial Classification
- (16) SWDA - Solid Waste Disposal Act
- (17) TSS - Total Suspended Solids
- (18) TKN - Total Kjeldahl Nitrogen
- (19) U.S.C. - United States Code.

SECTION 2 GENERAL SEWER USE REQUIREMENTS

2.1 PROHIBITED DISCHARGE STANDARDS

- (a) General Prohibitions. No person shall contribute or cause to be contributed into the POTW, either directly or indirectly, any pollutant or wastewater that 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 Federal, 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) Any liquids, solids or gases, with a closed cup flash point of less than 140°F (60°C) using the test methods specified in 40 CFR Part 261.21, including gasoline, kerosene, benzene and naphtha, or that by their nature or quantity are of sufficient concentration, either alone or with interaction with other substances, to cause fire or explosion in the POTW, or be injurious in any way to the POTW or its personnel, or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter taken of a wastewater either at the point of discharge into the system or causing 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.
 - (2) Solid or viscous substances, including ground paper products, wood, glass, ashes, cinders, hair, rags, mud, straw, metal, and whole blood, in amounts that will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one-half (1/2) inch 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 of less than 6.0 or more than 9.0 standard units except by permit authorization and under no circumstances any wastewater having a pH lower than 5.0, 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, either by 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 that will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater that causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C).
 - (7) Any pollutants that 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 Director of Public Works and Utilities in accordance with Section 2.9 of this Ordinance.

- (9) Any noxious or malodorous liquids, gases, or solids or other wastewaters that, 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 that 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 containing any radioactive wastes or isotopes except as specifically approved by the Director of Public Works and Utilities and the POTW Director in compliance with applicable State or Federal regulations.
 - (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, inflow, swimming pool drainage, condensate, deionized water, cooling water and unpolluted industrial wastewater unless specifically authorized by the Director of Public Works and Utilities and the POTW Director.
 - (13) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/L.
 - (14) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
 - (15) Any medical wastes except as specifically authorized by the Director of Public Works and Utilities and the POTW Director in a wastewater discharge permit.
 - (16) Any material containing ammonia, ammonia salts, or other chelating agents that will produce metallic complexes that interfere with the POTW.
 - (17) 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 Director of Public Works and Utilities and the POTW Director.
 - (18) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A N.C.A.C. 2B .0200.
 - (19) Wastewater causing, alone or in conjunction with other sources, the POTW treatment plant's effluent to fail a toxicity test.
 - (20) Recognizable portions of the human or animal anatomy.
 - (21) Any wastes containing detergents, surface active agents, or other substances that may cause excessive foaming in the POTW.
 - (22) Any wastewater that imparts objectionable color which cannot be removed by the POTW's treatment process.
- (c) 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 POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.
- (d) When the Director of Public Works and Utilities determines that a user(s) is contributing to the POTW any of the above enumerated substances in such amounts that may cause or contribute to interference of POTW operation or pass through, the Director of Public Works and Utilities shall: (i) advise the POTW Director of the user(s) contributions and attain from the POTW Director a determination as to whether the user(s) is a significant industrial user, and; (ii) if the user is determined to be a significant industrial user, assist the POTW Director in accordance with the provisions of Section 4 of this Ordinance, or; (iii) if the user(s) is determined to not be a significant industrial user, the Director of Public Works and Utilities shall advise the

user(s) of the potential impact of the contribution on the POTW and shall take appropriate actions in accordance with **Section 4** and **Section 8** of this Ordinance.

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, and shall be regulated by the CMSD.

2.3 CMSD REQUIREMENTS

CMSD requirements and limitations on discharges shall apply in any case where they are more stringent than those in this Ordinance.

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, CMSD requirements and limitations, or those in this Ordinance.

2.5 RIGHT OF REVISION

The Town reserves the right to establish limitations and requirements that are more stringent than those required by either State, CMSD, 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 Part 403.4.

2.6 DILUTION

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

2.7 PRETREATMENT OF WASTEWATER

- (a) Pretreatment Facilities. Industrial users shall provide wastewater treatment as necessary to comply with this Ordinance and wastewater permits issued under **Section 4** of this Ordinance, and shall achieve compliance with the requirements of the CMSD, all Federal 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, the CMSD, or the Director of Public Works and Utilities, whichever is more stringent.
 - (1) Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense.
 - (2) Detailed plans showing the pretreatment facilities and operating procedures shall be submitted for review to the CMSD, where CMSD is the permitting authority, or to Town and/or the State, as ordered by the Director of Public Works and Utilities when the Town is the permitting authority. The authorization to construct the pretreatment facilities shall be issued by the State and by the permitting authority.
 - (3) 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 CMSD and the Town under the provisions of this Ordinance.
 - (4) Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the permitting authority prior to the user's initiation of the changes.
- (b) Additional Pretreatment Measures.
 - (1) Whenever deemed necessary, the Director of Public Works and Utilities may require certain 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 waste streams from industrial waste streams, and require 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 Director of Public Works and Utilities may require any industrial user 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 Director of Public Works and Utilities, they are necessary for the proper handling of wastewater containing excessive amounts of fat, oil, grease, 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 Director of Public Works and Utilities 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

Significant industrial users shall develop, submit for approval, and implement accidental discharge/slug control plans in accordance with the requirements of the CMSD when directed to do so by the POTW Director. Other industrial users shall develop, submit for approval, and implement accidental discharge/slug control plans in accordance with the requirements of the Town when directed to do so by the Director of Public Works and Utilities.

2.9 HAULED WASTEWATER

- (a) Septic tank waste may be introduced into the POTW only at locations jointly designated by the Director of Public Works and Utilities and the POTW Director, and at such times as are established by the Director of Public Works and Utilities and the POTW Director. Such waste shall not violate Section 2 of this Ordinance or any other requirements established by the Town. The POTW Director and the Director of Public Works and Utilities may require septic tank waste haulers to obtain wastewater discharge permits. Either the Director of Public Works and Utilities or the POTW Director may prohibit the disposal of septic tank waste.
- (b) The Director of Public Works and Utilities shall require haulers of industrial waste to obtain wastewater discharge permits from CMSD. Either the Director of Public Works and Utilities or the POTW Director may also require generators of hauled industrial waste to obtain wastewater discharge permits. Either the Director of Public Works and Utilities or the POTW Director 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 jointly designated by the Director of Public Works and Utilities and the POTW Director. No load may be discharged without prior consent of the Director of Public Works and Utilities and the POTW Director. Either the Director of Public Works and Utilities or the POTW Director or both may collect samples of each hauled load to ensure compliance with applicable standards. Either the Director of Public Works and Utilities or the POTW Director or both may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (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.

2.10 PROTECTION FROM DAMAGES

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any element or appurtenances of the POTW including equipment belonging to the Town used for the purposes of making tests or examinations and left upon the premises of a person discharging wastes into the sewers.

2.11 CONNECTING TO SEWER SYSTEM

- (a) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater. Except as hereinafter provided, every person, group of persons, firm or corporation, owning a dwelling, building or other structure that is used for human habitation or occupancy within the Town's jurisdiction that is situated on a lot or parcel of land that abuts or adjoins a street or other public way along which is located a sanitary sewer of the Town shall connect such dwelling or structure to the sewer system.
- (b) A connection shall not be required to the system unless the lot or parcel of land on which the dwelling, building, or structure is situated is accessible within 300 feet of the sewer system. In addition, no person shall be required to cross the private property of any other person to make such connection.
- (c) The requirement to connect to the sanitary sewer may be waived by the Director of Public Works and Utilities if the dwelling or other structure that would be served by the sanitary sewer is served by an on site septic tank system functioning in accordance with State and County Health Department standards. Payment for sewer service shall not however be waived in such event, and a sewer user charge shall be due and payable monthly as if the dwelling or other structure were connected to the sanitary sewer.
- (d) In cases where a sanitary sewer is constructed where none before existed, such connection must be made within ninety (90) days of completion of the sewer construction. If under the provisions of 2.11(c) a connection to the sanitary sewer is not made, then monthly billing for sewer service shall begin ninety (90) days after the completion of the sewer construction.
- (e) Where connections are required, all toilets, sinks, and other plumbing fixtures shall be installed, arranged, or rearranged to drain into the sanitary sewer.
- (f) Owners of properties whereupon exists a dwelling, building or other structure that is used for human habitation or occupancy that are not accessible to the sewer system for the reason they are more than 300 feet there from or would require crossing another person's private property to make connection shall install septic tanks or other facilities in accordance with the regulations of the County Health Department. Installation of the septic tank or other facility must also receive the approval of the Director of Public Works and Utilities prior to construction of such facilities.

2.12 PROHIBITION OF DISCHARGE OF WASTEWATER TO SURFACE COURSES

The discharge of treated or untreated domestic sewage or industrial wastes to any storm sewer, pond, open ditch, stream or watercourse is not allowed within the Town's jurisdictional area, except that uncontaminated noncontact cooling water may be discharged provided that such discharge is constructed and operated within the laws of the State of North Carolina. However, where the Town Commissioners decides that it is not in the best interest of the Town to accept any particular industrial waste into its sanitary sewer, such waste may be discharged within the Town provided such discharge meets the requirements of the State of North Carolina and the discharge is approved by the Town Commissioners.

2.13 CONNECTING UNPOLLUTED WATERS

No person shall make any connection of roof down spouts, exterior foundation drains, area drains, or other sources of inflow, groundwater, or other unpolluted waters to a building sewer or building drain which in turn is connected, directly or indirectly, to a public sanitary sewer. Unpolluted waters may be discharged to Town storm sewers and drainage ditches subject to approval of the Director of Public Works and Utilities and provided that all required Federal, State, and Local permits required for such a discharge are secured by the person causing the discharge.

2.14 REGULATION OF BUILDING OF SEWERS AND CONNECTIONS

All connections to the sanitary sewer system under the control of and operated by the Town shall be made by authorized employees of the Town in accordance with requirements of the North Carolina State Plumbing Code, Town specifications, and all other applicable State and Federal Regulations. If authorized by the Town Commissioners, connections may be made by plumbers licensed to perform plumbing work in North Carolina. Any sewer connection made by an authorized licensed plumber shall be inspected by the Director of Public Works and Utilities after such work has been completed and prior to the time the connection is covered.

2.15 MULTIPLE CONNECTIONS THROUGH ONE-BUILDING SEWER

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no sanitary sewer is available nor can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

SECTION 3 USER CHARGE SYSTEM

3.1 USER CHARGES

- (a) Authority. Pursuant to the provisions of Public Law 92-500 Section 240 (b) and subsequent amendments to it, the Town, being a part of an organization having received EPA financial assistance for the construction of treatment works, shall adopt a system of charges to assure that each user pays a share of the annual administration, operation, and maintenance (including replacement) costs of the POTW.
- (b) Intent. The intent of such user charges is to equitably distribute the cost of administration, operation, and maintenance of the POTW to each user proportional to the amount of wastewater treatment service each user receives; and to promote self-sufficiency of the Town with respect to administration, operation, and maintenance costs.
- (c) Definition. The term "replacement" referred to in paragraph (a) of this Section is defined as those expenditures for obtaining and installing equipment, accessories, or appurtenances that are necessary during the service life of the treatment works to maintain the treatment works capacity and performance. The term "operation and maintenance" includes replacement.
- (d) User Class. Each user shall be charged a share of the treatment works operation and maintenance cost based on the measured proportional contribution to the treatment works loading. Generally, the user charge will be dependent upon flow insofar as BOD, COD, TSS, and other pollutant contributions discharged by all users are approximately equal. Where such pollutants exceed the range of concentration of these pollutants in normal domestic sewage, a surcharge will be added to the base charge. The models used in calculating the user charge are defined in Paragraph (f) below.
- (e) User Charge Criteria. The user charge system shall be subject to approval by the Regional Administrator of the Environmental Protection Agency and shall be maintained by the Town in accordance with the following requirements:
 - (1) The user charge system must result in the distribution of the cost of operation and maintenance of treatment works within the Town jurisdiction to each user (or user class) in proportion to such user's contribution to the total wastewater loading of the treatment works. Factors such as strength, volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance costs to each user (or user class).
 - (2) The user charge system must generate sufficient revenue to offset the cost of all treatment works operation and maintenance provided by the Town.
- (f) Model User Charge System. The user charge system adopted by the Town shall result in the equitable distribution of annual POTW administration, operation, and maintenance costs to each user (or user class) in approximate proportion to each user's (or user class') contribution towards the total wastewater loading of the treatment works. The following user charge models shall be used for this purpose. The symbols used in the models are as defined below:
 - C_f = Total fixed operation and maintenance (O & M) costs per unit of time.
 - C_t = Total variable operation and maintenance (O & M) costs per unit of time.
 - C_u = A user's charge for O & M per unit of time.
 - C_s = A surcharge for wastewaters of excessive strength.
 - V_u = Volume contribution from a user per unit of time.
 - V_t = Total volume contribution from all users per unit of time.

- B_c = O & M cost for treatment of a unit of biochemical oxygen demand (BOD).
 B = Contribution of BOD from a user above a base level.
 S_c = O & M cost for treatment of a unit of suspended solids.
 S = Contribution of SS from a user above a base level.
 N_c = O & M cost for treatment of a unit of ammonia.
 N = Concentration of ammonia from a user above a base level.
 P_c = O & M cost for treatment of a unit of any pollutant having identifiable contributions to overall treatment costs.
 P = Concentration of a pollutant from a user above a base level.

- (1) Model No. 1: Whereas the treatment works is primarily flow dependent as the BOD, suspended solids, and other pollutant concentrations discharged by the majority of users are approximately equal; therefore, the user charge will be developed on a volume basis in accordance with the model below:

$$C_u = \frac{C_f}{\text{No. of Users}} + \frac{V_u * C_i}{V_t}$$

- (2) Model No. 2: When determined by the Town that BOD, COD, TSS, ammonia and any other appropriate pollutant concentrations from a user exceeds the range of concentration of these pollutants typically found in normal domestic sewage, a surcharge calculated by means of Model No. 1, shall be levied in addition to the base sewer use charge. The surcharge shall be computed by the model below:

$$C_s = [B_c(B) + S_c(S) + N_c(N) + P_c(P)]$$

- (g) Baseline pollutant concentrations shall be 300 mg/L for BOD5, 300 mg/L TSS, and 20 mg/L for Ammonia Nitrogen or as established by the Director of Public Works and Utilities and held as a standard for the Town.
- (h) Model No. 1 shall include all costs for operation and maintenance associated with extraneous flows not attributable to any one user or user class, thereby distributing these costs to all users.
- (i) Other Considerations. User charges may be established based on a percentage of the charge for water usage. However, the unit rate sewer charge for the largest volume users must be as great as or greater than the unit cost of operation and maintenance (excluding debt service). In any event, a surcharge shall still be levied in accordance with the provisions of Model No. 2, above. The system of user charges for the wastewater treatment system shall be based on total annual system costs, including operation and maintenance expenses.
- (j) Each user shall be notified no less often than annually of the rates for user charges. Such notification shall be done in conjunction with a regular bill, and, if the regular bill also includes charges for other services, shall clearly identify the portion of the bill attributable to wastewater user charges.
- (k) The Town Commissioners shall review annually the sewage contributions of users, the total annual costs of debt service, operation, and maintenance of the POTW and will make adjustments in the Schedule Of Charges and Fees as necessary to support the intent of this Ordinance.
- (l) The user charge system shall take precedence over any terms or conditions of any contracts or agreements that are inconsistent with Section 204(b)(1)(a) of the Clean Water Act ("the Act" as defined by this Ordinance).

SECTION 4 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. When requested by either the Director of Public Works and Utilities or the POTW Director, a user must submit information on the nature and characteristics of its wastewater within 90 days of receipt of the request. The Director of Public Works and Utilities 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. Significant industrial users shall be permitted by CMSD. 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 Director of Public Works and Utilities be required to obtain a wastewater discharge permit for nonsignificant industrial users.

SECTION 5 REPORTING REQUIREMENTS

5.1 REPORTS OF CHANGED CONDITIONS

Each user must notify the Director of Public Works and Utilities and the POTW Director of any planned significant changes to the user's operations or system that might alter the nature, quality, or volume of its wastewater at least 45 days before the change.

- (a) The Director of Public Works and Utilities or 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** of this Ordinance.
- (b) The Director of Public Works and Utilities or the POTW Director may issue a wastewater discharge permit under **Section 4** of this Ordinance or modify an existing wastewater discharge permit under **Section 4** 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 increases or decreases of twenty percent (20%) or greater, or the discharge of any previously unreported pollutants.

5.2 REPORTS OF POTENTIAL PROBLEMS

- (a) In the case of any discharge, including but not limited to accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Director of Public Works and Utilities and 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 Director of Public Works and Utilities and the POTW Director, submit a detailed written report to each 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 that 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 that may be imposed pursuant to this Ordinance or the Ordinance of CMSD.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a 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.

5.3 REPORTS FROM UNPERMITTED USERS

All users not required to obtain a wastewater discharge permit shall provide such reports to the Director of Public Works and Utilities as the Director of Public Works and Utilities may require.

5.4 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE

- (a) Any user who commences the discharge of hazardous waste shall notify the Director of Public Works and Utilities and the POTW Director, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance that, 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).
- (b) 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:
 - (1) An identification of the hazardous constituents contained in the wastes.
 - (2) An estimation of the mass and concentration of such constituents in the waste stream discharge during the calendar month
 - (3) An estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months.
- (c) All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. 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 5.1** of this Ordinance.
- (d) 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 Part 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 Part 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.
- (e) 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 Director of Public Works and Utilities and 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.
- (f) 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.
- (g) 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.

5.5 ANALYTICAL REQUIREMENTS

All pollutant analyses, including sampling techniques to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136. 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. Where the EPA has not approved procedures, the procedures used must be approved by the Director of Public Works and Utilities and the POTW Director.

5.6 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 Town, or where the user has been specifically notified of a longer retention period by the Director of Public Works and Utilities or by the POTW Director.

SECTION 6 COMPLIANCE MONITORING

6.1 MONITORING FACILITIES

The Town may require users 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 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 Town's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the Town.

6.2 INSPECTION AND SAMPLING

The Town will inspect the facilities of any user to ascertain whether the purpose of this Ordinance is being met and all requirements are being met. Persons or occupants of premises where wastewater is created or discharged shall allow the Town, the CMSD, approval authority and EPA or their representatives 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, the CMSD, 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 that would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements so that upon presentation of suitable identification, personnel from the Town, the CMSD, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of 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 Director of Public Works and Utilities, the POTW Director, approval authority, or EPA has been refused access to a building, structure, 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 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 Director of Public Works and Utilities, the POTW Director, approval authority, or EPA may seek issuance of a search warrant from the General Court of Justice to gain free and easy access to the building, structure, property or part thereof suspected to be contributing to the cause of the violation.

SECTION 7 CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Director of Public Works and Utilities and the POTW Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

When requested by the person furnishing a report, the portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this Ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, Nondischarge permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

All records relating to compliance with Pretreatment Standards shall be made available to officials of the CMSD, the approval authority and EPA upon request.

SECTION 8 ENFORCEMENT

8.1 ADMINISTRATIVE REMEDIES

- (a) Notification Of Violation. Whenever the Director of Public Works and Utilities 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 Director of Public Works and Utilities 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 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 Director of Public Works and Utilities 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.
 - (1) The Director of Public Works and Utilities 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 Director of Public Works and Utilities 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.
 - (2) The Director of Public Works and Utilities shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.
 - (3) 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 Director of Public Works and Utilities under this Section subject to an administrative appeal.
- (d) Administrative Orders. When the Director of Public Works and Utilities finds that an industrial user has violated or continues to violate this Ordinance, permits, or orders issued hereunder, or any other

pretreatment requirement, the Director of Public Works and Utilities 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.

An industrial user to whom an administrative order is issued may appeal the administrative order under the procedures set under **Section 9** of this Ordinance.

(e) Emergency Suspensions.

- (1) The Director of Public Works and Utilities may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge that 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 Nondischarge permit.
- (2) 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 Director of Public Works and Utilities 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.
- (3) The Director of Public Works and Utilities 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 Director of Public Works and Utilities prior to the date of the above-described hearing.

(f) Termination Of Permit. Any user who violates the following conditions of this Ordinance, or applicable CMSD, State and Federal regulations, is subject to having its permit terminated:

- (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.

(g) 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 9** 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 be fined up to ten thousand dollars (\$10,000) per day per violation.
- (b) In determining the amount of the civil penalty, the Director of Public Works and Utilities 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.
- (c) Appeals of civil penalties assessed in accordance with this Section shall be as provided in Section 9.

8.3 OTHER AVAILABLE REMEDIES

Remedies, in addition to those previously mentioned in this Ordinance, are available to the Director of Public Works and Utilities 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 Town's Judicial District may, at the request of the Town, prosecute noncompliant users who violate the provisions of N.C.G.S. 143-215.6B. 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 (NCGS 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 (NCGS 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, (NCGS 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (NCGS 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 Director of Public Works and Utilities, through the Town Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction that 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 Director of Public Works and Utilities. Any person(s) creating a public nuisance shall be subject to the provisions of the Town's code governing such nuisances, including reimbursing the Town 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 Director of Public Works and Utilities may take any, all, or any combination of these actions against a noncompliant user.

8.5 ENFORCEMENT BY OTHERS

Enforcement of violations by significant industrial users shall ordinarily be undertaken by the CMSD. The Town of Ayden may or may not, at its option, take enforcement action for any violation for which the CMSD has also taken or is

taking an enforcement action. The Town will take enforcement action in addition to that of the CMSD whenever in the opinion of the Town Commissioners such action is in the best interest of the Town. CMSD is by adoption of this Ordinance expressly authorised to enforce within the jurisdiction of the Town the provisions of its Ordinance(s) relating to the discharge of industrial wastes.

SECTION 9 HEARINGS

9.1 INITIAL ADJUDICATORY HEARING

- (a) 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** shall have the right to an adjudicatory hearing before a hearing officer designated by the Director of Public Works and Utilities upon making written demand, identifying the specific issues to be contested, to the Director of Public Works and Utilities within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding. The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing. The Director of Public Works and Utilities shall transmit a copy of the hearing officer's decision by registered or certified mail.
- (b) **Final Appeal Hearing.** Any decision of a hearing officer made as a result of an adjudicatory hearing held under **Section 9.1(a)** above may be appealed, to the Town Commissioners upon filing a written demand within 10 days of receipt of notice of the decision. Hearings held under this Subdivision shall be conducted in accordance with the Town's hearing procedures. Failure to make written demand within the time specified herein shall bar further appeal. The Town Commissioners shall make a final decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.
- (c) **Official record.** When a final decision is issued under **Section 9.1(b)** above, the Town Commissioners shall prepare an official record of the case that includes:
 - (1) All notices, motions, and other like pleadings;
 - (2) A copy of all documentary evidence introduced;
 - (3) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.
 - (4) A copy of the final decision of Town Commissioners.
- (d) **Judicial Review.** Any person against whom a final order or decision of the Town Commissioners is entered, pursuant to the hearing conducted under **Section 9.1(b)** above, may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of Pitt County along with a copy to the Town. Within 30 days after receipt of the copy of the petition of judicial review, the Town Commissioners shall transmit to the reviewing court the original or a certified copy of the official record.

SECTION 10 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

10.1 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) through (7)** of this Ordinance if it can prove that it did not know, or have reason to know, that its discharge, whether 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 POTW was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.
- (c) Pursuant to 40 CFR Part 403.5(a)(2), the affirmative defense outlined in **Section 10.1** cannot apply to the specific prohibitions in **Sections 2.1(b)(1), (4), and (8)**.

10.2 BYPASS

- (a) A user may allow any bypass to occur that 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) Notice.
 - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Director of Public Works and Utilities and 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 Director of Public Works and Utilities and 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 Director of Public Works and Utilities and 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) Prohibition of Bypass.
 - (1) Bypass is prohibited, and the Director of Public Works and Utilities may take an enforcement action against a user for a bypass, unless
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) 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 that occurred during normal periods of equipment downtime or preventive maintenance; and
 - (iii) The user submitted notices as required under paragraph (b) of this Section.
 - (2) The Director of Public Works and Utilities and the POTW Director may approve an anticipated bypass, if after considering its adverse effects they jointly determine that it will meet the three conditions listed in paragraph (c)(1) of this Section.

SECTION 11 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 12 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 13 EFFECTIVE DATE

This Ordinance shall be in full force and effect on the 9th day of May, 1994

M. Baldrey
Mayor

ATTEST: William R. Ford
(Seal) Town Clerk

Section

General Provisions

- 52.01 Superintendent of Electric Light and Power System
- 52.02 Shutting off power for alterations, repairs, and the like
- 52.03 Moving of buildings; cost
- 52.04 Tampering with town electric facilities; civil penalties and costs

Connection Regulations

- 52.10 Application
- 52.11 Connection fees
- 52.12 Meters
- 52.13 Service outside town limits

Rates and Charges

- 52.25 Schedule of rates and charges
- 52.26 Deposit required for service; rate schedule
- 52.27 When meters read, bills payable
- 52.28 Disconnection for late payment
- 52.99 Penalty

GENERAL PROVISIONS

§ 52.01 SUPERINTENDENT OF ELECTRIC LIGHT AND POWER SYSTEM.

The Town Manager shall appoint a Superintendent of the Electric Light and Power System who shall have operational control of the system under the general supervision of the Town Manager.
(170 Code, Ch. F, Art. III § 1)

§ 52.02 SHUTTING OFF POWER FOR ALTERATIONS, REPAIRS, AND THE LIKE.

The town reserves the right at any time to turn off electric power in case of accident, or for the purposes of making connections, alterations, or repairs.
(170 Code, Ch. F, Art. III § 12)

Cross-reference:

- Discontinuance of service for tampering with town electric facilities, see § 52.04
- Discontinuance of service for non-payment of bill, see § 52.28

§ 52.03 MOVING OF BUILDINGS; COST.

The cost of moving and replacing any town electric lines for the purpose of moving buildings shall be paid by the owner of the building being moved.
(170 Code, Ch. F, Art. III § 12)

§ 52.04 TAMPERING WITH TOWN ELECTRIC FACILITIES; CIVIL PENALTIES AND COSTS.

(A) In order to protect the town's electric distribution system, to protect the consuming public, to prevent the theft of electric energy, and to prevent the dangerous and destructive practice of tampering with the electric meters and other electric facilities of the town, the following civil penalties are hereby established:

(1) A penalty in the amount set forth in § 52.99 for breaking, removing, or replacing a town electric meter seal or disconnecting or reconnecting town electric service for the purpose of working on the service without notice to, and approval by the Superintendent of Utilities is hereby established. Any consumer who, with the approval of the Superintendent of Utilities, reconnects or has his service reconnected to the town electric system, and fails to have the service inspected by the County Electrical Inspector within a period of five working days, or upon inspection, such work as was done should fail electrical inspection, shall be subject to immediate disconnection from the town electric system, and shall be liable to the town for all costs incurred during disconnection and reconnection of said service.

(2) A penalty in the amount set forth in § 52.99 for altering, tampering with, removing, or replacing a town electric meter for the purpose of obtaining service after service has been disconnected for non-payment of electric bills rendered, is hereby established.

(3) A penalty in the amount set forth in § 52.99 for the jumpering of a meter base, the attachment to any existing service entrance or service cable, or the obtaining of electric power by any other means, after the town has removed the electric meter from said service, is hereby established.

(4) A penalty in the amount set forth in § 52.99 for straight wiring, jumping, or by any other means obtaining electric service from an existing service pole or pedestal without benefit of an electrical inspection by the County Electrical Inspector, or prior approval of the Superintendent of Utilities, is hereby established.

(5) A penalty in the amount set forth in § 52.99 for altering the registration of an electric meter by the use of any electronic or mechanical means, or the obtaining of electric power by any means when power is obtained by bypassing registration of the electric meter, is hereby established.

(6) All cases not covered by the specific situations as noted above, will be judged on an individual basis and treated accordingly.

(B) In addition to the civil penalties set forth in (A) above, the offending party shall pay all costs incurred by the town by reason of damage to its equipment.

(C) In addition to the civil penalties and costs provided in (A) and (B) above, the conduct described in (A) above shall subject the offending party to immediate disconnection of town electric service if the offending party is an electric customer of the town.

(D) The civil penalties and costs herein provided shall be imposed by the Superintendent of Utilities or his designated agent. The Superintendent of Utilities shall give written notice to the offending party of the specific violation found to have occurred; the amount of the civil penalty imposed for such an offense; the time within which, after notice to the offending party is received, the civil penalty and costs must be paid; that if the penalty and costs are not paid within such time the town will seek to recover said penalty in a civil action; and that the offending party is entitled to a hearing before the Town Manager if the party so desires. At such a hearing, the party shall be entitled to be represented by anyone of his choosing and the Town Manager shall have authority to reverse the decision of the Superintendent of Utilities.

(E) Any offending party whose electric service has been discontinued by the town pursuant to this section shall not be eligible for reconnection to the town electric service, either at the point of infringement or at any other location on the town electric system, until the civil penalty imposed and all costs have been paid in full. However, exceptions may be made by the Superintendent of Utilities in the event of emergency which would endanger the life or health of the offending party. All applications for reconnection of town electric service shall be made to the Superintendent of Utilities.

(F) Any person upon whom any civil penalty or costs is imposed shall have the right of appeal from the action taken by the Town Manager directly to the Board of Commissioners of the town.
(Ord. 77-78-14, passed 2-13-78) Penalty, see § 52.99

CONNECTION REGULATIONS

§ 52.10 APPLICATION.

Any person, firm, or corporation

desiring connection to be made with the town electric power system shall make application in writing to the Superintendent of the Electric Light and Power System, stating the name of the owner of the lot; the location of the lot; and the number and kind of connections desired.

Every application shall be signed by the person making the application and shall be accompanied by the appropriate connection fee.

('70 Code, Ch. F, Art. III § 2)

§ 52.11 CONNECTION FEES.

For electrical connections, the town shall charge such fees as may from time to time be established by the Board of Commissioners. The current schedule of fees is on file in the office of the Town Clerk or the Superintendent of the Electric Light and Power System.

('70 Code, Ch. F, Art. III § 3)

§ 52.12 METERS.

(A) Separate meters required. Each building, house, dwelling unit, or commercial unit shall be metered separately. ('70 Code, Ch. F, Art. III § 4)

(B) Property of town. All meters, meter boxes, and other equipment furnished and used by the town in making any electrical connection shall be and remain the property of the town. ('70 Code, Ch. F, Art. III § 5)

(C) Maintenance. All meters shall be maintained by the town; however, all meters furnished by particular users shall be maintained by the town at the expense of the particular users. ('70 Code, Ch. F, Art. III § 6)

§ 52.13 SERVICE OUTSIDE TOWN LIMITS.

Electric service furnished outside the town limits shall be furnished on the same basis as service within the town. However, in the event the secondary line extension exceeds 100 feet, the applicant shall pay the cost of extending that portion of the line in excess of 100 feet.

('70 Code, Ch. F, Art. III § 13)

RATES AND CHARGES

§ 52.25 SCHEDULE OF RATES AND CHARGES.

The rates and charges for electric power shall be those rates and charges as may from time to time be established by the Board of Commissioners. The current schedule of rates is on file in the office of the Town Clerk or the Superintendent of the Electric Light and Power System.

('70 Code, Ch. F, Art. III § 3)

§ 52.26 DEPOSIT REQUIRED FOR SERVICE; RATE SCHEDULE.

Before any electric power shall be supplied to any applicant, the applicant shall make a deposit in such amount as may from time to time be established by the Board of Commissioners. The current schedule of deposits is on file in the office of the Town Clerk or the Superintendent of the Electric Light and Power System.

('70 Code, Ch. F, Art. III § 8)

§ 52.27 WHEN METERS READ, BILLS PAYABLE.

Meters shall be read monthly in four cycles, and bills shall be sent out in four cycles. Bills shall be payable on or before the payment due date for the customer's bill cycle, unless the due date falls on a weekend or holiday in which payment can be made on the next operating business day. ('70 Code, Ch. F, Art. III § 9) (Am. Ord. 04-05-15, passed 4-25-05)

§ 52.28 DISCONNECTION FOR LATE PAYMENT.

(A) When it becomes necessary for the town to discontinue electric service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid and any deposit required has been made.

(B) It is the policy of the town to discontinue service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills is provided. All bills shall contain, in addition to the title, address, and telephone number of the town official in charge of billing, clearly visible and easily readable provisions to the effect that:

(1) All monthly bills are due and payable on or before the penalty due date indicated on the face of the bill. Service shall be discontinued for nonpayment on the cut-off date shown on the face of the bill;

(2) If any bill is not paid by the payment due date, a penalty equal but not exceeding 1% of the balance will be added if paid within the next ten calendar days;

(3) An additional \$20 penalty will be added beginning at 8:30 a.m. on the day following the cut-off date; and

(4) Failure to receive a bill does not alter these rules.

(C) Any customer disputing the accuracy of a bill shall have the right to a hearing. At that time he may be represented in person and by counsel or any other person of his choosing and may present orally or in writing his complaint and contentions to the town official in charge of billing. This official shall be authorized to order that the customer's service not be discontinued and shall have authority to make a final determination of the customer's complaint.

(D) In the absence of payment of the bill rendered or a request for a hearing as provided above, service will be discontinued at the time specified. (Am. Ord. 04-05-16, passed 4-25-05; Am. Ord. 04-05-17, passed 4-25-05)

§ 52.99 PENALTY.

(A) Violation of any provision of this chapter for which another penalty is not otherwise provided shall be subject to the penalty as set forth in § 10.99.

(B) Violation of § 52.04(A)(1) shall be subject to a civil penalty of \$25.

(C) Violation of § 52.04(A)(2) shall be subject to a civil penalty of \$100.

(D) Violation of § 52.04(A)(3) shall be subject to a civil penalty of \$100.

(E) Violation of § 52.04(A)(4) shall be subject to a civil penalty of \$250.

(F) Violation of § 52.04(A)(5) shall be subject to a civil penalty of \$250. (Ord. 77-78-14, passed 2-13-78)

TITLE VII: TRAFFIC CODE

Chapter

- 70. ~~GENERAL PROVISIONS~~
- 71. ~~TRAFFIC RULES~~
- 72. ~~STOPPING, STANDING, AND PARKING~~
- 73. ~~BICYCLES, MOTORCYCLES, AND SKATEBOARDS~~
- 74. RAILROADS
- 75. ~~TRAFFIC SCHEDULES~~
- 76. ~~PARKING SCHEDULES~~
- 77. ~~GOLF CARTS~~
- 78. TOW SERVICES

Section

- 74.01 Entering or leaving trains in motion
- 74.02 Train bells and whistles
- 74.03 Trains passing through town; speed limits, signals, and the like

§ 74.01 ENTERING OR LEAVING TRAINS IN MOTION.

No person shall jump off or on any of the cars or engines of the railroad entering the town while these are in motion and within the corporate limits, except employees of the company operating the road.

('70 Code, Ch. E, Art. VIII § 1)
Penalty, see § 70.99

§ 74.02 TRAIN BELLS AND WHISTLES.

No railroad company shall blow any whistle or ring any bell within the corporate limits, except when the cars or engines are actually in motion or stopping.

('70 Code, Ch. E, Art. VIII § 2)
Penalty, see § 70.99

§ 74.03 TRAINS PASSING THROUGH TOWN; SPEED LIMITS, SIGNALS, AND THE LIKE.

It shall be unlawful for any engineer, or other officer or servant of a railroad to run or operate any train within the corporate limits of the town at a speed exceeding 25 miles per hour; to fail to ring the bell of the engine while passing through the town, to fail to give signals at all street crossings; or to permit any train to stop across a street for a longer time than ten minutes.

('70 Code, Ch. E, Art. VIII § 3)
Penalty, see § 70.99

Statutory reference:

Authority to regulate speed of trains, see G.S. § 160A-195

AYDEN

RAILROADS

20

Section

- 78.01 Definitions
- 78.02 Exclusions
- 78.03 Police call list
- 78.04 Selection of tow services during police investigations
- 78.05 Application for call list privilege
- 78.06 Insurance
- 78.07 Investigation by Chief of Police
- 78.08 Standards for services on call list
- 78.09 Duties of service on call list
- 78.10 Revocation of listing
- 78.11 Period of revocation
- 78.12 Renewal
- 78.13 Service call rotation

§ 78.01 DEFINITIONS.

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

"DAY TOWING." Tow service during the local hours of 7:00 a.m. until 6:00 p.m. on Monday, Tuesday, Wednesday, Thursday, and Friday, except official federal and state holidays.

"HOOK-UP." The application and first connection of a chain hook from the tow service truck to the towed motor vehicle.

"NIGHT, WEEKEND AND HOLIDAY TOWING." Tow service at all times other than day towing.

"TOW SERVICE." A person engaged in the business of a wrecker or towing service, whereby motor vehicles are towed or otherwise removed by the use of a wrecker or motor vehicle designed for that purpose. (Ord. 12-13-12, passed 12-3-12)

§ 78.02 EXCLUSIONS.

This chapter shall not apply to wrecker services that are not listed on the police call list. (Ord. 12-13-12, passed 12-3-12)

§ 78.03 POLICE CALL LIST.

The Chief of Police is hereby authorized to establish a call list of tow services desiring to provide towing services upon request of police officers. The tow services that desire to be placed upon the call list shall comply with the requirements of this chapter and with all other rules and regulations the Chief of Police may issue regarding towing services. (Ord. 12-13-12, passed 12-3-12)

§ 78.04 SELECTION OF TOW SERVICES DURING POLICE INVESTIGATIONS.

In all police-initiated towing of vehicles, the operator of the vehicle, if present and not incapacitated, shall have the right to select a tow service of his or her choice to perform the towing service. If the operator of the vehicle to be towed is not present, or is incapacitated, or has no preference as to any specific towing service, the police officer ordering the tow shall request that the towing service be performed by the tow service then on call according to the call list maintained by the police communications center. If this tow service cannot, does not or will not answer the request within a reasonable time, the officer will call the towing service that is next in rotation. When emergency circumstances prevail, the police officer may request towing services from the tow service nearest to the scene of the accident or emergency. A police officer may also request towing services from any company operating large cranes or other heavy equipment if necessary to remove traffic obstructions involving large trucks or heavy equipment. (Ord. 12-13-12, passed 12-3-12)

§ 78.05 APPLICATION FOR CALL LIST PRIVILEGE.

(A) Application for listing on the police call list of tow services shall be notarized and shall be made upon blank forms prepared and made available by the Chief of Police and shall contain the following information:

(1) The name, home address and proposed business address of each owner, part owner or partner, silent or active, and if a corporation, each officer, director and shareholder;

(2) The business address, business telephone number, telephone number for night calls, location and telephone number for storage area;

(3) A description of the size and capacity of all tow trucks used by the tow truck operator;

(4) A description of the storage area for towed vehicles; and

(5) A copy of the registration card issued by the State Department of Motor Vehicles for each tow truck used by the tow truck operator, indicating that each tow truck is registered as a wrecker as defined in G.S. Ch. 20.

(B) The application shall be signed by each owner, part owner or partner, silent or active, and if a corporation shall be signed by all shareholders, officers and directors. (Ord. 12-13-12, passed 12-3-12)

§ 78.06 INSURANCE.

No tow service shall be added to the police call list until the applicant has deposited with the Police Chief proof of the following liability coverage.

(A) Garage keeper's policy. A garage keeper's comprehensive facility liability policy covering fire, theft and explosion in an amount not less than \$20,000, together with collision liability coverage of not less than \$20,000, subject to a maximum deductible of \$100.

(B) Garage liability policy. A garage liability policy, covering the operation of the applicant's business, equipment and vehicles, for any bodily injury, personal injury or property damage. This policy shall be in an amount not less than \$100,000 for each person and not less than \$300,000 aggregate. This policy shall also have not less than \$50,000 coverage for any damage arising out of injury to or loss of or destruction of property.
(Ord. 12-13-12, passed 12-3-12)

§ 78.07 INVESTIGATION BY CHIEF OF POLICE.

Within five business days after receipt of each application for listing on the police call list, the Chief of Police or his or her agents shall cause an investigation to be made of the applicant and of his or her proposed operation. Such investigation shall be made for the purpose of verifying the information in the application and to ensure compliance with the provisions of this chapter.

(Ord. 12-13-12, passed 12-3-12)

§ 78.08 STANDARDS FOR SERVICES ON CALL LIST.

The Police Chief shall add a tow service to the police call list when he finds that:

(A) The public convenience and necessity require the proposed tow service for which the application has been submitted.

(B) The tow service business location and its storage facilities are or will be located within or no more than five miles outside the city limits;

(C) Insurance policies as required by this chapter have been procured;

(D) All applicants, owners, officers, directors, shareholders and partners are fit and proper persons to conduct or work in the proposed business and have never been convicted of any felony, assault, theft or any other crime involving the taking, use, tampering with or conversion of a motor vehicle;

(E) The tow service will use only tow trucks equipped with an amber-colored flashing light, which shall be operating during any tow as provided by law;

(F) The tow service will provide 24 hours per day, seven days per week, on-call service;

(G) The tow service will arrive at the location of the vehicle to be towed within 20 minutes after receiving a request for day towing service and within a reasonable time after receiving a request for night, weekend and holiday towing from the Police Department;

(H) The tow service will provide and use a storage area for towed vehicles that is enclosed by a chain link fence or equivalently secured fence or enclosure which shall be illuminated at night;

(I) The requirements of this chapter and all other governing laws and ordinances have been met; and

(J) No applicant nor any owner, officer, director, shareholder, associate or partner of the applicant is already listed on the call list whether in his own name or as an owner, officer, director, shareholder, associate or partner of any other listed towing service.
(Ord. 12-13-12, passed 12-3-12)

§ 78.09 DUTIES OF SERVICE ON CALL LIST.

A tow service shall be added to the police call list subject to the following conditions:

(A) Maintenance of equipment. Tow services shall maintain towing equipment that is adequate to perform towing service in a reasonably workmanlike manner and is properly equipped to tow vehicles in such a manner as to minimize any damage to towed vehicles.

(B) Compliance with rate schedule.

(1) Tow services shall not charge for their services more than the most currently adopted schedule, on file in the office of the City Clerk.

(2) Towing involving extraordinary labor and expenses: The maximum charge may be exceeded if unusual and extraordinary circumstances prevail at the scene of an emergency, but use of a dolly in making a tow of an unwrecked motor vehicle shall not be considered justification for an additional charge in the absence of unusual and extraordinary circumstances requiring an unusual expenditure of time and labor by the tow truck operator.

(C) Interception of police calls. No tow service shall arrive at the scene of a police investigation as a result of monitored or intercepted police calls by radio or other device for the purpose of soliciting towing or repair services.

(D) Records.

(1) Any tow service operating under this chapter must have the following records of any motor vehicle towed:

(a) The make and model of the motor vehicle;

(b) The license number of the motor vehicle; and

(c) The date of the towing service.

(2) These records shall be maintained for one year from the date of towing by the tow service.

(E) Storage. Any motor vehicle towed must be stored in a yard with adequate security against intruders, including chain link or equivalently secured fencing or enclosure and lighting at night.

(F) Availability for redemption. The tow service shall post a phone number at the place of business setting forth the manner in which to redeem any towed vehicle. Such phone number shall be printed not less than three inches high and posted in a place clearly visible outside the business. The sign shall explain in what manner a stored vehicle can be redeemed.

(G) Damage. The person operating any such tow service shall make every reasonable effort to minimize damage to towed and stored motor vehicles. Where applicable, such reasonable effort shall include, but is not limited to: the use of a dolly or carriage for towing, the disconnection of the driveshaft, release of brakes, towing at a reasonable speed, and the securing of the motor vehicle from damage by elements.

(H) Early surrender. If the owner of a motor vehicle shall return before the hook-up is complete, the tow service shall release the vehicle to such owner or operator upon demand and shall not have the right to charge such owner or operator a fee as specified above.

(I) Securing stored vehicles. No towed vehicle may be dismantled, have parts removed, or tires deflated, except as necessary for towing the motor vehicle or securing it from damage by the elements.

(J) Itemized statement. The tow service bill for towing and storage of any motor vehicle shall be itemized to reflect

services performed, labor or other materials required, and any storage or other charges. (Ord. 12-13-12, passed 12-3-12)

§ 78.10 REVOCATION OF LISTING.

The Town Manager will revoke a police call listing when he finds any of the following to be true:

(A) The listing was procured by fraudulent conduct or false statement of a material fact, or that any fact concerning the applicant was not disclosed at the time of making application, and such fact would have constituted just cause for refusal to issue the listing.

(B) The applicant illegally solicited tow or repair services at a police investigation.

(C) The applicant paid any third person for information as to the location of any vehicle in compensation for calling the applicant to tow such vehicle.

(D) The applicant has exceeded the fee schedule.

(E) The applicant has violated any of the requirements of this chapter or any of the rules and regulations as established by the Police Chief or the Board of Commissioners. (Ord. 12-13-12, passed 12-3-12)

§ 78.11 PERIOD OF REVOCATION.

The period of revocation of the listing of a tow service shall be as follows:

(A) Thirty days revocation for the first violation.

(B) Ninety days revocation for the second violation.

(C) Such revocation as the Town Manager shall determine, including permanent loss of listing, for third or subsequent violations. (Ord. 12-13-12, passed 12-3-12)

§ 78.12 RENEWAL.

The police call listing shall be valid for one year from the date of acceptance. Each application for renewal shall contain adequate assurances that the applicant continued to comply with all standards, rules and regulations prescribed under this chapter. Such renewals shall be on a form designated by the Chief of Police and shall contain the names of any new owners, part owners, officers, directors, shareholders or partners, and the names of any new employees. (Ord. 12-13-12, passed 12-3-12)

§ 78.13 SERVICE CALL ROTATION.

All towing services that meet the requirements of the chapter to be on the police rotation list will be placed into the computerized dispatch list in consecutive repeating order. As a call for service arises, the next rotation service will be contacted and given the opportunity to respond with driver(s) and equipment. Refusal by the tow service to respond or to respond with inadequate driver(s) and/or equipment will initiate contact with the next service on the list. Repeated refusals from the tow service to respond will result in a letter from the Chief of Police removing the service from the rotation list and the tow service must reapply for appointment.

(Ord. 12-13-12, passed 12-3-12)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ABANDONED VEHICLES
- 91. ANIMALS
- 92. CEMETERIES
- 93. CIVIL DEFENSE
- 94. FIRE PREVENTION
- 95. GARBAGE AND TRASH
- 96. HEALTH AND SANITATION
- 97. LIBRARIES
- 98. NOISE CONTROL
- 99. PARKS AND RECREATION
- 100. STREETS AND SIDEWALKS
- 101. CURFEW FOR MINORS
- 102. INVESTIGATION OF PUBLIC HOUSING APPLICANTS
- 103. CARRYING CONCEALED HANDGUNS ON MUNICIPAL PROPERTY
- 104. HOUSING AND URBAN DEVELOPMENT

Section

- 90.01 Administration
- 90.02 Definitions
- 90.03 Abandoned vehicle unlawful; removal authorized
- 90.04 Nuisance vehicle unlawful; removal authorized
- 90.05 Junked motor vehicle regulated; removal authorized
- 90.06 Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirements
- 90.07 Exceptions to prior notice requirement
- 90.08 Removal of vehicles; post-towing notice requirements
- 90.09 Right to probable cause hearing before sale or final disposition of vehicle
- 90.10 Redemption of vehicle during proceedings
- 90.11 Sale and disposition of unclaimed vehicle
- 90.12 Conditions on removal of vehicles from private property
- 90.13 Protection against criminal or civil liability
- 90.14 Exceptions
- 90.15 Unlawful removal of impounded vehicle

- 90.99 Penalty

§ 90.01 ADMINISTRATION.

(A) The Police Department and the Town Code Enforcement Officer of the town shall be responsible for the administration and enforcement of this chapter.

(B) 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.

(C) The Town Code Enforcement Officer shall be responsible for administering the removal and disposition of "abandoned", "nuisance" or "junked motor vehicles" located on private property.

(D) 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.

(E) Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the town Police Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.

(Ord. 90-91-16, passed 4-8-91; Am. Ord. 93-94-25, passed 5-9-94; Am. Ord. 02-03-31, passed 3-10-03)

§ 90.02 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 on a public street or highway for longer than seven days; or

(3) Is left on property owned or operated by the town for longer than 24 hours; or

(4) Is left on private property without the consent of the owner, occupant or lessee thereof, for longer than two hours.

"AUTHORIZED OFFICIAL." The supervisory employee of the Police Department or the Town Code Enforcement Officer respectively, is designated to authorize the removal of vehicles under the provisions of this chapter.

"AUTO REPAIR PERMIT." A permit granting a period of time to allow the owner of a vehicle to get that vehicle back into normal operating condition or to provide time to otherwise bring the code violation into compliance. With a purchase of a \$25 permit, obtained at the Town of Ayden Operations Center, a vehicle owner will have 30 days to repair a vehicle and disqualify it as a junk vehicle as defined in § 90.02. The vehicle will be tagged by the Code Enforcement Department with a 30 day permit sticker. If after the 30 day permit period the vehicle is still defined as a junk vehicle, then the vehicle will be in violation and will be processed by the rules as defined in § 90.05.

"CURRENTLY AWAITING REPAIRS." A period of time during which active effort is expended to place a vehicle back in operation through replacement of parts, repair of operation systems and circuits, fabrication and repair of broken structural members and testing. If parts or materials are not available or not on order, the item is not currently under repair. A vehicle which has remained unrepaired for 30 days is considered unrepairable unless procurement of long lead time replacement parts can be demonstrated or unless the vehicle is subject to pending litigation and/or awaiting an insurance settlement. (The property owner/tenant must provide documentation to substantiate "currently awaiting repairs" over 30 days).

"DURABLE SURFACE." Four inches of concrete, two inches of asphalt or other materials approved by the town. Gravel or crushed stone shall not qualify as a "DURABLE SURFACE".

"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 moved in the manner in which it originally was intended to move; or

(3) Is more than five years old and appears to be worth less than \$500.

"MANUFACTURED CAR COVER." A cover that is manufactured to be used to cover a vehicle. This cover can be a cover specially designed for a particular vehicle or type of vehicle or can be a generic cover. The cover must be completely opaque and conceal the vehicle in its entirety.

"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." As authorized in G.S. § 160A-193 to regulate public nuisances, a motor vehicle on public or private property shall be 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 eight 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 so offensive to the sight as to diminish adjoining property values, or degrade the community, neighborhood or area appearance; or

(6) So situated or located that there is a danger of it falling or turning over; or

(7) One being used for storage or a point of collection of any items defined in § 95.01 or any other garbage, food, waste, animal waste, or any other rotten or putrescible matter of any kind; or

(8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or

(9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Board of Commissioners.

Ord. 90-91-16, passed 4-8-91; Am. Ord. 93-94-25, passed 5-9-94; Am. Ord. 02-03-14, passed 10-14-02; Am. Ord. 02-03-31, passed 3-10-03; Am. Ord. 06-07-22, passed 10-23-06; Am. Ord. 07-08-20, passed 1-14-08)

§ 90.03 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, proper authorizing officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed. (Ord. 90-91-16, passed 4-8-91)

§ 90.04 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 Town Code Enforcement Officer 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. (Ord. 90-91-16, passed 4-8-91; Am. Ord. 93-94-25, passed 5-9-94; Am. Ord. 02-03-31, passed 3-10-03)

§ 90.05 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 public or private property. Single permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section.

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

(D) Subject to the provisions of division (E), upon investigation, the Town Code Enforcement Officer may order the removal of a junked motor vehicle as defined in this chapter after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing on the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant factors may be considered.

(1) Protection of property values;

(2) Promotion of tourism and other economic development opportunities;

(3) Indirect protection of public health and safety;

(4) Preservation of the character and integrity of the community; and

(5) Promotion of the comfort, happiness and emotional stability of area residents.

(E) Exceptions; permitted concealment.

(1) One junked motor vehicle, in its entirety, can be located in a residential rear yard, as defined by the Zoning Ordinance, if the junked motor vehicle is covered with a manufactured car cover or is enclosed by an opaque fence so that it is not visible from any adjacent property or right-of-way and it is parked on a durable surface. The location and size of the durable surface shall be in accordance with the applicable provisions of the Zoning Ordinance. The manufactured car cover and fence shall remain in good condition and will not be allowed to deteriorate.

(2) One junked motor vehicle is allowed in an enclosed building that must be maintained and free from deterioration and/or collapse. The building must conform to the building code and applicable provisions of the Zoning Ordinance.

(3) A vehicle that has been issued a 30-day auto repair permit. This permit must be obtained from junked motor vehicles that are being repaired so that they will no longer qualify as a junked motor vehicle or to provide time to otherwise bring the code violation into compliance.

(4) Vehicles in a bona fide auto storage yard or junk yard as defined and permitted in the Zoning Ordinance.

(F) The Town's Zoning 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. The covering or enclosure must be compatible with the objectives stated in the preamble of this chapter. Any other junked motor vehicle(s) must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicle(s) cannot be seen from a public street or abutting property. A garage or building structure means either a lawful, nonconforming use or a garage or building structure erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and building code regulations.

(Ord. 90-91-16, passed 4-8-91; Am. Ord. 93-94-25, passed 5-9-94; Am. Ord. 02-03-31, passed 3-10-03; Am. Ord. 06-07-22, passed 10-23-06)

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

(A) Except as set forth in § 90.07, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle.

(B) In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail.

(C) The person who mails the notice shall retain a written record to show the name and address to which mailed, and the date mailed.

(D) 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 seven 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 affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(E) With respect to abandoned vehicles on private property, nuisance vehicles and junked motor 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 Commissioners in writing, heard at the next regularly scheduled meeting of the Board of Commissioners, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

(Ord. 90-91-16, passed 4-8-91)

§ 90.07 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 authorized official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare.

(B) Such findings shall, in all cases, be entered by the authorized official in the appropriate daily records.

(C) 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 Board of Commissioners hereby determines that 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 no-standing zone;

(d) Parked in a loading zone;

(e) Parked in bus zones; or

(f) Parked in violation of temporary parking restrictions imposed under code sections.

(2) Other abandoned or nuisance vehicles:

(a) With respect to abandoned or nuisance vehicles left on town-owned property other than the streets or highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare.

(b) By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.
(Ord. 90-91-16, passed 4-8-91)

§ 90.08 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 the tow truck operator or towing business contracting to perform such services for the town.

(B) Whenever such a vehicle is removed, the authorizing town official shall immediately notify the last known registered owner of the vehicle. Such notice shall include the following,

(1) The description of the removed vehicle;

(2) The location where the vehicle is stored;

(3) The violation with which the owner is charged, if any;

(4) The procedure the owner must follow to redeem the vehicle and

(5) The procedure the owner must follow to request a probable-cause hearing on the removal.

(C) 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, including the information set forth in subdivisions (1) through (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.

(D) If the vehicle is registered in North Carolina, notice shall be given within 24 hours.

(E) 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.

(F) 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 subdivisions (1) through (5) above.
(Ord. 90-91-16, passed 4-8-91)

§ 90.09 RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.

(A) After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle.

(B) A request for hearing must be filed in writing with the Pitt County magistrate designated by the chief district court judge to receive such hearing request.

(C) The magistrate shall set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provision of G.S. § 20-222, as amended.
(Ord. 90-91-16, passed 4-8-91)

§ 90.10 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 fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this chapter.
(Ord. 90-91-16, passed 4-8-91)

§ 90.11 SALE AND DISPOSITION OF UNCLAIMED VEHICLE.

(A) 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.

(B) 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. (Ord. 90-91-16, passed 4-8-91)

§ 90.12 CONDITIONS ON REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

(A) 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.

(B) 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 a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the Town Code Enforcement Officer.

(C) 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. (Ord. 90-91-16, passed 4-8-91; Am. Ord. 93-94-25, passed 5-9-94; Am. Ord. 02-03-21, passed 3-10-03)

§ 90.13 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of such vehicle as provided in this chapter. (Ord. 90-91-16, passed 4-8-91)

§ 90.14 EXCEPTIONS.

Nothing in this chapter shall apply to any vehicle: 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; which is in an enclosed building; which is on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or which is an appropriate storage place or depository maintained in a lawful place and manner by the town; or which is currently awaiting repairs. (Ord. 90-91-16, passed 4-8-91; Am. Ord. 02-03-14, passed 10-14-02)

§ 90.15 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 provisions of this chapter unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid. (Ord. 90-91-16, passed 4-8-91)

§ 90.99 PENALTY.

(A) If the owner of an abandoned, junk, or nuisance motor vehicle continues to violate this chapter beyond the time specified, he/she shall be subject to a civil penalty of \$50. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation by mail or by affixing same on the windshield.

(B) For each day the violation is not corrected, the violator will be guilty of a new and separate offense and subject to additional civil penalties.

(C) If the violator fails to pay this penalty within ten days after being cited for violation, the penalty may be recovered by the city in a civil action in the nature of debt.

(D) If the same violation occurs within a five-year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to an additional civil penalty as set forth in this section. (Ord. 02-03-14, passed 10-14-02)

AYDEN

ABANDONED VEHICLE

6B

Section

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- 91.60 Purpose and intent of chapter
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Statutory reference:

Municipal authority to regulate animals, see G.S. §§ 160A-174, 160A-182, 160A-186, 160A-187, and 160A-188

GENERAL PROVISIONS

§ 91.01 KEEPING CERTAIN ANIMALS WITHIN TOWN LIMITS PROHIBITED.

(A) It shall be unlawful to keep or harbor non-domestic animals within the corporate limits, including but not limited to horses, mules, ponies, cattle, sheep, goats or swine, except animals temporarily (not to exceed 24 hours) confined in a stock yard or other place awaiting transportation.

(B) It shall be lawful to keep chickens within the corporate limits with the following regulations and standards in place:

(1) No more than six hens shall be allowed for each single-family lot. No chickens shall be allowed in multi-family dwellings, including duplexes. Roosters are not permitted.

(2) There shall be no indoor or outdoor slaughtering of chickens.

(3) All chickens must be kept in a secured enclosure with operable closures for all openings and an impervious covered top (a "coop") at all times.

(4) Chicken coops must be a minimum of four square feet in area for each chicken; maximum size of a single chicken coop shall be 30 square feet.

(5) The maximum height of a chicken coop shall be six feet measured from the lowest ground level beneath the coop to the highest point of the coop. The coop(s) must be of stable ground construction.

(6) Chicken coops must be situated at least ten feet from all property lines and must be situated in the back yard of the residence at all times.

(7) Except for the primary residence, chicken coops shall not be located within 20 feet of any residence, school, church, and restaurant or retail establishment.

(8) Chicken coops must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis to prevent offensive odors. There must be no detectable odor beyond the parcel boundaries of the property on which the coop is located.

('70 Code, Ch. H, Art. VIII § 1) (Am. Ord. 94-95-12, passed 4-10-95; Am. Ord. 04-05-02, passed 7-26-04; Am. Ord. 13-14-12, passed 2-10-14) Penalty, see § 91.99

§ 91.02 ANIMALS RUNNING AT LARGE.

It shall be unlawful to allow any animal to run at large within the town.
('70 Code, Ch. H, Art. VIII § 2) (Am. Ord. 94-95-12, passed 4-10-95) Penalty, see § 91.99

§ 91.03 ANIMAL, FOWL FIGHTS.

No person shall stage, encourage, or attend any animal or fowl fight.
('70 Code, Ch. H, Art. VIII § 3) (Am. Ord. 94-95-12, passed 4-10-95) Penalty, see § 91.99

§ 91.04 BIRD SANCTUARY.

(A) The area embraced within the corporate limits of the town is hereby declared to be a bird sanctuary.

(B) It shall be unlawful to trap, hunt, shoot, or otherwise kill, within the corporate limits, any native wild bird. However, this section shall not apply to pigeons, crows, starlings, or English sparrows.

(C) Nothing in this section shall be construed to prevent town authorities from trapping or destroying any pigeons, crows, starlings, or English sparrows where such birds are found to be congregating in numbers so as to constitute a nuisance or menace to health or property, in the opinion of the Board of Commissioners.
('70 Code, Ch. H, Art. VIII § 4) (Am. Ord. 94-95-12, passed 4-10-95) Penalty, see § 91.99

DOGS

§ 91.15 DEFINITIONS.

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

"AT LARGE." Means off the premises of the owner, and not under control either by leash, cord, chain, or otherwise.

"DOG." Means both male and female.

"OWNER." Any person owning, keeping, or harboring a dog.
('70 Code, Ch. H, Art. IX § 1) (Am. Ord. 94-95-12, passed 4-10-95)

§ 91.16 [RESERVED]§ 91.17 RABIES VACCINATION REQUIRED.

It shall be unlawful for the owner of any dog more than 13 weeks of age to keep, harbor, or maintain that dog unless it is vaccinated with antirabies vaccine as required by state law and Pitt County.
('70 Code, Ch. H, Art. IX § 8) (Am. Ord. 94-95-12, passed 4-10-95) Penalty, see § 91.99

§ 91.18 FEMALE DOGS IN HEAT AS NUISANCE.

The running at large or appearance on any of the streets of the town of a female dog in heat is declared to be a nuisance. It is the duty of the owner to properly confine the dog during that state.
('70 Code, Ch. H, Art. IX § 9) (Am. Ord. 94-95-12, passed 4-10-95) Penalty, see § 91.99

§ 91.19 DOGS RUNNING AT LARGE PROHIBITED.

It shall be unlawful for the owner or keeper of any dog to suffer or permit that dog to run at large within the town. The running at large of any dog shall be prima facie evidence that its owner or keeper suffered or permitted the dog to run at large in violation of this section.
('70 Code, Ch. H, Art. IX § 3) (Am. Ord. 94-95-12, passed 4-10-95) Penalty, see § 91.99

§ 91.20 ANIMAL CONTROL OFFICER TO IMPOUND DOGS RUNNING AT LARGE; NOTICE TO OWNER.

(A) The Chief of Police shall, from time to time as required by necessity, appoint an Animal Control Officer, or otherwise designate some official, whose duty it shall be to apprehend any dog running at large and to impound the dog in the town pound or in some other suitable place.

(B) It shall be the duty of the Chief of Police or other designated officer to notify the owners of all dogs picked up, if reasonably possible.
('70 Code, Ch. H, Art. IX §§ 4, 10) (Am. Ord. 94-95-12, passed 4-10-95)

§ 91.21 RECLAIMING IMPOUNDED DOG; FEE.

The owner of any impounded dog may reclaim the dog upon payment of \$20 for impoundment and a fee of \$5 per day for keeping the dog.
('70 Code, Ch. H, Art. IX § 5) (Am. Ord. 94-95-12, passed 4-10-95)

§ 91.22 WHEN IMPOUNDED DOGS TO BE DESTROYED.

It shall be the duty of the Animal Control Officer or other designated official to keep all impounded licensed dogs for a period of seven days, and all impounded stray dogs for a period of three days. If, at the expiration of the appropriate number of days per individual dog from the date of impoundment, the dog is not reclaimed, it may be destroyed. Any dog deemed to be suffering from hydrophobia, mange, or other infection or dangerous disease, may be destroyed without waiting the time periods set forth herein.
('70 Code, Ch. H, Art. IX § 6) (Am. Ord. 94-95-12, passed 4-10-95)

§ 91.23 MEDICAL TREATMENT FOR IMPOUNDED DOGS.

If, in the opinion of the Animal Control Officer, any impounded dog, either licensed or unlicensed, shall need medical treatment, the Animal Control Officer may place the dog under the care of a licensed veterinarian and the cost of the treatment shall be paid by the owner as a part of the fee for keeping the dog.
('70 Code, Ch. H, Art. IX § 6) (Am. Ord. 94-95-12, passed 4-10-95)

§ 91.24 DISPOSITION OF DANGEROUS, FIERCE, OR VICIOUS DOGS.

If any dangerous, fierce, or vicious dog found running at large cannot be safely caught and impounded by the Animal Control Officer or other designated official, the dog may be slain by any police officer, the Animal Control Officer, or other designated officials forthwith.

('70 Code, Ch. H, Art. IX § 7) (Am. Ord. 94-95-12, passed 4-10-95)

§ 91.25 VICIOUS AND DANGEROUS ANIMALS.

(A) It shall be unlawful for an owner/keeper to keep any vicious, fierce, dangerous, or potentially dangerous animal within the town limits unless it is confined within a secure building or enclosure or is securely muzzled and leashed at all times.

(B) In accordance with G.S. § 106-381, when an animal becomes vicious or a menace to the public health, the owner of such animal or person harboring such animal may not permit such animal to leave the premises on which kept unless muzzled and on a leash.

(C) (1) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

"DANGEROUS DOG." A dog that has been declared to be dangerous pursuant to G.S. § 67-4.1(a) (1) by the Police Chief, Pitt County Animal Control, or the County Health Director pursuant to G.S. § 130A-200, or because it has committed one or more of the following:

(a) Without provocation has killed or inflicted severe injury on a person; or

(b) Inflicted a bite on a person either upon public or private real property;

(c) Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack; or

(d) Kill or inflicted severe injury upon a domestic animal when not on the owner's real property; or

(e) Chases, snaps at, attacks, or otherwise molests pedestrians, bicyclists, motor vehicles, or any other animal.

(2) The Police Chief must notify the owner/keeper in writing, giving the reasons for his or her determination, before the dog may be considered dangerous. The owner may appeal the determination of the Police Chief to the Town Manager by giving written notice of the appeal within five days of the Police Chief's determination to the Town Manager. The dog will be considered dangerous pending the appeal.

(a) In any case, where an animal has bitten any person or other animal so as to cause abrasions or break the skin, the Police Chief shall make a determination of danger based on the circumstances surrounding the bite and the likelihood that the animal might bite again.

(b) The provisions of this section do not apply to a dog being used by a law enforcement officer to carry out the law enforcement officer's official duties. A dog shall not be considered a dangerous dog or potentially dangerous dog under this section if the injury inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, had been observed or reported to have tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

(D) It is unlawful for an owner to:

(1) Leave a dangerous dog unattended on the owner's real property unless the dog is confined indoors, in a securely enclosed and locked pen, or in another structure designed to restrain the dog.

(2) Permit a dangerous dog to go beyond the owner's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled.

(E) If the owner of a dangerous dog or a potentially dangerous dog transfers ownership or possession of the dog to another person, the owner shall provide written notice to:

(1) The Police Chief, stating the name and address of the owner of the dog; and

(2) The person taking possession of the dog, specifying the dog's dangerous behavior and the Police Chief's determination.

(F) A dog that has been determined to be dangerous may be humanely destroyed in the following instances:

(1) If the Police Chief or his or her designee determines that a dog that was previously determined to be dangerous either bit a person so as to cause a break in the skin or was at large on two or more separate occasions after such determination, the Police Chief or Pitt County Animal Control or a designee may seek a court order for the dog to be humanely destroyed.

(2) If the Police Chief or his or her designee in determining that a dog is dangerous also determines that the dog without provocation has killed or inflicted severe injury on a person, the Police Chief or his or her designee may seek a court order that the dog be humanely destroyed.

(G) A dog that has been determined to be dangerous may not be disposed of by adoption from the Pitt County Animal Control or the police department.

(H) The keeper or other custodian of any dog that has been determined to be dangerous shall report immediately to the police department through telephone number 911 if the dog gets loose or is otherwise unconfined or it attacks a person or another animal.

(I) A police officer or his or her designee shall periodically inspect the premises where a dog is determined to be

dangerous is kept to ensure compliance with the secure enclosure requirements set out in this section.

(J) If a dog has been determined by the Pitt County Health Director or his or her designee, Pitt County Animal Control, or by the Police Chief or his or designee to be dangerous or vicious, and the dog has been either left with or returned to its keeper, the keeper shall maintain the dog in an enclosure meeting the requirements of this division (J) on the keeper's property or, with the consent of the Police Chief or his or her designee in such an enclosure on the property of another, except that the dog may be taken out of the enclosure when necessary if leashed and muzzled or in a secure carrying cage. The enclosure for a dangerous dog shall be indoors within a building from which the animal cannot escape or in a securely enclosed and locked pen or structure suitable to prevent the entry of young children and designed to prevent the dog from escaping. The pen or structure shall have minimum dimensions of five feet by ten feet and shall have secure sides and a secure top. If it has no bottom secured to the sides, the sides shall be embedded into the ground no less than two feet. The pen or structure shall also provide protection from the elements for the dog. The premises where the dangerous dog is kept shall be posted with warning signs at places likely to be seen by persons entering the premises. A warning sign shall advise of the presence on the premises of a dangerous dog and shall also contain a picture symbol of a dangerous dog as a warning to children. Unauthorized removal of a warning sign posted in compliance with this division (J) is unlawful. Any dangerous dog found at-large after the owner thereof has previous knowledge or notice that such dog is dangerous may be killed by any police officer or animal control officer of the town without such officer having to catch or impound such dog.
(Ord. 04-05-20, passed 5-9-05) Penalty, see § 91.99

CATS

§ 91.30 ANIMAL CONTROL OFFICER TO IMPOUND STRAY OR NUISANCE CATS; NOTICE TO OWNERS.

(A) The Chief of Police shall, from time to time as required by necessity, appoint an Animal Control Officer, or otherwise designate some official, whose duty it shall be to apprehend any stray or nuisance cat and to impound the cat in the town pound or in some other suitable place.

(B) It shall be the duty of the Chief of Police or other designated officer to notify the owners of all cats picked up, if reasonably possible.
(Ord. 02-03-09, passed 9-9-02)

§ 91.31 RECLAIMING IMPOUNDED CATS; FEE.

The owner of any impounded cat may reclaim the cat upon payment of \$20 for impoundment and a fee of \$5 per day for keeping the cat.
(Ord. 02-03-09, passed 9-9-02)

§ 91.32 WHEN IMPOUNDED CATS TO BE DESTROYED.

It shall be the duty of the Animal Control Officer or other designated official to keep all impounded cats for three days. If, at the expirations of the appropriate number of days per individual cat from the date of impoundment, the cat is not reclaimed, it may be destroyed. Any cat deemed to be suffering infectious or dangerous disease may be destroyed without waiting the time period set forth herein.
(Ord. 02-03-09, passed 9-9-02)

ANIMALS

§ 91.40 DEFINITIONS.

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

"ANIMALS." Every living creature domestic and/or non-domestic, but does not include humans.

"COMMUNICABLE DISEASE." Any disease that is contagious by air or by direct contact.

"CONFINEMENT." Means to be kept in a kennel or cage for reason of observation or delivery to a shelter.

"CRIPPLED." Any animal who is unable to walk around without difficulty due to injury or old age.

"DEPOSITED." Means made or left by the animal in any spot.

"DESTRUCTION." Means being put to death in a humane way.

"DISEASED." Any animal with a contagious disease or virus.

"EXCRETA." Liquid or solid waste matter from any animal.

"FEEDS." Means to provide food, water and/or shelter.

"FIREARM." Either a small handgun or a rifle.

"HARBOR." To allow to stay on one's personal property.

"HUMANELY DESTROYED." The act of being killed in a painless and quick way where one does not suffer.

"IMMEDIATELY." As soon as possible after the occurrence.

"INJURED." Any animal who has been injured by any means.

"INJURING." The act of hurting any animal in any way, for example hitting or running over with a vehicle.

"LEGALLY RESPONSIBLE." Means by law responsible for any fees or damages caused by the animal.

"NON-DOMESTIC ANIMALS." Any animal not living in a dwelling or household, with exception of dogs and cats.

"NOTIFYING." Means if you injure an animal, you must immediately contact the owner or keeper or other proper agency.

"NUISANCE." An animal or group of animals shall be considered a nuisance if it:

(1) Damages, soils or defiles private or public property.

(2) Interferes with, molests or attacks persons or other animals;

(3) Is repeatedly at large, three or more times within a six month period;

(4) Causes unsanitary, dangerous or offensive conditions, including fouling the air by odors;

(5) Chases, snaps at, harasses or impedes pedestrians, bicyclists or vehicles;

(6) By virtue of number or type is offensive or dangerous to the public health, safety or welfare;

(7) Is diseased or dangerous to the public health; or

(8) Barks, whines or howls in an excessive, continuous or untimely fashion.

"OBSERVATION." Any animal being kept in quarantine and being observed on a daily basis for symptoms of disease.

"PUBLIC VEHICULAR AREA." Any area which is open to and accessible to public vehicular traffic.

"REASONABLE MEANS." To capture the animal either by calling it, using a catchpole or by setting a live trap.

"RELEASE." To remove from a cage or kennel, or to let escape and roam free.

"RESTRAINED." Tied or confined in some fashion, not able to run free.

"SEIZED." When taken into custody, caught or trapped.

"STRAY ANIMAL." Any animal that is not the property of another person.

"SURRENDER." To release into the custody of the Animal Control Officer or appointed agent.

"UNCOVERED PICK-UP TRUCK." A pick-up truck on which the bed or back has no covering or camper shell, thereby leaving it open.

"UNLAWFUL KILLING." The act of any person humanely or inhumanely putting to death any animal without permission from the proper authority.
(Ord. 94-95-12, passed 4-10-95; Am. Ord. 04-05-02, passed 7-26-04; Am. Ord. 04-05-06, passed 10-11-04)

§ 91.41 DESTRUCTION OF ANIMALS WHICH CANNOT BE SEIZED BY REASONABLE MEANS.

Notwithstanding any other provision of this chapter, an animal which cannot be seized by reasonable means may be humanely destroyed by a firearm when ordered by the Chief of Police or a person duly authorized by the Chief of Police.
(Ord. 94-95-12, passed 4-10-95)

§ 91.42 DESTRUCTION OF DISEASED AND CRIPPLED ANIMALS.

(A) It shall be the duty of the Chief of Police, or his or her designee, to order and authorize the destruction of any animal taken into custody of the Animal Control Division, which in the opinion of the Chief of Police is:

(1) By reason of old age, unfit for further use;

(2) Is affected with any dangerous communicable disease;

(3) Is incurably crippled; or

(4) Is adjudged by written report from a licensed veterinarian to be afflicted with any painful or incurable disease or injury.

(B) The Chief of Police shall issue and sign an authorization for the destruction, by a police officer, of any animal afflicted with any dangerous or communicable disease or which is found to be dangerous to the safety of the community.
(Ord. 94-95-12, passed 4-10-95)

§ 91.43 ANIMAL WASTE.

The owner of every animal shall be responsible for the removal of any excreta deposited by his or her animal(s) on public walks, recreation areas, and public or private property.
(Ord. 94-95-12, passed 4-10-95) Penalty, see § 91.99

§ 91.44 FAILURE TO SURRENDER ANIMAL FOR CONFINEMENT OR DESTRUCTION.

It shall be unlawful for any person to fail or refuse to surrender any animal for confinement or destruction as required in this chapter when the demand is made by the Pitt County Health Director.
(Ord. 94-95-12, passed 4-10-95) Penalty, see § 91.99

§ 91.45 UNLAWFUL KILLING OR RELEASING OF CERTAIN ANIMALS.

It shall be unlawful for any person to kill or release any animal under observation for rabies, or under observation for biting a human, or to remove such animal from the county without written permission from the Pitt County Health Director; provided, however, a licensed veterinarian or the Pitt County Health Director may authorize any animal to be killed for rabies diagnosis.
(Ord. 94-95-12, passed 4-10-95) Penalty, see § 91.99

§ 91.46 PICK-UP TRUCK RESTRAINT.

All animals riding in the back of an uncovered pick-up truck must be restrained by some means, such as a leash, rope or dog chain as to prevent them from jumping out of the vehicle.

(Ord. 94-95-12, passed 4-10-95) Penalty, see § 91.99

§ 91.47 FEEDING AND HARBORING STRAY ANIMALS.

Any person who feeds a stray animal and/or allows it to stay on their property for at least seven days will be considered the legal owner or keeper of such animal and will be legally responsible for such animal and any violations caused by the animal.

(Ord. 94-95-12, passed 4-10-95) Penalty, see § 91.99

§ 91.48 INJURING ANIMALS; NOTICE REQUIRED.

It shall be unlawful for any person injuring an animal to fail to immediately notify the owner or keeper of such animal, an animal control agency, or the local humane society.

(Ord. 94-95-12, passed 4-10-95) Penalty, see § 91.99

§ 91.49 UNLAWFUL TO KEEP OR HARBOR NUISANCE ANIMALS.

It shall be unlawful to keep or harbor or allow the keeping or harboring of any animal which has been adjudged to be a nuisance, as defined in § 91.40, within the corporate limits of the town.

(Ord. 94-95-12, passed 4-10-95) Penalty, see § 91.99

ADMINISTRATION

§ 91.60 PURPOSE AND INTENT OF CHAPTER.

The purpose and intent of this chapter is to help stray animals that cannot be captured from becoming a public nuisance, attacking someone or starving to death; to prevent injured, crippled or diseased animals from suffering and to prevent the spread of disease to humans and healthy animals; to keep public and private areas and environments clean and enjoyable; to keep sick, diseased or abandoned animals from running at large and injuring people or spreading infectious diseases; to aid in the detection of animals carrying infectious diseases such as rabies, parvo, corona, distemper and the like, and to prevent the spread of such; to help cut down the number of stray animals and problems caused by them; and to keep any and all animals that are injured from unnecessary suffering and possible death.

(Ord. 94-95-12, passed 4-10-95)

§ 91.61 JURISDICTION.

This chapter applies to all public and private lands within the town.

(Ord. 94-95-12, passed 4-10-95)

§ 91.62 ENFORCEMENT; VIOLATIONS.

Persons violating this chapter will be cited as follows:

(A) First offense: A written warning will be issued to the offender.

(B) Second offense: A criminal summons will be issued to the offender.
(Ord. 94-95-12, passed 4-10-95) Penalty, see § 91.99

§ 91.63 ORDINANCES IN CONFLICT.

All ordinances in conflict with the provisions of §§ 91.25 and 91.98 are repealed to the extent of such conflict.
(Ord. 04-05-20, passed 5-9-05)

§ 91.99 PENALTY.

(A) A violation of any of the provisions of this chapter shall constitute a misdemeanor punishable by a fine of not more than \$50, or imprisonment for not more than 30 days, or both, as provided in G.S. § 14-4. Payment of a fine imposed in criminal proceedings pursuant to this section does not relieve a person of the liability for fees and/or penalties imposed under this chapter.

(B) A violation of any of the provisions of this chapter shall also subject the offender to a civil penalty of \$25. The penalty for a second violation shall be \$50, and for a third violation and subsequent violations the penalty shall be \$100. If the offender fails to pay this penalty within 15 calendar days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of a debt.

(C) Each day that any violation continues after a person has been notified that such violation exists and that he or she is subject to the penalties specified in divisions (A) and (B) of this section shall constitute a separate offense.

(D) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.

(E) The town may enforce this chapter by any one or any combination of the foregoing remedies.

(F) Unwanted animals may be given to Pitt County Animal Control or the town police department to be adopted or destroyed per state statute.

(G) In order for the owner to redeem an animal, such owner must first show that the rabies vaccination tag has been procured. In addition, the owner shall pay a penalty of \$25 for allowing the animal to run at-large. The owner must also pay \$10 for the capture and care for the animal.
(Ord. 04-05-20, passed 5-9-05; Am. Ord. 04-05-25, passed 6-13-05)

AYDEN POLICE DEPARTMENT

GENERAL ORDER NO. 15-94

SUBJECT: Handling Dog Complaints

FROM: Chief Roger L. Paul

TO: All Police Department Personnel

EFFECTIVE: January 14, 1994

PURPOSE: This general order establishes a procedure for effective handling of dog complaints.

POLICY: It is the policy of the Ayden Police Department to provide a safe and adequate resolution to all dog complaints within the town limits of Ayden.

I. DOG COMPLAINT PROCEDURE

A: Dog complaints will be handled in the following manner.

1. Collect information from the complainant
 - a) name, address, telephone number
 - b) Type of dog problem
 1. dog running loose, barking, dog bite, etc.
2. Advise the complainant that the Pitt County Dog Warden's Office will be notified.
3. Contact the Pitt County Dog Warden's Office and relay the complaint to them.
4. Document the complaint on the dog complaint form which will be kept in dispatch.
5. If necessary an officer will accompany the Dog Warden to the scene of the complaint and assist.

**AYDEN POLICE DEPARTMENT
GENERAL ORDER 15-94 (CONT'D)**

B. Dog bite complaints will be handled in the following manner.

1. Collect information from complainant.
2. Complete an incident report and the dog complaint form in dispatch.
3. Have officer attempt to locate the animal which caused the bite.
4. Notify the Pitt County Dog Warden's Office of the bite. After hours and on week-ends and holidays have the Pitt County Sheriff's Department page the Dog Warden on call and have them to call Ayden Police Department.
5. If the dog's owner can be found have them to restrain the dog and confine the dog to their property and obtain the owner's name, address, and telephone number and relay this information to the Dog Warden. Advise the dog owner that the Dog Warden will be contacting them.
6. If the owner cannot be found, try to confine the dog, or keep it in sight until the DOG Warden arrives to capture it.
7. In some rare incidences it may become necessary to destroy the dog to protect the public, because of the dogs vicious nature. In this instance try to not injure the dogs head. This is to protect the integrity of the brain which is examined by veterinarians to determine if the dog has rabies.

**AYDEN POLICE DEPARTMENT
GENERAL ORDER 15-94 (CONT'D)**

C. Dog traps

1. The dog traps will be taken to the scene and set up by the Dog Warden.
2. The property owner of the property on which the trap is set is responsible for baiting the trap. This should only be done Monday - Friday as the Dog Warden will not come out to empty the trap on week ends and holidays.
3. If a dog is caught in the trap and it has a rabies tag on its collar, an officer will be sent to the scene and will read the tag and get the number. The officer will then relay the number to dispatch and they will call the Animal Shelter and get the owner's name, address and telephone number. Then contact the dogs owner and tell them that their dog is in an animal trap and see if they will come to the scene and get their dog. When the owner arrives the officer will issue the owner a warning ticket for the first offense, and a citation for subsequent offenses. The charge will be a violation of Town Ordinance.
4. If the dog's owner will not come pick the dog up or cannot be contacted, the Dog Warden will come pick the dog up and take it to Ayden's holding pen. It will be the Officer on duty responsibility to be sure the dog is fed and watered.
5. If the dog does not have a rabies tag, the Dog Warden will pick the dog up and take it to Pitt County Animal Shelter.

AYDEN POLICE DEPARTMENT
GENERAL ORDER 15-94 (CONT'D)

II. SURRENDER OF UNWANTED DOGS

A. Surrender of unwanted dogs will be handled as follows:

1. Anytime a citizen wants to turn in an unwanted dog an officer will accompany the citizen to the Ayden holding pen and allow the citizen to place the dog in the pen. The officer will then lock the gate and contact the Pitt County Dog Warden and inform him that there is a dog in the Ayden Pen that needs to be picked up. The Dog Warden will pick the dog up during his next working day and take the dog to the Pitt County Animal Shelter.

Roger L. Paul
Chief of Police

Date

ANIMAL CONTROL

DATE: _____ TIME: _____ INCIDENT NO. # _____

COMPLAINANT: _____ PHONE NUMBER: _____

ADDRESS: _____

PROBLEM AND DESCRIPTION of ANIMAL: _____

REFERRED TO: _____

TIME: _____ DATE: _____

DISPOSTION: _____

ANIMAL CONTROL

DATE: _____ TIME: _____ INCIDENT NO. # _____

COMPLAINANT: _____ PHONE NUMBER: _____

ADDRESS: _____

PROBLEM AND DESCRIPTION of ANIMAL: _____

REFERRED TO: _____

TIME: _____ DATE: _____

DISPOSTION: _____

Section

General Provisions

- 92.01 Definitions
- 92.02 Superintendent of Cemeteries; powers and duties
- 92.03 Authority of town to modify, suspend cemetery regulations

Purchase of Cemetery Lots

- 92.10 Town to keep plat book of lots
- 92.11 Fees and charges
- 92.12 Purchase of cemetery lots; deed
- 92.13 [Reserved]
- 92.14 Sale of more than four plots prohibited
- 92.15 Assignment, transfer of lot
- 92.16 Proceeds from lot sales
- 92.17 Receipt of gratuity, commission by town employee prohibited

Cemetery Rules and Regulations

- 92.25 Interment regulations
- 92.26 Removal of body to different lot or plot
- 92.27 Right of town to correct errors in interment and the like
- 92.28 Care of cemetery by town
- 92.29 Town to approve all alterations to lots or plots
- 92.30 Planting or pruning trees, shrubs; town approval required
- 92.31 Floral pieces and the like
- 92.32 Markers and monuments
- 92.33 Mausoleums, tombs, and the like
- 92.34 [Reserved]
- 92.35 Perpetual easements for passage to, from plots
- 92.36 Driving vehicles on roadways; speed limits
- 92.37 Disturbances, trespassing prohibited
- 92.38 Construction materials to be removed

Statutory reference:

Authority of municipalities to regulate cemeteries, see G.S. § 160A-341

GENERAL PROVISIONS

§ 92.01 DEFINITIONS.

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

"CERTIFICATE OF OWNERSHIP." The original certificate given by the town of the original purchaser.

"GRAVE LINER." A town approved structure, including lid, to be placed in the open grave into which the casket is placed at the time of interment.

"INTERMENT." The permanent disposition of the remains of a deceased person by cremation, entombment, or burial.

"LOT." The numbered divisions as shown on the recorded plats, each of which consist of one or more plots.

"LOT MARKER." Numbers on concrete or other suitable material used by the town to locate the lot.

"MARKER." A memorial flush with the ground.

"MONUMENT." Shall include a tombstone or memorial of granite or other material, which shall extend above the surface of the ground.

"PLOT." A space of sufficient size to accommodate one adult interment approximately four feet by ten feet.

"TOWN CEMETERIES." Any cemetery owned, operated, or controlled by the town.

"URN." A vase, including lid, to be placed in the open grave into which the remains of a human cremated body is placed at the time of interment.
(Ord. 76-77-2, passed 8-9-76; Am. Ord. 97-98-05, passed 9-8-97; Am. Ord. 01-02-19, passed 5-13-02)

§ 92.02 SUPERINTENDENT OF CEMETERIES; POWERS AND DUTIES.

The Director of Public Works of the town shall act as Superintendent of the town cemeteries and shall exercise such powers and duties conferred upon him by this chapter, and any ordinance, resolution, or order of the Town Manager. The Superintendent shall have charge of the upkeep, protection, and preservation of the cemeteries. He shall be responsible for the digging of all graves and the interment and disinterment of bodies; the erection of monuments and markers; the planting of any shrubbery, trees and flowers; and the making of provisions for the entrance and exit of persons and vehicles to and from the cemeteries.
(Ord. 76-77-2, passed 8-9-76)

§ 92.03 AUTHORITY OF TOWN TO MODIFY, SUSPEND CEMETERY REGULATIONS.

In connection with the town cemeteries, the Board of Commissioners may, and it hereby expressly reserves the right to make exceptions to, suspensions of, or modifications without notice in any of the provisions of this chapter when, in the judgement of the Board of Commissioners, this appears advisable. Such special exceptions, suspensions, or modifications shall not be construed as affecting the general application of the regulation.
(Ord. 76-77-2, passed 8-9-76)

PURCHASE OF CEMETERY LOTS

§ 92.10 TOWN TO KEEP PLAT BOOK OF LOTS.

The Town Clerk shall keep a plat book of the town cemeteries, on which shall be shown

all lots which have been sold and all lots which are for sale.
(Ord. 76-77-2, passed 8-9-76)

§ 92.11 FEES AND CHARGES.

The prices of all lots in the cemeteries, the charges for opening graves, and the charges for other work carried on in the cemeteries not specified in this chapter, shall be fixed by the Board of Commissioners from time to time and maintained on file in the office of the Town Clerk.
(Ord. 76-77-2, passed 8-9-76)

§ 92.12 PURCHASE OF CEMETERY LOTS; DEED.

Any person desiring to purchase a lot in the town cemeteries shall apply to the Town Clerk, who, upon payment for the fixed price of each lot, shall cause a deed or other instrument of receipt to be given the purchaser setting forth the spaces purchased, location, and other data.
(Ord. 76-77-2, passed 8-9-76)

§ 92.13 [RESERVED].

§ 92.14 SALE OF MORE THAN FOUR PLOTS PROHIBITED.

No sale shall be made for more than four grave plots in the cemetery to any family household, without approval of the Board of Commissioners. Any family desiring to purchase more than four grave plots will be advised by the Town Clerk as to the next meeting date of the Board of Commissioners, at which time they may appear.
(Ord. 76-77-2, passed 8-9-76; Am. Ord. 93-94-27, passed 6-13-94)

§ 92.15 ASSIGNMENT, TRANSFER OF LOT.

When the owner of a plot in the cemeteries desires to assign or transfer to another person the space owned by him, he shall first present his original certificate of ownership to the Town Clerk, who, thereupon, shall issue a new certificate of ownership to the new owner and cancel the old certificate of ownership so surrendered, upon payment of deed transfer fee fixed by Board of Commissioners.
(Ord. 76-77-2, passed 8-9-76; Am. Ord. 01-02-19, passed 5-13-02)

§ 92.16 PROCEEDS FROM LOT SALES.

Receipts from the sale of cemetery lots and opening and closing of graves shall go to the General Fund of the town.
(Ord. 76-77-2, passed 8-9-76)

§ 92.17 RECEIPT OF GRATUITY, COMMISSION BY TOWN EMPLOYEE PROHIBITED.

It shall be unlawful for any person, while employed by the town in connection with the town cemeteries, to receive any fee, gratuity, or commission, except from the town, either directly or indirectly. Any person violating this section shall be immediately dismissed from the employment of the town.
(Ord. 76-77-2, passed 8-9-76)

CEMETERY RULES AND REGULATIONS

§ 92.25 INTERMENT REGULATIONS.

(A) The town cemeteries shall be used only for the burial of human dead.

(B) No more than one body or the remains of more than one body shall be interred in a single grave or vault, except in the case of a mother and her newborn baby, or two children.

(C) It shall be unlawful for any person to bury any dead human remains including a fetus within the town limits except in the cemeteries owned, operated or controlled by the town.

(D) It shall be unlawful for any interment in town owned cemeteries to occur without the installation of a grave liner.

(E) Cremations are to be placed in an urn which is to be made of a minimum of heavy duty plastic material. There may be two remains interred into one grave, each in separate urns; one at the head of the grave and one at the foot of the grave. An exception in the case of a newborn baby/small child may be made to place a third Urn in the center of the grave.
(Ord. 76-77-2, passed 8-9-76; Am. Ord. 89-90-12, passed 6-11-90; Am. Ord. 97-98-05, passed 9-8-97; Am. Ord. 01-02-19, passed 5-13-02) Penalty, see § 10.99

§ 92.26 REMOVAL OF BODY TO DIFFERENT LOT OR PLOT.

A body or the remains thereof may be removed from the original lot or plot in which it was buried to a different lot or plot in the cemetery in cases in which there has been an exchange or purchase for that purpose.
(Ord. 76-77-2, passed 8-9-76)

§ 92.27 RIGHT OF TOWN TO CORRECT ERRORS IN INTERMENT AND THE LIKE.

The town may, and it hereby expressly reserves the right to correct an error which may be made by it either in making any interment, disinterment, or removal, or in the description, transfer, or conveyance of any interment property, either by cancelling the conveyance and conveying in lieu thereof other interment property of equal value and similar location insofar as may be possible, or by refunding the amount of money paid on account of the purchase of the property. (Ord. 76-77-2, passed 8-9-76)

§ 92.28 CARE OF CEMETERY BY TOWN.

The town shall undertake and perform the following work in the cemeteries:

(A) All grading, landscape work, and improvements of any kind.

(B) All care of plots.

(C) All planting, trimming, cutting, and removal of trees and shrubs.

(D) All opening and closing of plots.

(E) All interments, disinterments, and removals. (Ord. 76-77-2, passed 8-9-76)

§ 92.29 TOWN TO APPROVE ALL ALTERATIONS TO LOTS OR PLOTS.

All improvements or alterations of lots or plots in the cemeteries shall be under the direction of, and subject to the consent, satisfaction, and approval of the Town Manager and owner of the plot. In the event an agreement to such improvements or alterations cannot be reached between the Town Manager and the owner, the request will be submitted to the Board of Commissioners for approval. (Ord. 76-77-2, passed 8-9-76)

§ 92.30 PLANTING OR PRUNING TREES, SHRUBS; TOWN APPROVAL REQUIRED.

(A) No person shall plant any tree, shrub, flower, grass, or other plant of any kind in the cemetery except with the approval of the Superintendent of Cemeteries. If approved, such planting will be under the supervision of the Superintendent or his designated representative.

(B) No person shall prune or cut any tree or shrub except with the approval of, and under the supervision of the Superintendent or his designated representative. (Ord. 76-77-2, passed 8-9-76)

§ 92.31 FLORAL PIECES AND THE LIKE.

(A) The town shall not be responsible for floral pieces, baskets, or frames in which, or to which floral pieces are attached.

(B) It shall be unlawful for any unauthorized person to remove flowers, floral designs, trees, shrubs, or plants of any kind, unless the owner of the property gives his consent. (Ord. 76-77-2, passed 8-9-76) Penalty, see § 10.99

§ 92.32 MARKERS AND MONUMENTS.

(A) Only one central or family monument shall be placed on a family lot. Markers shall be laid flush with the ground and shall not exceed two feet in length and one foot in width. Markers shall be placed at the end of the grave most distant from the monument. No coping, curb, fencing, hedging, grave mounds, borders, or enclosures of any kind shall be allowed on any burial lot without permission of the Superintendent of Cemeteries and the Town Manager.

(B) It shall be unlawful for any person to erect any monument, marker, or mausoleum in the town cemeteries without first obtaining a permit for such erection from the Town Clerk.

(C) It shall be unlawful to use above ground vault lids as grave markers or monuments.

(D) When two remains are interred into one grave due to cremations, no additional monuments or markers are allowed. All names will have to be on the one allowed monument or marker.

(E) No monument shall be erected in the town's cemeteries unless there is a foundation to consist of concrete mixture. The foundations are not to exceed eighteen inches wide and shall be three inches in depth. (Ord. 76-77-2, passed 8-9-76; Am. Ord. 97-98-05, passed 9-8-97; Am. Ord. 01-02-19, passed 5-13-02) Penalty, see § 10.99

§ 92.33 MAUSOLEUMS, TOMBS, AND THE LIKE.

No mausoleum, tomb, building, or other structure of any kind shall be erected on any lot within the cemeteries or within any extension of the cemeteries. However, mausoleums and tombs may be constructed on lots which may be designated on the cemetery plat from time to time by the Board of Commissioners as lots to be used exclusively for that purpose. If any mausoleum, monument, or tomb at any time becomes unsafe, unsightly, or in need of repair or resetting, the Superintendent of Cemeteries shall notify the owner of the lot, or any person having an interest in the lot, and shall request that person to make the needed repairs under his supervision. If the person fails to make repairs within 30 days thereafter, the Board of Commissioners may order such repairs to be made. (Ord. 76-77-2, passed 8-9-76) Penalty, see § 10.99

§ 92.34 [RESERVED].

§ 92.35 PERPETUAL EASEMENTS FOR PASSAGE TO,
FROM PLOTS.

The town reserves to itself and to those lawfully entitled thereto a perpetual right of ingress and egress over plots in town cemeteries for the passage to and from other plots.

(Ord. 76-77-2, passed 8-9-76)

§ 92.36 DRIVING VEHICLES ON ROADWAYS; SPEED
LIMITS.

Vehicles shall be driven only upon the roadways within the cemeteries and at the rate of speed not to exceed 15 miles per hour. No vehicle shall enter the cemeteries except for the purpose of attending funerals, visiting graves, or any other lawful mission.

(Ord. 76-77-2, passed 8-9-76) Penalty, see § 10.99

§ 92.37 DISTURBANCES, TRESPASSING
PROHIBITED.

No person shall disturb the quiet, repose, and good order of the cemeteries. Trespassing within the cemeteries is hereby prohibited.

(Ord. 76-77-2, passed 8-9-76) Penalty, see § 10.99

§ 92.38 CONSTRUCTION MATERIALS TO BE
REMOVED.

All material carried into the cemeteries and not used in the erection of monuments, markers, or other authorized structures shall be promptly removed by the owner of the lot upon which the monument, marker, or structure is located.

(Ord. 76-77-2, passed 8-9-76) Penalty, see § 10.99

Section

- 93.01 Civil Defense Agency
- 93.02 Emergency location of town government
- 93.03 Declaration of state of emergency; imposition of curfew
- 93.99 Penalty

§ 93.01 CIVIL DEFENSE AGENCY.

The Town Board of Commissioners hereby authorizes the Town Civil Defense Agency to become a part of the overall Pitt County Civil Defense Agency and also authorizes the duly appointed Pitt County Civil Defense Director to perform the duties of the Civil Defense Agency within the corporate limits of the town. ('70 Code, Ch. N, Art. 1)

Statutory reference:

Authority to establish emergency management agencies; coordination with county, see G.S. § 166A-7

§ 93.02 EMERGENCY LOCATION OF TOWN GOVERNMENT.

(A) Whenever the Governor and Council of State acting together declare an emergency to exist by actual or impending hostile attack upon the state, and due to the emergency so declared it becomes imprudent or impossible to conduct the affairs of the town at the regular or usual place, the governing body of the town is hereby authorized to meet from time to time, upon the call of the Presiding Officer, at the designated emergency location of government during the period of the emergency and until the emergency is declared terminated by the Governor and Council of State.

(B) The town designates the Elementary School as the emergency location of the governing body of the town. In the event the location became imprudent or impossible to conduct the affairs, another location may be designated by the Presiding Officer of the governing body. ('70 Code, Ch. N, Art. II)

§ 93.03 DECLARATION OF STATE OF EMERGENCY; IMPOSITION OF CURFEW.

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

(B) In the event of an existing or threatened state of emergency endangering the lives, safety, health, and welfare of

the people within the town, or threatening damage to or destruction of property, the Mayor is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of such a state of emergency, and to impose prohibitions and restrictions during a state of emergency as outlined in G.S. § 14-288.12. In order more effectively to protect the lives, safety, and property of people within the town, the Mayor is also authorized to define and impose a curfew applicable to all persons within the jurisdiction of the town.

(1) The Mayor is authorized and empowered to limit the application of such a curfew to any area specifically designated and described within the corporate limits of the town and to specific hours of the day or night. He may exempt from the curfew police officers, firefighters, doctors, nurses, and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the people within the town.

(2) The Mayor shall proclaim the end of such state and curfew as soon as circumstances warrant or when directed to do so by the Board of Commissioners.

(C) During the existence of a proclaimed state of emergency when a curfew has been imposed, it shall be unlawful for anyone subject to the curfew to do the following:

(1) Be or travel upon any public street, alley, or roadway or upon public property, unless in search of medical assistance, food, or other commodity or service necessary to sustain the well-being of himself or his family or some member thereof;

(2) Possess off one's own premises, buy, sell, give away, or otherwise transfer or dispose of any explosives, firearms, ammunition, or dangerous weapon of any kind;

(3) Sell beer, wines, or intoxicating beverages of any kind; possess or consume the same off one's own premises;

(4) Sell gasoline or any other similar petroleum products, or any other inflammable substance, except as expressly authorized by the provisions of the curfew imposed.

(Ord., passed 11-19-71) Penalty, see § 93.99

Statutory reference:

Authority to enact ordinance to deal with state of emergency, see G.S. § 14-288.12

§ 93.99 PENALTY.

Any person violating any provision of § 93.03 shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$50, or imprisonment not exceeding 30 days, as provided by G.S.

§ 14-4.

(Ord., passed 11-19-71)

Section

Fire Prevention Code

- 94.01 Adoption; enforcement
- 94.02 Modification
- 94.03 Appeals
- 94.04 Storage of explosives, flammable liquids, and liquid petroleum gases

Fire Limits

- 94.15 Fire limits description
- 94.16 Electrical wiring requirements

Fire Hazards

- 94.25 Burning trash
- 94.26 Bonfires
- 94.27 Fire exits; passageways in public places
- 94.28 Stairways
- 94.29 Lots to be kept free from rubbish and the like
- 94.30 Blasting

Regulations During Fires

- 94.40 Fire Chief may deputize citizens
- 94.41 Fire Department apparatus to have right-of-way
- 94.42 Congregating at fires prohibited
- 94.43 Firefighters, police only to ride fire trucks
- 94.44 Fire equipment not to leave town; exception
- 94.45 Driving over fire hose
- 94.46 False alarms prohibited
- 94.99 Penalty

Cross-reference:

Fire Department, see Ch. 34

FIRE PREVENTION CODE

§ 94.01 ADOPTION; ENFORCEMENT.

(A) There is hereby adopted by the town for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code, Abbreviated Edition, recommended by the American Insurance Association, being particularly the 1976 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended by § 94.02. Not less than three copies of this code shall be filed in the office of the Clerk of the town and are hereby adopted and incorporated as fully as if set out at length herein. From the date on which this section shall take effect, the provisions thereof shall be controlling within the limits of the town.

(B) Wherever the word "Municipality" is used in the code hereby adopted, it shall be held to mean the Town of Ayden.

(C) The code hereby adopted shall be enforced by the Chief of the Fire Department. ('70 Code, Ch. C, Art. IV §§ 1-3) (Ord., passed 11-13-72) Penalty, see § 94.99

§ 94.02 MODIFICATION.

The Chief of the Fire Department shall have power to modify any of the provisions of the fire prevention code adopted by § 94.01 upon application in writing by the owner or lessee, or his duly authorized agent, where there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification, when granted or allowed, and the decision of the Chief of the Fire Department thereon shall be entered upon the records of the Fire Department and a signed copy shall be furnished the applicant. ('70 Code, Ch. C, Art. IV § 5)

§ 94.03 APPEALS.

Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the fire prevention code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the Housing Board of Adjustments and Appeals within 30 days from the date of the decision appealed. ('70 Code, Ch. C, Art. IV § 6)

§ 94.04 STORAGE OF EXPLOSIVES, FLAMMABLE LIQUIDS, AND LIQUID PETROLEUM GASES.

The limits referred to in section 12.6 of the fire prevention code adopted by § 94.01, in which storage of explosives and blasting agents is prohibited; the limits referred to in section 16.22 of the fire prevention code in which storage of Class I liquids in outside aboveground tanks is prohibited; and the limits referred to in section 21.6 of the code hereby adopted, in which bulk storage of liquefied petroleum gas is restricted are hereby established as follows: town limits. ('70 Code, Ch. C, Art. IV § 4)

Statutory reference:

Regulation of explosive, inflammable substances, see G.S. § 160A-183

FIRE LIMITS

§ 94.15 FIRE LIMITS DESCRIPTION.

(A) The fire limits shall be as follows: Beginning at the intersection of West Avenue and First Street and running west with First Street to the intersection of Lee Street and First Street; then running south with Lee Street 150 feet to a corner; then west in a line parallel with Second Street 140 feet to an alley; then south with the alley 150 feet to Second Street; then with Second Street in a westerly direction to Venters Street; then with Venters Street in a southerly direction to Third Street, then with Third Street in an easterly direction to Pitt Street; then with Pitt Street in a southerly direction to an alley back of Norcott Funeral Home; then with said alley in an easterly direction to and across Lee Street; then continuing in an easterly direction with said alley to West Avenue; then with West Avenue northerly across Third Street, Second Street; then continuing north with West Avenue to the point of beginning.

(B) The second primary fire limits shall be as follows: Beginning at the intersection of West Third Street and Laurinburg Street; then running north to the Harris Supermarket/Maxwell property; then continuing northwest following the large drainage ditch to West Second Street; then running west with West Second Street to SR 1120 (Jolly Road); then running south with SR 1120 to the rear property line of Pitt Family Physicians; then west along the rear property line of Pitt Family Physicians, Edwards Pharmacy, and First Federal to NC 11; then along the east side of NC 11 south to the southern boundary of the Ayden Middle School property; then running east and north following the Ayden Middle School property to the rear property line of Dr. Harris' property; then running east along the rear property lines of Little Darlings Day Care across Short Street to follow the rear property lines of Southern Bank, Pitt Co. ABC Store and the office complex; then running north with the east property line of the office complex to the point of beginning.
(Ord. 89-90-8, passed 1-8-90)

Statutory reference:

Establishment of fire limits;
restrictions, see G.S.
§§ 160A-435 through 160A-438

§ 94.16 ELECTRICAL WIRING REQUIREMENTS.

(A) All wiring on or in permanent buildings or structures located within the primary fire district shall utilize approved raceways or metal-jacketed cables such as MI

or type MC metal clad (type A.C. not allowed) as permitted by the National Electrical Code.*

(B) All permanent buildings, wherever situated, which are required to have an emergency system power source by the State Building Code shall have the service entrance conductors enclosed in approved raceway. In addition to the above, all portions of the required emergency lighting system for the entire building shall be wired in metal raceway, non-metallic raceways encased in not less than two inches of concrete, mineral-insulated metal-sheathed cable, or type MC cable as permitted by the State Electrical Code. The total area of any specific place of assembly shall include the area of balconies and the area of connecting rooms with movable partitions.*

(C) Each individual gasoline pump, dispenser, lighting standard, or other electrical device located where gasoline or other volatile flammable liquids or liquefied flammable gases are transferred to the fuel tank of any motor vehicle shall be supplied through an individual rigid metal conduit. The above is not intended to prohibit the consolidation within an approved junction box flush with the dispensing island surface.

(D) Service equipment shall not be located in any attic, clothes closet, kitchen storage cabinet, bathroom, toilet room, or coal or truck bin.

(E) All panel boards which have spare pole spaces or spare over-current devices and are set flush in masonry or finished walls shall be provided with at least one one-inch approved raceway or other equivalent provision for future extension. Such raceways, when required, shall be installed to the basement, crawl space, accessible ceiling space or attic, or to a junction box in the ceiling or side wall at the ceiling line.

(Ord. 78-79-3, passed 11-13-78)

*Editorial Note:

Exceptions to divisions (A) and (B): Sound equipment, communication circuits, class 2 and class 3 remote control and signal circuits, and fire protection signalling circuits as permitted in the National Electric Code.

FIRE HAZARDS

§ 94.25 BURNING TRASH.

(A) For the purpose of this section the following definition shall apply unless the context clearly indicates or requires a different meaning.

"OPEN BURNING." Any fire wherein the products of combustion are emitted directly into the outdoor atmosphere and not directed thereto through a stack or chimney, approved incinerator, or other similar device as

approved by the Air Quality Division of the State Department of Natural and Economic Resources.

(B) No person, firm, or corporation shall cause, suffer, allow, or permit open burning of refuse or other combustible material within the corporate limits of the town, except as follows: Fires purposely set for the instruction and training of public and industrial firefighting personnel. This action cannot take place until approval has been received from the Air Quality Division of the State Department of Natural and Economic Resources.

('70 Code, Ch. C, Art. II § 1) (Ord., passed 8-13-73) Penalty, see § 94.99

§ 94.26 BONFIRES.

No person shall kindle or maintain any bonfire, knowingly furnish material for such a fire, or authorize any such fire to be kindled or maintained on or in any street, alley, road, lane, or other public ground or upon any private lot within the town, unless a written permit authorizing such a fire is first secured from the Fire Chief. The Fire Chief shall contact the Office of Air Quality Division of the State Department of Natural and Economic Resources to determine if each permit that is requested is allowed under the rules and regulations as set forth by the State Board of Water and Air Resources.

('70 Code, Ch. C, Art. II § 2) (Ord., passed 8-13-73) Penalty, see § 94.99

§ 94.27 FIRE EXITS; PASSAGEWAYS IN PUBLIC PLACES.

(A) Encumbering fire exits. No person shall at any time place any encumbrance of any kind before or upon any fire escape, balcony, or ladder intended as a means of escape from fire. ('70 Code, Ch. C, Art. II § 3)

(B) Exit signs in theaters. Every exit in any theater or motion picture house shall be plainly indicated by a sign having the word "Exit" thereon, which sign shall be kept lighted throughout each performance. ('70 Code, Ch. C, Art. II § 4)

(C) Passageways in places of public assemblage to be kept open. All doors, aisles, and passageways within and leading into or out of any theater, church, or other place of public assemblage shall, during the entire time any show, performance, service, exhibition, lecture, concert, ball, or other assemblage may be held therein, be kept adequately lighted and free from any article which might obstruct or delay the exit of the audience, congregation, or assemblage. Doors of such buildings, while occupied, shall not be so fastened that they cannot easily be opened from within. No person shall sit or stand, nor shall the owner or operator allow any person to remain in any

aisle, exit, or passage required for the safe exit of the audience, in any such place of public assemblage. Clear passage from all exits and upon all outside sidewalks of all places of public assemblage shall be maintained at all times. No aisle, passageway, or stairway in any store shall be obstructed with tables, showcases, or other obstructions during the hours the store is open to the public. ('70 Code, Ch. C, Art. II § 5) Penalty, see § 94.99

§ 94.28 STAIRWAYS.

It shall be unlawful to store under any stairway or other means of egress any combustible or explosive material.

('70 Code, Ch. C, Art. II § 6) Penalty, see § 94.99

§ 94.29 LOTS TO BE KEPT FREE FROM RUBBISH AND THE LIKE.

It shall be unlawful for any person to permit rubbish, refuse, or articles of a combustible or inflammable nature to accumulate or remain on any lot or premises.

('70 Code, Ch. C, Art. II § 7) Penalty, see § 94.99

§ 94.30 BLASTING.

It shall be unlawful to do any blasting without first securing a permit from the Fire Chief.

('70 Code, Ch. C, Art. II § 9)

REGULATIONS DURING FIRES

§ 94.40 FIRE CHIEF MAY DEPUTIZE CITIZENS.

During the continuance of any fire, the Fire Chief or Assistant Chief shall have the power to call on any and all persons to assist in extinguishing a fire, in pulling down or blowing up any building on fire or in danger, and in making arrests. However, no building shall be blown up, pulled down, or in any way damaged or destroyed without the consent of the Fire Chief or Assistant Chief.

('70 Code, Ch. C, Art. I § 7) Penalty, see § 94.99

§ 94.41 FIRE DEPARTMENT APPARATUS TO HAVE RIGHT-OF-WAY.

In the event of an alarm of fire, the apparatus of the Fire Department shall have the right-of-way in and upon the streets, lanes, alleys, squares, and crossings in answering the alarm. It shall be unlawful for any person to fail or refuse to yield the right-of-way to the Fire Department when responding to an alarm.

('70 Code, Ch. C, Art. I § 8) Penalty, see § 94.99

§ 94.42 CONGREGATING AT FIRES PROHIBITED.

It shall be unlawful to congregate on the streets, alleys, or blocks next to a fire in such a manner as will interfere with the Fire Department in the performance of its duties. ('70 Code, Ch. C, Art. I § 10) Penalty, see § 94.99

§ 94.43 FIREFIGHTERS, POLICE ONLY TO RIDE FIRE TRUCKS.

No person other than members of the Fire and Police Departments shall ride upon or in any fire engine, wagon, or apparatus at any time, unless by permission of the driver or officer in charge. ('70 Code, Ch. C, Art. I § 14) Penalty, see § 94.99

§ 94.44 FIRE EQUIPMENT NOT TO LEAVE TOWN; EXCEPTION.

No fire truck or other apparatus of the Fire Department shall leave the town, except with the consent of the Fire Chief. ('70 Code, Ch. C, Art. I § 15) Penalty, see § 94.99

§ 94.45 DRIVING OVER FIRE HOSE.

It shall be unlawful for any person to drive any vehicle over any fire hose. ('70 Code, Ch. C, Art. I § 13) Penalty, see § 94.99

§ 94.46 FALSE ALARMS PROHIBITED.

It shall be unlawful for any person to give or cause to be given any false alarm of fire. ('70 Code, Ch. C, Art. I § 11) Penalty, see § 94.99

§ 94.99 - PENALTY.

(A) The penalty for any provision of this chapter for which another penalty is not already otherwise provided, shall be as set forth in § 10.99.

(B) Any person who shall violate any of the provisions of the fire prevention code adopted in § 94.01 or fail to comply therewith; who shall violate or fail to comply with any order made thereunder; who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or who shall fail to comply with such an order as affirmed or modified by the Housing Board of Adjustments and Appeals or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor,

and subject to a fine not to exceed \$50 or by imprisonment not to exceed 30 days. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense. The application of this penalty shall not be held to prevent the enforced removal of prohibited conditions. ('70 Code, Ch. C, Art. IV § 7)

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Cross-reference:

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Statutory reference:

Regulation of trash and garbage,
see G.S. § 160A-303.1

GENERAL PROVISIONS

§ 95.01 DEFINITIONS.

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

"ASHES." Refuse resulting from the burning of wood, coal, coke, and other combustible material.

"AUTOMOTIVE WASTE." Tires, wheels, shock absorbers, body parts, and chassis.

"BUILDING RUBBISH." Refuse from the construction, remodeling, and repair of houses, commercial buildings, and other structures, included but not limited to excavating earth, stones, brick, lumber, plaster, concrete, shingles, insulation, and waste parts generated by the installation and replacement of structures and facilities.

"BULK CONTAINERS." A waterproof metal container of not less than one nor more than six cubic yards in size, equipped with a liquid drain and a hinged lid, and compatible with the town's collection vehicles.

"GARBAGE." Animal and vegetable refuse resulting from the handling, preparation, cooking, and consumption of food, including a minimum amount of liquid necessarily incidental thereto.

"INDUSTRIAL WASTE." Waste from factories, processing plants, and other manufacturing enterprises.

"MOBILE REFUSE CONTAINERS." Rolling, plastic, and steel refuse containers with a capacity of 80 to 90 gallons, designed for storage of residential and small business refuse and capable of being automatically dumped by the town's residential and business collection equipment.

"PUBLIC WORKS DIRECTOR." The Town Director of the Public Works Department providing sanitation service or his designated agent.

"RUBBISH." Refuse (exclusive of garbage and ashes) including but not limited to paper, rags, cartons, boxes, wood, rubber, leather, tree bush and hedge branch cuttings and trimmings, yard trimmings, grass, leaves, pine straw, tin cans, metal, glass, crockery, dirt, earth, dust, garden plants, tobacco leaves, corn shucks, and the like.

"WASTE." Unwanted or discarded material resulting from community activities including solids, liquids, and gases. (Ord. 80-81-5, passed 9-8-80; Am. Ord. 85-86-10, passed 5-12-86)

§ 95.02 DISPOSAL OF RUBBISH IN YARD, ON PREMISES PROHIBITED.

It shall be unlawful for any person to throw, drop, or deposit upon any yard or premises, whether public or private, any garbage, trash, rubbish, or filth of any kind.

(Ord. 80-81-5, passed 9-8-80; Am. Ord. 85-86-10, passed 5-12-86) Penalty, see § 95.99

§ 95.03 SWEEPING RUBBISH INTO STREETS PROHIBITED.

It shall be unlawful for any person to throw, deposit, sweep, or rake into any street, sidewalk, or gutter any leaves, refuse, ashes, waste, loose paper, or other waste matter.

(Ord. 80-81-5, passed 9-8-80; Am. Ord. 85-86-10, passed 5-12-86) Penalty, see § 95.99

§ 95.04 TRANSPORTING GARBAGE INTO TOWN FOR DISPOSAL PROHIBITED.

It shall be unlawful for any person to haul or carry any garbage, rubbish, debris, or other refuse matter into the town from outside the town and leave or deposit it within the town.

(Ord. 80-81-5, passed 9-8-80; Am. Ord. 85-86-10, passed 5-12-86) Penalty, see § 95.99

§ 95.05 HAULING RUBBISH IN PRIVATE VEHICLES.

It shall be unlawful for any person to haul or have hauled, carried, or transported any rubbish or debris on any street in the town in any car, truck, or vehicle unless the rubbish or debris is secured or covered in such a manner as to prevent its escape from the car, truck, or vehicle.

(Ord. 80-81-5, passed 9-8-80; Am. Ord. 85-86-10, passed 5-12-86) Penalty, see § 95.99

§ 95.06 TOWN TO PERFORM GARBAGE COLLECTION.

No person, other than the town, shall perform for pay the service of collecting, hauling, and disposing of garbage, rubbish, and the like from within the town limits unless approved to do so by the Town Manager or Public Works Director.

(Ord. 80-81-5, passed 9-8-80; Am. Ord. 85-86-10, passed 5-12-86) Penalty, see § 95.99

§ 95.07 CHARGES FOR COLLECTION OF GARBAGE.

For the service of collecting and hauling of garbage and rubbish, the owner or

occupant of each premises from which garbage and rubbish is collected by the town shall be charged such rates as may be established from time to time by the Board of Commissioners. The charge shall be considered a debt owing to the town from the owner or occupant of the premises and shall be billed along with the bill for other utility services.

(Ord. 80-81-5, passed 9-8-80; Am. Ord. 85-86-10, passed 5-12-86)

§ 95.08 INTERFERENCE WITH RECEPTACLES SET OUT FOR COLLECTION.

No person shall pick through, handle, or interfere with the contents of any receptacle set out for removal of the contents by the town.

(Ord. 80-81-5, passed 9-8-80; Am. Ord. 85-86-10, passed 5-12-86) Penalty, see § 95.99

RESIDENTIAL COLLECTION

§ 95.20 DEFINITION.

For the purpose of this subchapter the following definition shall apply unless the context clearly indicates or requires a different meaning.

"RESIDENTIAL." A class of location eligible for service under this chapter which shall include single-family dwellings, apartments, multi-family dwellings, tourist homes, nursing homes, and boarding or rooming houses.

(Ord. 85-86-10, passed 5-12-86)

§ 95.21 MOBILE REFUSE CONTAINERS.

Locations as determined by the Public Works Director shall store their garbage and other refuse in 80 to 90 gallon mobile refuse containers compatible with town collection equipment. The owner, tenant, lessee, or occupant shall be responsible for cleaning mobile refuse containers issued to their residence.

(Ord. 80-81-5, passed 9-8-80; Am. Ord. 85-86-10, passed 5-12-86) Penalty, see § 95.99

§ 95.22 CARE AND MAINTENANCE OF CONTAINERS; PROHIBITED WASTE MATERIAL.

(A) Mobile refuse containers provided by the town shall remain the property of the town and are provided and assigned to for health, safety, convenience, and general welfare of the occupants. Containers which are damaged, destroyed, neglected, improperly used, or removed by the occupant-user shall be replaced by the town at the expense of the occupant or the owner of the premises. Containers which are damaged in the course of normal and reasonable usage or which are damaged, destroyed, neglected, or stolen through no abuse, neglect, or improper use of the occupant-user shall be repaired or replaced by the town at no charge to the occupant-user. Containers

shall not be damaged, destroyed, defaced, or removed from the premises by any person. Marking and identification devices on the containers, except as placed or specifically permitted by the town, are expressly prohibited and shall be regarded as damage to the containers.

(B) The following material shall not be placed on or within the mobile refuse containers: rocks, dirt, sod, gasoline, oil, flammable liquids, solvents, hot coals or ashes, blocks, cement, heavy building materials, paint, animal carcasses, hard metal of any type or size and any materials or objects that at the discretion of the Public Works Department may in any manner damage the equipment used to collect solid waste. Violations of these prohibitions will be treated as abuse and improper use of the container. In addition, no pet litter, animal waste, or disposable diapers shall be placed within a mobile refuse container for collection unless the material is first thoroughly sealed within a plastic or paper bag. If the owner, tenant, lessee, or occupant of any location shall vacate the premises while in possession of a mobile refuse container, notification shall be made to the town for pick-up prior to their departure. Damage to containers shall be reported immediately to the town.
(Ord. 80-81-5, passed 9-8-80; Am. Ord. 85-86-10, passed 5-12-86; Am. Ord. 01-02-15, passed 2-11-02) Penalty, see § 95.99

§ 95.23 GARBAGE COLLECTION SCHEDULE.

(A) Garbage will be collected up to two times per week. Containers shall be placed in the required location for collection no earlier than 5:00 p.m. on the day preceding the designated pick-up day and shall be removed from the curb side location no later than 7:00 p.m. on the scheduled pick-up day.

(B) Trash will be collected once per week and shall be placed in the required location for collection on or before 7:00 a.m. on Monday of each week.

(C) Except during the hours set forth in division (A), the mobile refuse containers shall be kept in a location no closer to the street than the front line of the residence or business. The Director shall be responsible for publication of collection routes and collection days. Schedule adjustments in collection resulting from holidays will be announced by the Director.

(Ord. 80-81-5, passed 9-8-80; Am. Ord. 85-86-10, passed 5-12-86; Am. Ord. 88-89-2, passed 7-11-88)

§ 95.24 SPECIAL COLLECTION SERVICE FOR LARGE LOADS.

There shall be a charge for removing large loads of household trash including

discarded lumber, furniture, tree limbs, and other similar items. Charges for large loads shall be determined by the Director of Public Works/Utilities or his designated representative. All such loads shall be placed adjacent to the curb or street edge.
(Ord. 80-81-5, passed 9-8-80; Am. Ord. 85-86-10, passed 5-12-86; Am. Ord. 88-89-2, passed 7-11-88)

§ 95.25 BUILDERS AND CONTRACTORS TO REMOVE DEBRIS.

(A) Building rubbish, debris, and trash shall be collected, removed, and disposed of on a weekly basis by the builder or contractor generating the litter. If the builder or contractor fails to dispose of the rubbish as set forth, the property owner or occupant shall be required to do so at his own expense.

(B) In those instances where yard and tree work is contracted out, all tree limbs, trimmings, shrubbery, and the like shall be removed daily by the person hired to do the work or by the owner or occupant of the premises where it may be located at his own expense. In the event the occupant or owner is unable to remove the accumulations it shall be collected at the request of the owner or occupant by town forces at a cost to be determined by the Director of Public Works.

(C) Disposal of items listed in divisions (A) and (B) above may be made at the Pitt County Landfill located on Allen Road. Interested persons may contact Town Hall for directions.

(Ord. 80-81-5, passed 9-8-80; Am. Ord. 85-86-10, passed 5-12-86)

§ 95.26 PLACEMENT AND PREPARATION OF GARBAGE FOR COLLECTION.

(A) Refuse containers shall be placed within five feet of the curb or street edge or in any other accessible location approved by the Public Works Director. Refuse containers shall not be placed on any street or sidewalk.

(B) Residents shall prepare trash for collection as follows:

(1) All trash shall be placed adjacent to the curb or street edge but not on any sidewalk, in any street, or gutter line on any street, road, ditch, drainage ditch, or highway within the town.

(2) Tree, hedge, and shrubbery limbs, branches, and similar materials shall be no more than six inches in diameter, nor more than four feet in length and shall be placed neatly in a pile adjacent to the curb or the street edge. No individual piece shall exceed 50 pounds in weight. Limbs, branches, and the like shall not be placed

on the sidewalk, in the street, or gutter line on any street, road, or highway within the town.

(3) All shrubbery trimmings, grass cuttings, garden plants, corn shucks, pine straw, and lightweight loose trash and small objects including such materials as paper, tin cans, glass, and the like shall be placed in the town-provided mobile refuse container or beside the town-provided container in which case these objects shall be placed in disposable polyethylene bags, cardboard cartons, burlap sheets, or similar containers and collected with the town-provided rollouts on the designated garbage collection day. Also, household trash not exceeding 50 pounds in weight will be collected with and during regular residential garbage pick-up if placed in disposable containers as listed. This shall exclude rock, brick, earth, limbs, trees, and the like. All trash must be placed in containers that will not be returned to the owner or occupant of the property from which the trash is being collected.

(4) Leaves may be placed for collection in loose piles or windrowed during the declared leaf season October 15 through January 15. At no time may leaves be placed on any sidewalk, nor in any ditch, street, drainage ditch, gutters or gutter line, road, or highway within the town. During leaf season, leaves shall be placed adjacent to the curb, or where no curb exists, adjacent to the pavement edge or shoulder of streets and highways within the town for collection. Other than leaf season as set forth, all leaves must be placed in disposable containers (polyethylene bags, cardboard cartons, burlap sheets, and the like) and stacked neatly adjacent to the curb, street edge, or shoulder of highways or streets within the town's corporate limits.
(Ord. 80-81-5, passed 9-8-80; Am. Ord. 85-86-10, passed 5-12-86) Penalty, see § 95.99

§ 95.27 EXEMPTION.

(A) In order to protect the public health, insure adequate solid waste collection, and prevent undue hardships to the aged, handicapped, and disabled, the Public Works Director is authorized to vary the requirements of this subchapter relating to placement of the container at a curbside location for collection after conducting a thorough investigation and finding that there is no person living within a particular residence unit who is physically capable of placing the container in the required location for pick-up.

(B) Residents eligible for exemption from curbside service are required to have eligibility renewed on an annual basis by providing an updated doctor's note to the town.
(Ord. 85-86-10, passed 5-12-86; Am. Ord. 01-02-15, passed 2-11-02)

§ 95.28 IMPROPERLY PLACED OR PREPARED GARBAGE.

All items accumulated by residents for collection by town forces and stored, placed, or bundled contrary to this subchapter, shall not be collected until the situation is corrected. The Director of Public Works shall be the sole judge when interpreting this subchapter and shall notify the resident of noncompliance explaining why the rubbish was not picked up and the steps necessary in order that it may be collected on the next scheduled collection day.
(Ord. 85-86-10, passed 5-12-86) Penalty, see § 95.99

COMMERCIAL AND INDUSTRIAL COLLECTION

§ 95.40 CONTAINERS.

(A) Commercial and industrial establishments, including businesses, schools, multi-family residences, and other such uses shall be serviced by a solid waste collection service, and shall be required to dispose of their solid wastes on regular intervals as needed. Establishments shall be required to store their garbage, trash, or other wastes in appropriate, approved solid waste containers, sized equivalent to their needs, and approved and authorized by the Town Public Works and Utilities Director.

(B) Garbage shall only be stored in containers that are durable, rust resistant, nonabsorbent, watertight, and easily cleanable, with a close-fitting fly-tight cover in place.
(Ord. 85-86-10, passed 5-12-86; Am. Ord. 92-93-2, passed 8-10-92)

§ 95.41 LOCATION.

(A) The location of solid waste containers shall be chosen with regard to the best interest of public safety, nuisance abatement, and community appearance. The location or placement of solid waste containers shall be approved by the Public Works and Utilities Director. Containers other than mobile refuse containers used in the collection of solid waste shall be placed on a concrete platform.

(B) Containers shall be located in a manner that will not provide harborage to rodents and vermin and will not create a fire hazard.
(Ord. 85-86-10, passed 5-12-86; Am. Ord. 92-93-2, passed 8-10-92)

§ 95.42 CARE AND MAINTENANCE
OF CONTAINERS .

(A) Solid waste containers are required for the health, safety, convenience, general welfare, and appearance of the community and the establishment. The owner/occupant of an establishment is responsible for the care and maintenance of all solid waste containers for that establishment. Containers which are damaged, are in bad repair, or need painting, shall be replaced or repaired as needed. The Public Works and Utilities Director may determine when solid waste containers are deemed to need replacing. It is the responsibility of the occupant/owner of an establishment to replace or repair containers as needed or as directed by the Public Works and Utilities Director.

(B) Any containers owned by the town that are damaged, neglected, destroyed, or improperly used by the occupant or owner of an establishment shall be replaced at the expense of the occupant-owner. Any containers owned by the town that are deteriorated through the course of normal use may be replaced by the town at its expense and discretion.

(C) The owner/occupant of an establishment shall be responsible for the appearance around their container and shall exercise reasonable diligence at all times to keep the area clean of waste paper, wrapping paper, cartons, package containers, and other used or waste materials thrown or left on the premises by customers or others, and to take reasonable measures to prevent the same from drifting or blowing to adjoining premises. Containers shall be kept clean and sanitary at all times and the lids shall be kept closed at all times except when depositing waste therein or removing the contents thereof.
(Ord. 85-86-10, passed 5-12-86; Am. Ord. 92-93-2, passed 8-10-92) Penalty, see § 95.99

§ 95.43 PROHIBITED WASTE MATERIALS.

No person shall place any of the following items in containers:

- (A) Construction and demolition wastes.
- (B) Hazardous, radioactive, or medical wastes.

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(C) Burning or smoldering materials or any other materials which could create a fire hazard.

(D) Rocks, dirt, sod, paint, gasoline, hot coals or ashes, blocks, and cement.

(E) Oil, flammable materials, building materials, limbs, animal carcasses, hard metal of any type or size, and any materials or objects that at the discretion of the Director of Public Works and Utilities may in any manner damage the equipment used to collect solid waste.

(F) Any materials that have been banned either by the town, county, or the state from the solid waste stream, or any materials for which recycling, reduction, or reuse alternatives are reasonably available and effective.
(Ord. 85-86-10, passed 5-12-86; Am. Ord. 92-93-2, passed 8-10-92) Penalty, see § 95.99

§ 95.44 RECYCLING.

All commercial and industrial establishments shall be required to integrate recycling, reduction, and reuse systems in their solid waste management operations to the extent that such methods or options for such are reasonably available and effective.
(Ord. 92-93-2, passed 8-10-92)

§ 95.99 PENALTY.

Any person violating any of the provisions of this chapter or failing to comply herewith, shall be guilty of a misdemeanor, and shall be punished as provided in G.S. § 14-4.
(Ord. 80-81-5, passed 9-8-80; Am. Ord. 85-86-10, passed 5-12-86)

AYDEN

GARBAGE AND TRASH

24

Section

General Provisions

- 96.01 Accumulation of harmful substances declared to be public nuisance

Weeds, Vegetation, Refuse Accumulation and Other Public Nuisances

- 96.10 Declared to be public nuisance

Enforcement and Abatement

- 96.20 Enforcement
96.21 Nuisances abatement procedures
96.99 Penalty

GENERAL PROVISIONS

§ 96.01 ACCUMULATION OF HARMFUL SUBSTANCES DECLARED TO BE PUBLIC NUISANCE.

(A) The unloading, depositing, or piling of fertilizer, lime, manure, agricultural or industrial chemicals, or like substances and allowing such substances to remain uncovered or unprotected so that adjacent or nearby private property is likely to be injured by substances being carried from these piles or accumulations by the air, on the ground, or by drainage flow is hereby declared to be a public nuisance detrimental to the health and safety of the inhabitants of the town.

(B) Pursuant to G.S. §§ 160A-174(a) and 160A-193, it shall be unlawful for any person, firm, or corporation to allow the conditions described in division (A) above to remain upon property owned or leased by the person, firm, or corporation.
(Ord. 08-09-32, passed 3-9-09) Penalty, see § 96.99

WEEDS, VEGETATION, REFUSE ACCUMULATION AND OTHER PUBLIC NUISANCES* § 96.10 DECLARED TO BE PUBLIC NUISANCE.

The following enumerated and described conditions are hereby found, deemed and declared to constitute a detriment, danger and hazard to the public health and the public safety of the inhabitants of the town and are found, deemed and declared to be public nuisances wherever the same may exist and the creation, maintenance, or failure to abate any nuisance is hereby declared unlawful:

(A) Any condition which is a breeding ground or harbor for mosquitoes or a breeding ground or harbor for rats or other pests;

(B) A place of heavy growth of weeds, grasses, vines or other vegetation over 12 inches in height;

(C) A place of growth of vines, shrubs, or other vegetation when the condition is causing a breeding ground for rodents or is a focal point for any other nuisance enumerated in this section;

(D) A place of growth of poison sumac, poison ivy, poison oak, or other noxious vegetation;

(E) An open place of collection of stagnant water where insects tend to breed;

(F) Any 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 or objects of a like nature;

(G) Any concentration of building materials including concrete, steel, or masonry which are not suitable for building construction, alterations or repairs, and which are in open places;

(H) An open place of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; provided, however, nothing in this division shall be construed to prevent the generally accepted use of a properly maintained compost pile or storage of animal manure being used as fertilizer for lawns and gardens and for other agricultural or horticultural purposes;

(I) Any household or office furniture, appliances, or metal products of any kind kept in open places or indoor upholstered furniture kept outside of a fully enclosed structure;

(J) Any products which have jagged edges of metal or glass or areas of confinement kept in open places;

(K) Any open place of concentration of trash, refuse, discarded bottles, cans or medical supplies;

(L) Any condition whereby any fence, sign, billboard, shrubbery, bush, tree, mailbox, or other object or combination of objects which obstructs the view of motorists using any street, private driveway, or approach to any street intersection adjacent to and abutting such and so as to constitute a traffic hazard or obstruction as a condition dangerous to public safety upon any street, private driveway, or at any street intersection;

(M) Any building, structure, fence, or retaining wall, or portion thereof, declared to be unsafe by the Code Enforcement Officer, or Building Inspector where applicable, and which is in danger of collapse so that it may fall and injure members of the public or damage public or private property;

(N) Any improper or inadequate drainage, as determined by the Director of Public Works and Utilities, on private property, which causes flooding, interferes with the use of, or endangers in any way the streets, sidewalks, parks or other town owned property of any kind;

(O) Any condition, as determined by the Director of Public Works, which blocks, hinders, or obstructs in any way the natural flow of branches, streams, creeks, surface waters, ditches, or drains; or

(P) Any other condition declared to be dangerous or prejudicial to the public health or public safety and a public nuisance by the Board of Commissioners.
(Ord. 08-09-32, passed 3-9-09)

ENFORCEMENT AND ABATEMENT

§ 96.20 ENFORCEMENT.

The Town Manager and Code Enforcement Officer shall be responsible for the administration and enforcement of this chapter and are authorized to exercise such powers as may be necessary to carry out the intent and provisions of this chapter. (Ord. 08-09-32, passed 3-9-09)

§ 96.21 NUISANCES ABATEMENT PROCEDURES.

When any public nuisance as set out in §§ 96.01 or 96.10 is found to exist on any property within the town's corporate limits, the following procedures shall be followed.

(A) The Town Manager and Code Enforcement Officer shall have the following authority:

- (1) To enter upon property;
- (2) To obtain an administrative search and inspection warrant, if necessary, as provided in G.S. § 15-27.2;
- (3) To issue a notice of violation and impose civil penalties;
- (4) To enter upon or authorize an agent to enter upon and clean up premises in violation of this section;
- (5) To utilize the services of an outside contractor to clean up premises in violation of this section; and
- (6) To summarily remove, abate, or remedy everything in the town limits that is considered by ordinance to be either dangerous or prejudicial to the public health or which has been declared to be a nuisance.

(B) Where any public nuisance as set out in §§ 96.01 or 96.10 requires immediate abatement to avoid and prevent an immediate and dangerous threat to the health, safety, and welfare of the inhabitants of the town and would degrade adjoining properties as determined by the Town Manager or Code Enforcement Officer, the nuisance may be summarily removed and abated by the town without prior notice to the property owner. The owner as determined from the tax records of County of Pitt shall be responsible for all abatement costs, administrative fees, and civil penalties as provided in § 96.99.

(C) Notices or orders issued by the Town Manager or Code Enforcement Officer under this chapter shall be served on the owner or the property manager of the identified property by either hand delivery or by registered or certified mail and regular mail. Service by mail shall be deemed complete by depositing the notice or order in the mail at the address listed in the County of Pitt tax records postage prepaid. When the manner of service is by registered or certified mail and regular mail and the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the Post Office within ten days of mailing, service is deemed sufficient. The person mailing the notice or order by regular

mail shall certify that fact and the date of the mailing and the certification shall be conclusive evidence of service in the absence of fraud.

(D) Except in situations identified in division (B) above, notification to the property owner will advise that the conditions that exist on the identified property constitute a public nuisance and shall be abated within ten days of the date of the notification and that failure to abate or remove the nuisance shall result in the owner's assessment of the costs of abatement or removal, imposition of administrative fees and the assessment of a civil penalty as identified in § 96.99. The Town Manager or Code Enforcement Officer may afford the owner additional time to remove or abate the nuisance if the failure was caused by weather conditions or other factors as determined by the Town Manager or Code Enforcement Officer not to have been within the control of the owner.

(E) Upon abatement of the nuisance, the Town Manager or Code Enforcement Officer shall create a written statement of the actual costs incurred by the town, including time and materials expended by the town, the amounts charged by private contractors, administrative fees and civil penalty, if applicable, to the owner of the property with instructions that the charges are due and payable within 30 days of the date that the statement is mailed. The written statement shall be delivered in the same manner as provided by division (C) above. If the charges are not paid within 30 days, then the Town Tax Collector shall cause the costs associated with the abatement as provided in the statement to be filed as a lien on the subject property with the charges to be collected and enforced in the same manner as unpaid taxes.

★ (F) Notwithstanding any other provision of this section, the Town Manager or Code Enforcement Officer may notify a chronic violator that if the chronic violator's property is determined to be a nuisance as defined in § 96.10, the town shall, without further notice in the calendar year in which the notice is given, take action to remedy the violation. The expense of the action, including the actual cost to remedy the violation and an administrative fee and civil penalties as provided in § 96.99, shall become a lien upon the property, and shall be collected as unpaid taxes. For the purpose of this section, a chronic violator is a person who owns property whereupon, in the previous calendar year, the town gave notice of violation at least three times under any provision of this chapter.

(G) In addition to the nuisances abatement procedures provided by this chapter, the town reserves the right to utilize any other remedies available under applicable law, including, but not limited to, proceeding in a criminal action against any person, firm, or corporation violating the provisions of this chapter as provided in G.S. § 14-4.
(Ord. 08-09-32, passed 3-9-09; Am. Ord. 09-10-26, passed 6-28-10)

* § 96.99 PENALTY.

Any owner of a property whose property shall be declared a public nuisance as provided in this chapter shall be subject to a civil penalty in the amount of \$50 per day for each day the nuisance exists beginning on the first day following the ten day abatement period provided in § 96.21(D). If a person fails to pay the civil penalty within 30 days after being notified of the amount due, the city may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.
(Ord. 08-09-32, passed 3-9-09)

Section

- 97.01 Establishment of public library system
- 97.02 Library Board of Trustees
- 97.03 Responsibilities, duties, and meetings of Library Board of Trustees

§ 97.01 ESTABLISHMENT OF PUBLIC LIBRARY SYSTEM.

The town, by virtue of authority granted by its Charter and state law is authorized to establish, operate, and support public libraries.
(Ord. 74-75-8, passed 2-10-75)

§ 97.02 LIBRARY BOARD OF TRUSTEES.

(A) There is hereby created a Library Board of Trustees of the town, which shall be composed of not less than six nor more than 12 members, appointed by the Board of Commissioners to serve a three-year term. The members shall be residents of the Ayden Library District, defined as the area surrounding the town that is served by the town's utilities, or has a town address, or that is served by a town telephone number exchange.

(B) Vacancies among the membership shall be filled by the Board of Commissioners and the successor shall fill the unexpired term of the vacant member. The Board of Commissioners may remove a trustee at any time for incapacity, unfitness, misconduct, or neglect of duty.

(C) No member shall serve longer than three consecutive full terms. Individuals serving three consecutive full terms must sit off the Board for one calendar year before eligible for reappointment. This policy may be waived if the Board of Commissioners determines that the removal of the individual made ineligible by this statute would place the functioning of the Board at a disadvantage or if the town does not receive any applications from qualified individuals after advertising for two consecutive weeks.
(Ord. 74-75-8, passed 2-10-75; Am. Ord. 92-93-10, passed 4-12-93; Am. Ord. 02-03-10, passed 9-9-02; Am. Ord. 06-07-33, passed 1-22-07; Am. Ord. 10-11-06, passed 11-8-10)

§ 97.03 RESPONSIBILITIES, DUTIES, AND MEETINGS OF LIBRARY BOARD OF TRUSTEES.

(A) The Board of Commissioners hereby delegates to the Board of Trustees the following responsibilities and duties:

(1) To formulate and recommend programs, policies, and regulations for the library to the Board of Commissioners involving the use of operational funds for implementation. To formulate and adopt policies and regulations involving non-operational funded programs.

(2) To make recommendations to the Board of Commissioners concerning the construction and improvement of buildings and other structures for the library.

(3) To make recommendations for the care and maintenance of library facilities.

(4) To formulate and recommend a schedule of fines and charges for late returns or failure to return, damage to, and loss of library materials to the Board of Commissioners.

(5) To participate in the preparation and recommendation of the annual budget for the library to the Board of Commissioners.

(6) To recommend the hours of operation for the library and make recommendations to the Town Manager concerning duties and responsibilities of the librarian.

(7) To select from its membership a Chairman and such other officers as necessary, and to adopt bylaws under which it will operate.

(8) To otherwise advise the Board of Commissioners on library matters.

(B) The Library Board of Trustees shall hold at least one meeting quarterly, and all of its meetings shall be open to the public. Whenever a regular meeting of the Library Board of Trustees falls on a town-observed public holiday, it is automatically rescheduled for the next weekday or other date as determined by the Library Board. No regular or special meeting of the Library Board of Trustees should be scheduled on a town-observed public holiday.

(C) Trustees shall make an annual report on the operations of the library to the Board of Commissioners and shall make such other reports to the State Department of Cultural Resources as required by G.S. § 125-5.
(Ord. 74-75-8, passed 2-10-75; Am. Ord. 08-09-36, passed 4-27-09; Am. Ord. 12-13-09, passed 10-8-12)

Section

98.01	Unlawful noises in general
98.02	Noises expressly prohibited
98.03	Exceptions
98.04	Permit
98.05	Enforcement and penalties
98.06	Appeals procedure

§ 98.01 UNLAWFUL NOISES IN GENERAL.

It shall be unlawful for any person, firm, or corporation to create or assist in creating any unreasonably "LOUD 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 town. The term "LOUD AND DISTURBING NOISE" shall be limited to loud 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.

(Ord. 05-06-04, passed 8-8-05)

§ 98.02 NOISES EXPRESSLY PROHIBITED.

The following activities, among others, are hereby declared to be unreasonably loud and disturbing noises, but said enumeration shall not be deemed to be exclusive:

(A) The playing of any radio, phonograph, musical instrument, or electronic sound amplification equipment in such manner or with such volume, particularly during hours between 11:00 p.m. and 7:00 a.m., such that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity.

(B) The keeping of any animal or bird which makes frequent or long continued sounds, such that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity.

(C) The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in such manner as to create unreasonably loud, disturbing sounds.

(D) The operating of any garage or service station in any residential area so as to cause unreasonably loud, disturbing sounds to be emitted between the hours of 9:00 p.m. and 7:00 a.m. on any day.

(E) The creation of unreasonably loud, disturbing noises adjacent to any school, educational facility, church, or court during normal operation hours, or within 150 feet of any hospital, which a reasonably prudent person would recognize as likely to unreasonably interfere with the working of such institutions, provided that conspicuous signs are displayed indicating that such area is a school, educational facility, church, court, or hospital area.

(F) The erection (including excavation), demolition, alteration, or repair of any building in a residential or business district is strictly prohibited on Sunday, except in the case of urgent necessity in the interest of public safety, and then only with a permit given by an appropriate town official, which permit may be renewed for a period of three days or less while the emergency exists.

(G) The use of any loud, boisterous, or raucous language or shouting, such that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity.

(H) The sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unreasonable period of time, such that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity.

(Ord. 05-06-04, passed 8-8-05)

§ 98.03 EXCEPTIONS.

The following are exempt from the provisions of this chapter:

(A) Any bell or chime from any building clock, school, or church.

(B) Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation, provided that burglar alarms not terminating within 30 minutes after the responsible person has been notified shall be unlawful.

(C) Noise created as a result of or relating to an emergency.

(D) Warning devices required by OSHA or any local, county, state, or federal safety regulations.

(E) Noise created by any aircraft flight operations which are specifically preempted by the Federal Aviation Administration.

(F) Noise resulting from the provision of sanitation services.

(G) The erection (including excavation), demolition, alteration, or repair of any building in a residential or business district Monday through Saturday.

(H) All noise coming from motor vehicles properly equipped with the manufacturer's standard mufflers and noise reducing equipment.

(I) Noise from lawful fireworks and noise makers on holidays.

(J) Lawn mowers and agricultural equipment used between the daylight hours of 7:00 a.m. and 8:00 p.m. when operated with all the manufacturer's standard mufflers and noise reducing equipment in use and operating properly.

(K) Sound amplification equipment used in conjunction with a telecommunications system on business properties to notify employees of that business of incoming phone calls, provided that this system be used only between the hours of 7:00 a.m. and 8:00 p.m. and that any speakers attached to the system be oriented toward the interior of the property.

(L) Sound emanating from regularly scheduled, outdoor athletic events held by the recreation department.

(M) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit has been granted by the town in accordance with this chapter.

(N) Warning devices used by trains traveling through the town for safety precautions.

(O) Noises resulting from the provision of government services.

(P) In the interest of public safety and convenience, the following activities are also excepted from the application of this chapter:

(1) Emergency work made necessary to restore property to a safe condition; emergency work required to protect persons or property from danger or potential danger; or work by private or public utilities when restoring utility service.

(2) Any street construction activity performed by or on behalf of a government agency on streets, provided that all equipment is operated in accordance with the manufacturer's specifications and is equipped with all legally required noise-reducing devices in proper operating condition. Blasting and pile driving on street projects are exempted under this exception only the extent that they are carried on between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday. (Ord. 05-06-04, passed 8-8-05)

§ 98.04 PERMIT.

(A) Persons wishing to engage in activities regulated by this chapter may do so when a specific permit is approved by the Police Chief or his or her designee. Applications shall be submitted on forms supplied by the town. A permit granted under this section will require the payment of a \$15 administrative fee. The permit shall not be unreasonably withheld and may contain appropriate conditions, including maximum decibel levels, designed to minimize the disruptive impact. Permits for such activities significantly for religious or political purposes shall be granted, subject only to reasonable time, place, and manner restrictions. Permits issued under this section may specify that the permission granted will continue for a stated period or until revoked after actual notice. Persons shall not be held in violation of this chapter when acting in conformity with permit conditions, but any permit may be revoked if it is determined that the authorized activity has resulted in

generation of unreasonably loud, disturbing sound levels.

(B) In case an application is denied, a permit is approved with conditions unacceptable to the applicant, or a permit is revoked, the applicant or permit holder shall be entitled to a prompt, informal hearing with the Town Manager or his or her designee, upon submission of a written request. Any person aggrieved by a matter regulated by this chapter may submit to the governing body written comments, including requests for appropriate relief. (Ord. 05-06-04, passed 8-8-05)

§ 98.05 ENFORCEMENT AND PENALTIES.

Where there is a violation of any provision of this chapter, the town, at its discretion, may take one or more of the following enforcement actions:

(A) A police officer may issue a citation subjecting the violator to a \$50 civil penalty, which may provide for a \$15 delinquency charge if the penalty is not paid within 20 days of issuance, and which penalty and delinquency charge may be recovered by the town in a civil action. Further, each day's continuing violation shall be a separate and distinct offense.

(B) A misdemeanor warrant may be issued in accordance with G.S. § 160A-175 either immediately or upon issuance of a citation and the violator's failure to pay the civil penalty.

(C) A civil action seeking a penalty of \$100 per day of violation plus injunctive relief and order of abatement may be directed toward any person creating or allowing the creation of any unlawful noise, including the owner or person otherwise having legal or actual control of the premises from which it emanates. (Ord. 05-06-04, passed 8-8-05)

§ 98.06 APPEALS PROCEDURE.

An appeal from the issuance of a citation pursuant to § 98.05(A) may be taken by a person aggrieved thereby. Such appeal must be taken within ten days from the date of issuance of the citation on the party in interest. An aggrieved party must give notice of appeal by mailing certified mail or hand-delivering a written statement to the Town Manager which states some grounds for appeal. Upon receipt of the notice of appeal, the Town Manager shall fix a reasonable time for the hearing of the appeal, shall give due notice to all parties in interest, and shall render a decision within a reasonable time. Any party may appear in person or by agent or attorney and present evidence. The Town Manager may reverse, affirm, or modify the issuance of the citation. The Town Manager will render a written decision within five days of the hearing, and said written decision will be promptly served on the aggrieved party by certified mailing or hand-delivery of same. All decisions of the Town Manager are final. Any decision of the Town Manager may be appealed to the appropriate court of general jurisdiction after all appeals have been taken pursuant to this section within 15 days of the service of the decision of the Town Manager on the aggrieved party. (Ord. 05-06-04, passed 8-8-05)

Section

- 99.01 Hours of operation
- 99.02 Motor vehicles
- 99.03 Damaging or destroying park property
- 99.04 Horses or ponies
- 99.05 Alcoholic beverages or drugs
- 99.06 Dangerous games
- 99.07 Fires
- 99.08 Garbage and rubbish
- 99.09 Establishment of additional regulations
- 99.10 Skateboard facility

Statutory reference:

Parks and recreation, see G.S.
§ 160A-350 et seq.

§ 99.01 HOURS OF OPERATION.

All town owned and operated parks, to include but not be limited to, Veteran's Park, J.J. Brown Park, and the Ayden Arts and Recreation Community Center Campus shall be open to the public from sunrise to 30 minutes after sunset each day. The Ayden District Park shall be open year round from sunrise to 8:00 p.m.; it shall be unlawful for any person or persons to loiter or use the District Park after 8:00 p.m. unless engaged in an Ayden Arts and Recreation Department sponsored activity/program or town sponsored event. It shall be unlawful for any person or persons to loiter or use the premises of all other town owned and operated parks while dark, (excluding the 30 minutes following sunset provision) unless engaged in an Ayden Arts and Recreation Department sponsored activity/program or town sponsored event. Hours of operation for the tennis courts at the Veteran's Park will be from 7:00 a.m. to 10:00 p.m. (Ord. 79-80-19, passed 5-12-80; Am. Ord. 92-93-01, passed 8-10-92; Am. Ord. 11-12-15, passed 5-14-12; Am. Ord. 14-15-06, passed 9-22-14) Penalty, see § 10.99

§ 99.02 MOTOR VEHICLES.

(A) It shall be unlawful to park, leave, or refuse to remove any vehicle from an authorized parking lot after closing of the park, facility, or recreation area.

(B) It shall be unlawful for any person to operate a motor vehicle or moped on town-owned parks except in designated parking areas. (Ord. 79-80-19, passed 5-12-80) Penalty, see § 10.99

§ 99.03 DAMAGING OR DESTROYING PARK PROPERTY.

It shall be unlawful for any person to remove, damage, destroy, mutilate, or deface any structure, monument, statue, planter, fountain, wall, fence, railing, vehicle, bench, tree, plant, or any other property in any recreation area or facility. It shall be unlawful for any person to dig, cut, bruise, mutilate, or cause to be transplanted, cut, bruised, debarked, or mutilated any plant material of all and any description within any

town-owned recreation area or facility without written permission of the Director of Parks and Recreation. (Ord. 79-80-19, passed 5-12-80) Penalty, see § 10.99

§ 99.04 HORSES OR PONIES.

It shall be unlawful for any person to allow horses or ponies on any town-owned parks or recreation facilities. (Ord. 79-80-19, passed 5-12-80) Penalty, see § 10.99

§ 99.05 ALCOHOLIC BEVERAGES OR DRUGS.

It shall be unlawful for any person to possess, consume, or display publicly any alcoholic beverages, marijuana, or narcotic drugs on or in any town-owned park or recreation facilities. (Ord. 79-80-19, passed 5-12-80) Penalty, see § 10.99

§ 99.06 DANGEROUS GAMES.

At no time shall games or activities be played that threaten bodily harm to other persons using the park or damage to park structures. (Ord. 79-80-19, passed 5-12-80) Penalty, see § 10.99

§ 99.07 FIRES.

It shall be unlawful for any person to make or kindle a fire in any town-owned recreation area or facility, except in a regularly constructed fireplace or grill. It shall be unlawful for any person to leave any fire unattended, or to fail to completely extinguish a fire and all the embers thereof before leaving such fire. (Ord. 79-80-19, passed 5-12-80) Penalty, see § 10.99

§ 99.08 GARBAGE AND RUBBISH.

Except in containers provided for same, no person shall deposit, dump, throw, cast, lay, place, or cause to be deposited, dumped, thrown, cast, laid, or placed any ashes, trash, rubbish, soil, earth, paper, garbage, refuse, debris, plant clippings, limbs, or leaves in or upon any town-owned recreation area or facility. (Ord. 79-80-19, passed 5-12-80) Penalty, see § 10.99

§ 99.09 ESTABLISHMENT OF ADDITIONAL REGULATIONS.

The Recreation Commission shall be allowed to establish such rules and regulations as deemed necessary to control and supervise any and all use of park and recreation facilities. This shall allow for the establishment of reasonable rules governing conduct, and denial of usage of facilities for violations of same. (Ord. 79-80-19, passed 5-12-80)

§ 99.10 SKATEBOARD FACILITY.

(A) The Board of Commissioners has approved establishment of a skateboard facility within the town's park system. The following rules and regulations shall apply:

(1) Persons using this facility shall at all times wear protective helmets, elbow pads and knee pads.

(2) Signage noting the above regulations shall be visibly posted in the park at all times.

(B) Persons in violation of the established rules and regulations will be prohibited from use of the facility until they comply.
(Ord. 03-04-27, passed 5-25-04)

Section

GENERAL PROVISIONS

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- 100.01 Unlawful to damage streets
- 100.02 Unlawful to damage bridges or culverts
- 100.03 Unlawful to damage traffic lights, signs, and the like
- 100.04 Unlawful to drive through or remove street barricades
- 100.05 House moving
- 100.06 Permit required for erecting electric, telephone poles; care of poles

Excavation and Construction

- 100.15 Permit required
- 100.16 Excavations to be refilled
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Obstructing Streets and Sidewalks

- 100.25 Assemblies
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Trees

- 100.50 Purpose
- 100.51 Definitions
- 100.52 Creation and establishment of a Town Tree Board
- 100.53 Terms of office
- 100.54 Compensation
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- 100.56 Operation
- 100.57 Tree species to be planted
- 100.58 Spacing
- 100.59 Distance from curb and sidewalk
- 100.60 Distance from street corners and fire hydrants
- 100.61 Utilities
- 100.62 Public tree care
- 100.63 Pruning standards
- 100.64 Tree topping
- 100.65 Pruning and corner clearance
- 100.66 Dead or diseased tree removal on private property
- 100.67 Removal of stumps
- 100.68 Protection of trees
- 100.99 Penalty

Statutory reference:

General authority over streets, sidewalks, and other public ways, see G.S. § 160A-296

§ 100.01 UNLAWFUL TO DAMAGE STREETS.

It shall be unlawful for any person, firm, or corporation to drag, run, or cause to be dragged or run any harrow or other implement, engine, machine, or tool upon any asphalt, bituminous, warrenite, or other permanently-paved street of the town which is liable, in any way, to injure or cut the surface thereof. It shall also be unlawful to injure any dirt street in the same manner. ('70 Code, Ch. D, Art. I § 5) Penalty, see § 10.99

§ 100.02 UNLAWFUL TO DAMAGE BRIDGES OR CULVERTS.

No person shall injure or misplace any part of any bridge, culvert, ditch and drain, or other property belonging to or used by the town or place any obstruction in any culvert, ditch, or drain to prevent the free flow of water on or over the streets of the town. ('70 Code, Ch. D, Art. I § 7) Penalty, see § 10.99

§ 100.03 UNLAWFUL TO DAMAGE TRAFFIC LIGHTS, SIGNS, AND THE LIKE.

No person shall injure, tamper with, remove, paint upon, or deface any sign, sign post, street light, traffic signal, bulletin board, or other municipal property upon the streets and sidewalks, except employees of the town in performance of their official duties. ('70 Code, Ch. D, Art. I § 8) Penalty, see § 10.99

§ 100.04 UNLAWFUL TO DRIVE THROUGH OR REMOVE STREET BARRICADES.

(A) No person shall drive any vehicle of any kind into or upon any alley or street which has been barricaded by the town. ('70 Code, Ch. D, Art. I § 9)

(B) No person, other than a town employee, shall remove, tear down, or destroy any barricade erected by the town. ('70 Code, Ch. D, Art. I § 10) Penalty, see § 10.99

§ 100.05 HOUSE MOVING.

No person shall move any house or building upon or across the public streets or sidewalks without the written consent of the Town Manager and the deposit of a good and sufficient bond in the sum of \$500 to cover damage done to the street, sidewalk, or any property of any person. ('70 Code, Ch. D, Art. I § 6) Penalty, see § 10.99

§ 100.06 PERMIT REQUIRED FOR ERECTING ELECTRIC, TELEPHONE POLES; CARE OF POLES.

(A) No poles for electric, telegraph, telephone, or other purposes shall be placed on any street, square, or alley of the town without a written permit. No permit shall be issued for the erection of poles on any street where there exists a line of poles for

the purpose of supporting electric, telegraph, telephone, or other wires. ('70 Code, Ch. D, Art. I §§ 11, 12)

(B) It shall be the duty of the owners of all poles supporting wires or lines of any type to keep them in safe condition and, for that purpose, to inspect the poles every three months. ('70 Code, Ch. D, Art. I § 13) Penalty, see § 10.99

EXCAVATION AND CONSTRUCTION

§ 100.15 PERMIT REQUIRED.

(A) It shall be unlawful for any person, firm, or corporation to dig any hole, ditch, or excavation of any kind whatsoever on any street in the town, or to make any curb, or cut in any curb in the town, without first securing a permit therefor in writing from the Town Manager. ('70 Code, Ch. D, Art. I § 1) (Ord. 96-97-10, passed 12-9-96)

(B) No sidewalk of any description shall be built by any individual, firm, or corporation, of any brick, wood, or other material without a written permit from the Town Manager. ('70 Code, Ch. D, Art. I § 2)

(C) Driveways on town's right-of-ways. Any person requesting the replacement of a driveway which lies on town street right-of-way will be responsible for all costs associated with the replacement. The Street Department will, upon issuance of a permit from the Town Manager, assist in the replacement of driveways within town street right-of-ways with material and labor costs to be the responsibility of the person requesting service. (Am. Ord. 96-97-11, passed 1-13-97) Penalty, see § 10.99

§ 100.16 EXCAVATIONS TO BE REFILLED.

All openings made in any street or sidewalk under the provisions of this subchapter shall immediately upon completion of the work be filled in and the surface thereof made flush with the adjacent surface. Any hard surface, macadam, or asphalt removed shall be replaced by the town at the expense of the applicant granted permission to open the street or sidewalk. ('70 Code, Ch. D, Art. I § 3) Penalty, see § 10.99

§ 100.17 EXCAVATIONS TO BE PROTECTED WITH LIGHTS, BARRICADES.

It shall be unlawful for any person, firm, or corporation making any excavation for any purpose whatsoever in any of the streets or sidewalks to fail to securely cover the excavations with plank or place ropes around the excavation, three feet from the ground, or fail to place a sufficient number of red lights around the excavation before dark and keep the light burning all night every night the excavation is open. ('70 Code, Ch. D, Art. I § 4) Penalty, see § 10.99

OBSTRUCTING STREETS AND SIDEWALKS

§ 100.25 ASSEMBLIES.

It shall be unlawful to obstruct or block the sidewalks or streets of the town by any exhibition, demonstration, picket line, or commercial venture, so as to prevent the normal flow of pedestrian or vehicular traffic, unless a special permit is granted by the Chief of Police or next highest ranking officer of the town, for temporary and peaceful occupancy of a limited portion thereof for purposes other than hostile demonstration or commercial gain. Participation in such an illegal exhibition, demonstration, or picket line by any individual through leadership, organization, or physical participation therein, is unlawful. ('70 Code, Ch. D, Art. II § 1) Penalty, see § 10.99

Cross-reference:

Parades and demonstrations, see §§ 110.40 through 110.44

§ 100.26 SELLING ON STREETS.

It shall be unlawful for any person, firm, or corporation to sell, offer to sell, barter, or exchange any fruits, vegetables, farm products, meats, poultry, flowers, potted plants, oysters, seafoods, goods, wares, merchandise, or any other thing whatsoever from any automobile, truck, wagon, cart, stand, or container parked, placed, or standing upon or within the area between any street and sidewalk. ('70 Code, Ch. D, Art. III § 5) Penalty, see § 10.99

§ 100.27 DISPLAYS OF GOODS.

(A) Merchants may display for the purpose of sale or advertising, any goods, wares, or merchandise on the sidewalks of the town, so long as the goods, wares, or merchandise do not impede the flow of pedestrian traffic.

(B) No goods, wares, merchandise, display cases, tables, or the like shall be left upon the sidewalk after the business has closed for the day. ('70 Code, Ch. D, Art. II § 2) (Ord. 80-81-2, passed 7-14-80; Am. Ord. 81-82-2, passed 7-13-81) Penalty, see § 10.99

§ 100.28 PLACING OBJECTS ON STREETS, SIDEWALKS.

No brick, stone, wood, or other substance obstructing the free passage of persons and vehicles shall be placed or suffered to lie in any of the alleyways, streets, or other routes of the town, nor shall any person place on or in any of the streets, sidewalks, or alleyways of the town any boxes, crates, casks, or barrels of any description, or any other obstruction of any kind. However, any person erecting a building may, with permission of the Town Manager, place building material for immediate use on the streets in such a way as not to interfere with the usual traffic. ('70 Code, Ch. D, Art. II § 3) Penalty, see § 10.99

§ 100.29 CONSTRUCTION NEAR SIDEWALK;
OVERHEAD COVERED PASSAGEWAY REQUIRED.

Before building or remodeling at any place where the same is in close proximity to the sidewalk, an overhead covered passageway shall be constructed so as to leave the sidewalk unobstructed and provide safe and easy passage, provided a permit for such has been issued by the appropriate inspection officials.
('70 Code, Ch. D, Art. II § 4) Penalty, see § 10.99

§ 100.30 WOODEN SHEDS OR AWNINGS.

No person shall erect or repair over any sidewalk or street any wooden shed or awning or any wooden shed for the support of any awning. If any person shall violate this section then each day that the above forbidden structure shall remain after notice shall constitute a separate violation. However, this shall not be construed to prevent the erection over the sidewalk of cloth awnings supported upon metallic frames firmly suspended from the building, and at least seven feet above the level of the sidewalk.
('70 Code, Ch. D, Art. II § 5) Penalty, see § 10.99

§ 100.31 SIGNS OVER STREETS, SIDEWALKS.

(A) It shall be unlawful for any person, firm, or corporation to hang or suspend any sign over or above the sidewalk unless the sign is at least 12 feet above the surface of the sidewalk; and no sign erected in the town shall extend beyond a point 12 inches behind the curb line.

(B) No posts other than those used for telephone, signal lights, and electric lines shall be placed in the town right-of-way.

(C) All signs shall be installed under the supervision of the appropriate inspection officials and shall be securely fastened at all times.
('70 Code, Ch. D, Art. II § 6) Penalty, see § 10.99

§ 100.32 CARTS OR VEHICLES BLOCKING
SIDEWALKS, DRIVEWAYS.

(A) No person shall stop or park any push- or pull-cart, bicycle, or other vehicle used for hauling any articles of merchandise for charge or hire upon any sidewalk or between the curb of any street and private property line, or in any driveway leading from the street to a private driveway or private property, in front of any business establishment in the town. ('70 Code, Ch. D, Art. II § 7)

(B) It shall be unlawful for any person to ride a bicycle on any sidewalk in the town. ('70 Code, Ch. D, Art. III § 4)
Penalty, see § 10.99

§ 100.33 TRASH, TREE TRIMMINGS ON STREETS
AND SIDEWALKS.

(A) No paper, straw, lemon peel, banana peel, watermelon rind, or any trash of any kind shall be thrown or swept upon any sidewalk or street of the town, nor shall any trash, refuse, or rubbish be burned thereon. ('70 Code, Ch. D, Art. III § 1)

(B) It shall be unlawful for any person to place or allow to be placed any tree or shrubbery trimmings on any street or sidewalk so as to obstruct the free passage of vehicles or pedestrians. ('70 Code, Ch. D, Art. III § 2)
Penalty, see § 10.99

PARADES; DEMONSTRATIONS

§ 100.40 DEFINITIONS.

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

"GROUP DEMONSTRATION." Any assembly together, or concert of action between two or more persons for the purpose of protesting any matter, making known any position or thought of the group, or of attracting attention to such demonstration.

"PARADE." Any parade, march, ceremony, show, exhibition, or procession of any kind in or upon the public streets, sidewalks, parks, or other public places.

"PICKET LINE." Any person or persons formed together for the purpose of making known any position or promotion of that person or persons or on behalf of any organization.
('70 Code, Ch. D, Art. V § 1(b))

§ 100.41 PERMIT REQUIRED; EXCEPTIONS.

(A) No parade, picket line, or group demonstration is permitted on the sidewalks or streets of the town unless a permit therefor has been issued by the town. However, nothing herein shall be construed to prevent the peaceful assembly of any group for orderly expression or communication between those assembled.

(1) No person shall hamper, obstruct, impede, or interfere with such activity or any person participating therein. The police force is authorized to establish lines for separation of the general public from such activity and it shall be unlawful to violate the provision of this section or to cross such lines.

(2) Upon violation of the terms of the permit by those participating, the Chief of Police or such officer of the police force as may then be in charge, is authorized to revoke the permit and direct those participating to disperse. No such parade, picket line, or group demonstration is permitted within any public building or structure.
('70 Code, Ch. D, Art. V § 1(a), (c), (d))

(B) This section shall not apply to:

(1) Funeral processions.

(2) Students going to and from school classes or participating in educational activities where such activity is under the immediate supervision and direction of proper school authorities.

(3) Governmental agencies acting within the scope of their functions.
('70 Code, Ch. D, Art. V § 2)
Penalty, see § 10.99

§ 100.42 PROCEDURE FOR OBTAINING PERMIT.

The Chief of Police, or in his absence, the next highest ranking officer of the town police force, is authorized to issue permits as required in this section, and in the issuance thereof shall:

(A) Require a written application therefor to be filed two weeks in advance of the parade, picket line, or group demonstration on a form prescribed by the Police Department and which shall require the application to be signed by the persons filing the application. The applicant shall therein state the proposed place, time, purpose, and size of the parade, picket line, or group demonstration, and whether or not any minors below the age of 18 years shall participate.

(B) Refuse to issue a permit when the activity or purpose stated in the application would violate any ordinance of the town or statute of the state, endanger the public health or safety, or hinder or prevent the orderly movement of pedestrian or vehicular traffic on the sidewalks or streets of the town.

(C) Specify in the permit whether or not minors below the age of 18 years will be permitted to participate. The Chief of Police, or in his absence, the next highest ranking police officer of the town on duty, shall pass upon whether or not minors below the age of 18 years shall be permitted to participate in the parade, picket line, or group demonstration, and shall base his determination upon whether or not the purpose, time, or place of the participation will be detrimental to or endanger the health, welfare, or safety of the minors.

(D) The permit may set the starting time and duration of the parade, demonstration, or picket line and may set the speed of its travel; the space between persons or vehicles; the portions or areas of the streets and sidewalks to be used; the names of the units participating in the parade, group, or line; the length of the parade, group, or line; the route of the parade; and such other requirements as the Chief of Police or other designated officer may include in the permit for the control of free movement of traffic upon the streets and sidewalks, or for the health, safety, and property rights of the participants and general public. Failure to comply with such requirements, as set forth in the permit, shall be unlawful.

(E) The applicant for a permit shall specify, and the permit shall designate the person in charge of the parade, group demonstration, or picket line. The person in charge shall accompany the parade, demonstration, or picket line and shall carry the permit with him at that time.

(F) The Chief of Police or other designated officer, in considering the issuance of a permit shall, among other considerations provided, consider and find as a requisite for issuance that:

(1) The activity will not require excessive diversion of police from other necessary duties.

(2) The activity will not interfere with the right of property owners in the area to enjoy peaceful occupancy and use of their property.

(3) The activity can be conducted without unreasonable interference with normal vehicular or pedestrian traffic in the area, will not prevent normal police or fire protection to the public and will not be likely to cause injury to persons or property, provoke disorderly conduct, or create a public disturbance.
('70 Code, Ch. D, Art. VII § 1) (Am. Ord. 01-02-09, passed 10-8-01) Penalty, see § 10.99

§ 100.43 DENIAL OF PERMIT; APPEAL.

Any person aggrieved by the denial of a permit as herein provided, shall have a right of appeal to the Town Board of Commissioners, but such appeal notice must be given in five days thereafter. The appeal, upon such notice, will be heard by the Commissioners at its next regular meeting or at any specially called meeting the Commission may set.

('70 Code, Ch. D, Art. V § 3)

§ 100.44 PROHIBITED ACTIVITIES.

(A) In any parade, picket line, or group demonstration, it shall be unlawful:

(1) For any minor below the age of 18 years to participate or be allowed to participate. Any person encouraging, leading, or allowing such minor to so participate, unless a permit therefor has been issued, shall be guilty of a violation of this section.

(2) For any person to lead, guide, participate in, or in any way support or encourage such parade, picket line, or group demonstration when a minor below the age of 18 years is participating therein, unless a permit for such participation by the minor has been issued.

(3) For any parent to knowingly permit any minor child of that parent under 18 years of age to participate in such parade, picket line, or group demonstrations, unless a permit for such participation by the minor has been issued.

(4) To cause, participate in, lead, or encourage any parade, picket line, or group demonstration to deviate in any manner from the authority therefor specified in the permit.

(B) Any picket line or group demonstration which participates in any area subject to normally heavy pedestrian or vehicular traffic may be limited in the permit issued to a concentration of not more than six persons participating within any designated areas of the street or sidewalk. However, the officer issuing the permit may specify a larger number in the designated area where, in his judgment, conditions permit a higher concentration. A designated area is defined as the entire width of the street or sidewalk within a distance measured along its length for 100 feet.

(C) The Chief of Police, or in his absence, the next highest ranking police officer shall not issue a permit for a parade, picket line, or demonstration which is scheduled to begin prior to one hour following the scheduled end of any other authorized parade, picket line, or demonstration that takes place at the same location or follows the same or similar route.
(1970 Code, Ch. D, Art. VI § 1) Penalty, see § 10.99

TREES AND COMMUNITY APPEARANCE§ 100.50 PURPOSE.

It is the purpose of this subchapter to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs and other plants within the town.
(Ord. 04-05-07, passed 11-8-04)

§ 100.51 DEFINITIONS.

"PARK TREES." Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the town, or to which the public has free access as a park.

"PUBLICLY OWNED TREES." Trees, shrubs, bushes, and all other woody vegetation within public rights-of-way or on municipal property.

"STREET TREES." Trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the town.
(Ord. 04-05-07, passed 11-8-04)

§ 100.52 CREATION AND ESTABLISHMENT OF A TOWN TREE BOARD.

The Town Tree Board shall consist of four citizens and residents of this town and three staff of the town all of which shall be appointed by the Mayor with the approval of the Board of Commissioners.
(Ord. 04-05-07, passed 11-8-04)

§ 100.53 TERMS OF OFFICE.

The term of the persons to be appointed by the Mayor shall be three years except that the term of two of the members appointed to the first Board shall be for only two years. In the event that a vacancy should occur during the term of any member, the successor shall be appointed for the unexpired portion of the term.
(Ord. 04-05-07, passed 11-8-04)

§ 100.54 COMPENSATION.

Members of the Board shall serve without compensation.
(Ord. 04-05-07, passed 11-8-04)

§ 100.55 DUTIES AND RESPONSIBILITIES.

(A) It shall be the responsibility of the Board to develop a written plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be reviewed annually and presented to the Town Board of Commissioners only when changes and/or updates are necessary and upon the Board's approval shall be the Comprehensive Town Tree Plan.

(B) Town staff shall supervise a tree inventory for street, park and publicly owned trees. The inventory shall be updated with the results of ground inspections every three years and shall be reported to the Tree Board on an annual basis.

(C) The Tree Board, when requested by the Town Council, shall consider and report upon any matter coming within the scope of its work.
(Ord. 04-05-07, passed 11-8-04)

§ 100.56 OPERATION.

The Tree Board shall keep minutes of its proceedings and choose its own officers, except that the Mayor shall appoint the Chairman. A majority of the members shall be a quorum for the transaction of business. (Ord. 04-05-07, passed 11-8-04)

§ 100.57 TREE SPECIES TO BE PLANTED.

The Town Tree Board shall maintain a list of desirable trees for planting along streets in three size classes based on mature height: small (under 20 feet), medium (20 to 40 feet), and large (over 40 feet). Efforts shall be made to ensure a sufficient diversity of tree species. The Tree Board will also create lists of trees not suitable for planting. (Ord. 04-05-07, passed 11-8-04)

§ 100.58 SPACING.

The spacing of street trees will be in accordance with the three species size classes listed in § 100.57, and no trees may be planted closer together than the following: small trees, 15 feet; medium trees, 25 feet; and large trees, 35 feet; except in special plantings designed or approved by a certified arborist or landscape architect. (Ord. 04-05-07, passed 11-8-04)

§ 100.59 DISTANCE FROM CURB AND SIDEWALK.

The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in § 100.57, and no trees may be planted closer to any curb or sidewalk than two feet for small trees, three feet for medium or large trees. (Ord. 04-05-07, passed 11-8-04)

§ 100.60 DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS.

No tree shall be planted within 35 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted within ten feet of any fire hydrant. (Ord. 04-05-07, passed 11-8-04)

§ 100.61 UTILITIES.

No street trees other than those species accepted as small trees by the Tree Board may be planted under, or within ten feet of any overhead utility wire. (Ord. 04-05-07, passed 11-8-04)

§ 100.62 PUBLIC TREE CARE.

(A) The town shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds upon review by the Town of Ayden Manager or Director of Public Works and Utilities.

(B) The town may remove or cause to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected by an

injurious fungus, insect, or other pest upon review by the Town of Ayden Manager or Director of Public Works and Utilities. (Ord. 04-05-07, passed 11-8-04)

§ 100.63 PRUNING STANDARDS.

All tree pruning on public property shall conform to the American National Standards Institute Title Tree Care Operations - Tree, Shrub and other Woody Plant Maintenance Standard Practices (ANSI A300 Part 1-2001). ANSI A300 provides standard definitions for tree care maintenance; performance standards for tree pruning operations; performance standards for utility line clearance; and performance standards for writing tree pruning specifications. This standard was listed for public review in the 12/15/00 issue of standards action. (Ord. 04-05-07, passed 11-8-04)

§ 100.64 TREE TOPPING.

It shall be unlawful as a normal practice for any person to top any street, park or publicly owned tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Crown reduction by a qualified arborist may be substituted, where appropriate. Trees severely damaged by storms or other cause, or certain trees under utility wires or other obstructions where pruning practices are impractical may be exempt from this subchapter at the determination of the Town of Ayden Manager or Director of Public Works and Utilities. (Ord. 04-05-07, passed 11-8-04)

§ 100.65 PRUNING AND CORNER CLEARANCE.

(A) Every owner of any tree overhanging any street or right-of-way within the town shall prune the branches so that such branches shall not severely obstruct the light from any street light or obstruct the view of any street intersection and so that there shall be a clear space of 13 feet above street surface of eight feet above the sidewalk surface. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute a menace to the safety of the public. The town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, or interferes with visibility of any traffic control device or sign or sight triangle at intersections.

(B) Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric company in compliance with any applicable franchise agreements. The utility company, prior to any trimming, must be familiar with tree trimming standards set forth by the town. (Ord. 04-05-07, passed 11-8-04)

§ 100.66 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The town shall have the right to cause the removal of any dead or diseased trees on private property within the town, when such trees constitute a hazard to life and property, or harbor insects or diseases which constitute a potential threat to other trees in the town. The town will notify in writing the owners of such trees. Said owners at their own expense shall do removal within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the town shall have the authority to remove such trees and charge the cost of removal to the owner.
(Ord. 04-05-07, passed 11-8-04)

§ 100.67 REMOVAL OF STUMPS.

All stumps of street, park and publicly-owned trees shall be removed below the surface of the ground so that the stump shall not project above the surface of the ground.
(Ord. 04-05-07, passed 11-8-04)

§ 100.68 PROTECTION OF TREES.

In order to maintain the overall forest, reasonable efforts shall be made to replace trees that are removed and to protect the quality of trees that are endangered.
(Ord. 04-05-07, passed 11-8-04)

§ 100.99 PENALTY.

Any person violating any provision of this chapter shall be subject to a civil penalty not to exceed \$1,000.
(Ord. 99-00-06, passed 9-13-99; Am. Ord. 04-05-07, passed 11-8-04)

Adopted
as a policy
in 1987
-W.D.
6/13/07
orig. in - old Policy Book
in Custom
Service Area

TOWN OF AYDEN POLICY

OPEN DITCHES

WHEREAS, the Town of Ayden has and continues to receive requests to install pipe on private property; and

WHEREAS, the Town of Ayden has and continues to receive complaints regarding the condition of existing open ditches within the Town of Ayden; and

WHEREAS, the Board recognizes the aesthetic value, safety and other advantages of installing pipe in various ditches, driveways, etc., in the Town of Ayden

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Ayden that the following policy be adopted in regards to installation of pipe in open ditches, driveways, etc. within the Town of Ayden.

Policy on Installation of Tile In Driveways & Ditches That Require Tile in Sizes of Twelve Inches Up to Twenty Four Inches

- (1) The following areas are considered eligible under this policy:
 - (a) Driveways
 - (b) Existing ditches adjacent to Town owned streets that drain private property water and street water and where tile size is under twenty four (24) inches
 - (c) Ditches within areas that primarily drain private property and adjoining property where water flows to side street or outfall ditches and require tile size under twenty four (24) inches
- (2) Property owners desiring to install tile in ditches or driveways mentioned in (1) above will make a request to the Town's Director of Public Works/Utilities.
- (3) Upon receipt of the request, the Director of Public Works/Utilities or his designated representative will make an inspection of the area to determine the size, quality and quantity of materials needed.
- (4) Upon completion of item set forth in (3) above, the Director of Public Works/Utilities will issue a permit for installation along with instructions to the property owner on installation.
- (5) The property owner shall be responsible for all cost of installation to include fill dirt, seeding and catch basins, if required.

Policy on Installation of Twenty Four (24) Inch Tile

- (1) Existing open ditches that carry both Town street water and private property water and requires the installation of 24" tile are eligible under this policy.
- (2) The following ditches are not considered eligible under this policy:
 - (a) Main storm drainage ditches that carry a large volume of water and serve as a collection ditch for surface water
 - (b) Ditches that carry private property water only
- (3) Request for tile installation in areas covered in (1) above will be submitted to the Town of Ayden Director of Public Works/Utilities.
- (4) If the request is approved, the apportionment of the cost will be as follows:
 - (a) The Town of Ayden will pay fifty percent (50%) of the total cost of installation to include fill dirt, seed, catch basins, if required, and contractors cost for such installation.
 - (b) The property owner (s) shall pay the remaining fifty percent (50%) of the cost as set forth in (a) above.

Policy on Installation of Tile Over Twenty Four (24) Inches

- (1) The following areas are considered eligible under this policy:
 - (a) Only main storm drainage ditches that carry a large volume of water and serve as a collector ditch for surface water will be eligible under this policy.
- (2) General conditions for installation are as follows:
 - (a) The cost of the tile and installation will be borne by the Town of Ayden.
 - (b) Where practical, installation of tile will be done by Town forces.
 - (c) All property owners shall be required to give, without cost to the Town, a construction easement of at least twenty (20) feet wide and a permanent easement of ten (10) feet wide along the ditch when tiled.
 - (d) Property owners that presently have yard drains tied into open ditches will be required to extend such drains to a catch basin when tile is installed.

(3) Priority

- (a) The Director of Public Works/Utilities shall make a survey of all main open drainage ditches inside and outside the corporate limits indicating the area, length, size of tile, estimated cost and recommended priority.
 - (b) Once the list has been prepared, the Board of Commissioners will review such, make any changes necessary and approve a priority schedule.
 - (c) Changes to the priority schedule will not be made unless erosion or stagnant water develops in an area where the Town Manager and Director of Public Works/Utilities feels that a change in the priority schedule would be in the Town's best interest.
 - (d) The Director of Public Works will use the priority schedule and submit with his annual budget recommendation a list of ditches to be tiled.
- (4) Any situation not covered by the above policies will be handled by the Town Manager and Director of Public Works/Utilities. Where situations cannot be solved to the satisfaction of all concerned, such will be submitted to the Board of Commissioners for final review and decision.

Adopted, this the 12th day of October, 1987.

Mr. Baldrige
Mayor

ATTEST:

William L. Ford
Town Clerk

Section

- 101.01 Purpose
- 101.02 Definitions
- 101.03 Curfew and enforcement

101.99 Penalty

Cross reference:

Curfew during state of emergency, see
§ 93.03

§ 101.01 PURPOSE.

The purpose of this chapter shall be to establish a curfew for minors in the Town of Ayden, thus assisting the parents and guardians of minors in the ever-increasing difficult task of child rearing, and to promote the health, safety, and welfare of both minors and adults in the town by creating an environment offering protection and security for all concerned.
(Ord. 94-95-01, passed 7-11-94)

§ 101.02 DEFINITIONS.

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

"**GUARDIAN.**" A person who has the legal care and management of a minor as defined by this chapter.

"**MINOR.**" A person who has not reached his or her sixteenth birthday and is not married, emancipated or a member of the armed services of the United States.

"**OFFICER.**" Any sworn law enforcement official employed by the town and having authority to enforce laws of the town.

"**PUBLIC PLACE.**" Any street, alley, highway, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose. A public place shall include, but not be limited to any store, shop, restaurant, tavern, bowling alley, café, theater, drug store, pool room, shopping center and any other place devoted to amusement or entertainment of the general public. It shall also include the front of immediate area of the above.
(Ord. 94-95-01, passed 7-11-94)

§ 101.03 CURFEW AND ENFORCEMENT.

A curfew applicable to minors is established and shall be enforced within the corporate limits of the town as follows:

(A) **Time limits.** It is unlawful for any minor to be or remain upon any public place as defined in this chapter in the town between midnight Friday and 5:00 a.m. on Saturday, or between midnight Saturday and 5:00 a.m. on Sunday, or between the hours of 10:00 p.m. and 5:00 a.m. of the following morning on Sunday, Monday, Tuesday, Wednesday, or Thursday.

(B) **Exceptions.** The restrictions provided by this division shall not apply to any minor:

(1) Who is accompanied by a guardian, parent, or other person charged with the care and custody of such minor, or a person over 18 years of age authorized by a parent or guardian to accompany the minor;

(2) Who is traveling between his/her home and place of employment, or between his/her home and church, municipal building (if the municipal building is open for some legitimate business purpose during the hours when this curfew is in effect) or school where a function is being held;

(3) Who is seeking emergency medical care for himself/herself or some member of his immediate family;

(4) Who is engaged in travel with written parental permission;

(5) Who is engaged in bona fide interstate movement by motor vehicle through town, or beginning or ending in the town;

(6) Who is engaged in situations in which a minor is outdoors but attending activities involving the First Amendment free exercise of religion, freedom of speech, or the right of assembly;

(7) Who is engaged in travel in instances of reasonable necessity if the minor possesses a written statement signed by the parent which describes the minor, states the facts establishing such reasonable necessity, specifies the streets, the time and the origin and destination of travel;

(8) Who is engaged in situations in which a minor is on a sidewalk of the place where the minor resides, or on the sidewalk of a next-door neighbor not congregating outdoors on another person's private property with the express permission of the owner or other person in lawful control of the property;

(9) Who is engaged in travel by a direct route, between a minor's place of residence and a school, religious, recreational, entertainment, or any other organized community activity, including activities involving the free exercise of religion, speech or assembly.

(C) **Responsibility of adults.** It shall be unlawful for any parent, guardian, or other persons charged with the care and custody of any minor to knowingly allow or permit such minor to be in or upon, or remain in or upon a public place within the town within the curfew hours set out in § 101.03(A), except as otherwise provided in § 101.03(B).

(D) **Responsibility of business establishments.** It shall be unlawful for any person, firm, or corporation operating a place of business (including a place of

amusement) to knowingly allow or permit any minor to be in or upon, or to remain in or upon, any place of business (including a place of amusement) operated by them within the curfew hours set out by § 101.03(A), except as otherwise provided in § 101.03(B).

(E) Enforcement.

(1) When a minor is found to be in violation of this section, the officer will determine if the juvenile is a first time offender; if so, he or she will then be taken to the Police Department or the residence of his or her parent or guardian. A written warning will be given to that parent or guardian. An information report shall be taken by the officer, to include the name and address of the juvenile and parent or guardian and the time, date and location of the offense. This report will be filed in the Police Department records division. The report shall be confidential and shall be subject to disclosure only pursuant to an order of a court of competent jurisdiction.

(2) (a) If, upon investigation, the juvenile is found to be a repeat offender, he or she will be taken to the Police Department or to the residence of his or her parent or guardian and the adult, parent or guardian, will be given a written warning for a second violation, pursuant to § 101.03. A report will be filed in the Police Department and entered into the Police Department records division and shall contain the same information and be subject to the same confidentiality provisions as set forth herein.

(b) If, upon further investigation, the juvenile is found to be a repeat offender for the third time, he or she will be taken to the Police Department or to the residence of his or her parent or guardian and the adult, parent or guardian, will be subject to a criminal citation, pursuant to § 101.03. A report will be filed in the Police Department and entered into the Police Department records division and shall contain the same information and be subject to the same confidentiality provisions as set forth herein.

(3) If the juvenile is under 12 years of age, a report will be made and a copy forwarded to the Pitt County Department of Social Services.

(F) Aiding and abetting by adult, guardian or parent. It shall be a violation of this chapter for an adult, guardian or parent to allow, permit, encourage, aid or abet a minor in the violation of § 101.03(A), except as otherwise provided in § 101.03(B). Action may also be taken pursuant to G.S. § 14-316.1, contributing to delinquency and neglect by parents and others.

(G) Refusal of guardian or parent to take custody of a minor. If any guardian or parent refuses to take custody of his/her minor child found in violation of this

chapter, the officer with custody of the minor shall follow the procedure set out in the North Carolina Juvenile Code, G.S. 7B-100 et seq.

(H) Emergency provisions. Under the authority of G.S. § 14-288.12, whenever the Mayor of the town deems that an emergency exists, and there is a clear and present danger to the preservation of the public peace, health, life, or safety or to public or private property in the town necessitating expansion of the curfew provisions set forth in § 101.03(A) the Mayor may effect such expansion effective for the period of the emergency by proclamation. The proclamation shall contain a statement of the reasons for such necessity, the period of the expanded curfew, and provide that no minor under the age of 16 shall be upon or about or remain upon or about public places as defined by this chapter in the town between the hours of 8:00 p.m. and 5:00 a.m. of the following morning unless accompanied by his/her parent, guardian, or responsible adult. The proclamation may further provide that no parent or guardian of any minor under the age of 16 shall allow the child to be upon or about or remain upon or about any public place as defined by this chapter in the town between the hours of 8:00 p.m. and 5:00 a.m. of the following morning unless the child is under direction or protection of some adult person with authority and consent of such parent or guardian for his/her being there. The proclamation shall become effective 30 minutes after being publicly announced by the Mayor for the period, or until rescinded by the Mayor or repealed by Council in the manner in which ordinances are repealed. As soon as is reasonably possible, the proclamation shall be published and reported in the local media and posted conspicuously amount the town.

(Ord. 94-95-01, passed 7-11-94; Am. Ord. 06-07-04, passed 7-10-06) Penalty, see § 101.99

§ 101.99 PENALTY.

Any person, firm or corporation who violates any provision of this chapter shall be subject to a fine of up to \$500 and/or imprisonment up to six months.
(Ord. 94-95-01, passed 7-11-94)

Section

- 102.01 Investigation of criminal history of applicants for Housing Authority residence

§ 102.01 INVESTIGATION OF CRIMINAL HISTORY OF APPLICANTS FOR HOUSING AUTHORITY RESIDENCE.

(A) Purpose and intent. The purpose of this chapter is to protect the residents of public housing and citizens residing in housing units surrounding the public housing areas and their properties by denying admission to public housing to any person who has been convicted of a drug charge, felonious assault charge or other felonies. The following procedures for screening applicants to occupy public housing are hereby adopted:

(1) Whenever a vacancy occurs in the public housing units within the town, the Executive Director of the Ayden Housing Authority or his or her designee shall screen all applications for occupancy of the vacant unit. The Executive Director or his or her designee shall require each applicant for admission to public housing to provide all necessary personal identification, including fingerprints, birth certificate, social security number, and driver's license number, if available, so that the Chief of Police or his or her designee may cause a thorough search to be made of the local and state criminal history records to determine if the applicant has a history of criminal convictions of the crimes enumerated above by use of the Division of Criminal Information network.

(2) The Chief of Police or his or her designee shall provide the findings made through the use of the DCI computer network to the Executive Director of the Ayden Housing Authority or his or her designee, provided that the Ayden Housing Authority and the town have executed all necessary agreements with the state Bureau of Investigation, Division of Criminal Information.

(B) Authority. This chapter is adopted under the authority granted by G.S. § 160A-174.

(C) Jurisdiction. This chapter applies to the Ayden Housing Authority and applicants for housing in the Ayden Housing Authority property.

(D) Definitions. For the purpose of this chapter, the following words and phrases shall be defined as follows:

"AYDEN HOUSING AUTHORITY." The governing body for public housing in the town.

"CRIMINAL HISTORY." A record of criminal convictions which is contained in the DCI, Computerized Criminal History files. This is the Criminal Records for conviction in the state of North Carolina only.

"DCI." The Division of Criminal Information.
(Ord. 95-96-02, passed 10-9-95)

Section

103.01 Carrying of concealed handguns
on municipal property
prohibited; signs required

§ 103.01 CARRYING OF CONCEALED HANDGUNS ON
MUNICIPAL PROPERTY PROHIBITED; SIGNS
REQUIRED.

(A) Purpose. The purpose of this chapter shall be to protect municipal employees and the public at large by prohibiting the carrying of concealed handguns on certain municipal properties.

(B) Posting of signs required. The Town Manager or his or her designee 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, operated, occupied, managed or controlled by the town, as well as the appurtenant premises to such buildings, indicating that the carrying of a concealed handgun is prohibited therein as provided by state law.

(C) 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 or his or her designee shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and parks.
(Ord. 95-96-08, passed 12-11-95) Penalty,
see § 10.99

Statutory reference:

Authority to post prohibition against carrying of concealed handgun on posted municipal property, see G.S. §§ 14-415.11(c) and 14-415.23

Section

104.01 Fair Housing

§ 104.01 FAIR HOUSING.

(A) The Board of Commissioners, with the assistance of the Town Manager's Office, shall receive any and all grievances concerning discrimination in the provision of housing within the Town and refer all written complaints to the North Carolina Human Relations Council for investigation and conciliation.

(B) Procedures for receiving and resolving housing discrimination complaints:

(1) Any person or persons wishing to file a complaint of housing discrimination may do so by informing the Town Board of Commissioners in writing of the facts and circumstances of the alleged discrimination act or practice;

(2) Upon receiving a written housing discrimination complaint, the Town Board of Commissioners shall inform the North Carolina Human Relations Council about the complaint and shall assist the complainant in contacting the Council;

(3) The Town Board of Commissioners shall publicize within the town that it is the local entity to contact with housing discrimination complaints.

(4) All complaints will be responded to in writing within 10 days of receipt.
(Ord. 97-98-09, passed 2-23-98)

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. CONCESSION STANDS
- 111. PEDDLERS, SOLICITORS, AND ITINERANT MERCHANTS
- 112. PUBLIC AMUSEMENTS
- 113. SELF-SERVICE LAUNDRIES
- 114. TAXICABS
- 115. AUTOMOBILE LEASES AND RENTALS

Section

Collard Festival

- 110.01 Permit required
- 110.02 Permit application
- 110.03 Application review
- 110.04 Permit to be displayed

110.99 Penalty

COLLARD FESTIVAL§ 110.01 PERMIT REQUIRED.

(A) It shall be unlawful during the period of the Collard Festival (Tuesday-Sunday following Labor Day each year) for any person, firm or corporation to sell food, beverages, souvenir items or other concessions within the town without first securing a permit approved by the Festival Board of Directors and issued by the Town Clerk for such sales, except that permits shall not be required for a business in existence within the town 30 days prior to the beginning of the Collard Festival for the year for which permits are being issued, and selling items within their normal course of business in a permanent structure within the town limits. A permanent structure shall include any building situated within the town limits, but shall not include mobile homes, trailers, trucks, other vehicles, tents or any structure of any type whatsoever not constructed according to state and federal building codes and local zoning ordinances as a permanent structure within the town limits.

(B) Further, permits shall be required for any business in existence prior to the 30 day period set forth above if said business seeks to sell any items outside the permanent structure in which it conducted its business on a regular basis.
(Ord. 91-92-19, passed 4-13-92)
Penalty, see § 110.99

§ 110.02 PERMIT APPLICATION.

Applications for permits must be submitted to the Festival Board of Directors for review and approval. Applications will be reviewed and then disposition will be made within the specified time frame provided for by festival policy governing concessions.
(Ord. 91-92-19, passed 4-13-92)

§ 110.03 APPLICATION REVIEW.

(A) Applications will be individually reviewed by the Festival Board of Directors. In deciding whether to grant or deny permits to engage in the sale of concessions during this period, the Board will give priority to:

(1) Established merchants of the town.

(2) Residents of the town.

(3) Those applicants whose plans for concession sales seem to best serve visitors and participants, as well as enhance the festival activities.

(B) The Festival Board of Directors will limit those permits which are given for concession sales to a number which will provide for adequate food, beverage, souvenirs and other concession services without causing confusion and overcrowding during the celebration. The Festival Chairperson shall forward the approved applications to the Town Clerk for permit issuance prior to the beginning of the festival. The Town Clerk shall have final approval in issuing such permits.
(Ord. 91-92-19, passed 4-13-92)

§ 110.04 PERMITS TO BE DISPLAYED.

Permits which are granted by the town for concession sales during this period must be displayed at all times at the place of such sales.
(Ord. 91-92-19, passed 4-13-92) Penalty, see § 110.99

§ 110.99 PENALTY.

Violation of any provision of this chapter shall be a criminal misdemeanor punishable upon conviction by a fine not to exceed \$500 or by imprisonment for 30 days or both. Each day's violation shall constitute a separate event.
(Ord. 91-92-19, passed 4-13-92)

CHAPTER 111:PEDDLERS, SOLICITORS, AND ITINERANT
MERCHANTS

Section

- 111.01 Definitions
- 111.02 Registration with town required
- 111.03 Permit; fee
- 111.04 Sale of farm products

Statutory reference:

Authority to regulate itinerant merchants, see G.S. § 160A-178

§ 111.01 DEFINITIONS.

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

"PEDDLERS." Any person who transports goods from place to place and sells or offers for sale such goods, or who without traveling from place to place, sells or offers for sale any goods from any vehicle or device. Further, any person who separates the act of sale and delivery for the purpose of evading the provisions of this chapter shall be deemed a peddler.

"SOLICITOR." Any person who travels from place to place taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance.

('70 Code, Ch. I, Art. V § 1)

§ 111.02 REGISTRATION WITH TOWN REQUIRED.

Each and every person doing business in the town as a peddler or solicitor, shall file with the Town Clerk, on a form to be provided for the purpose, a statement setting forth the following information:

(A) The name and address of the individual filing the statement.

(B) The name and address of the principal or employer, if the individual is an agent or employee.

(C) The goods to be sold or offered for sale, or the type of services to be rendered.

(D) The period of time during which the business will be carried on in the town.

(E) A description of the automobile or other vehicle to be used in the business, including the make, model, body style, color, license number, and state.
('70 Code, Ch. I, Art. V § 3) Penalty, see § 10.99

§ 111.03 PERMIT; FEE.

(A) The Town Clerk may issue to each person filing the statement required by § 111.02, a permit authorizing that person to solicit or peddle within the town.

(B) Except as listed in division (C) below, a fee of \$2 will be charged for each permit issued.

(C) At the discretion of the issuing authority, certain organizations (such as religious groups, boy scouts, girl scouts, and the like) may be exempt from the fee established in division (B) above.

(D) Permits must be renewed every 30 days.

(E) Persons issued permits under the provisions of this chapter will, while engaged in soliciting or peddling within the town, present the permit to occupants of residences visited.

(F) It shall be unlawful for any person to solicit or peddle without first obtaining a permit.
('70 Code, Ch. I, Art. V § 4) Penalty, see § 10.99

§ 111.04 SALE OF FARM PRODUCTS.

The sale or the soliciting of orders for the sale of milk, dairy products, vegetables, poultry, eggs, and other farm and garden produce so far as the sale of commodities named herein is now prescribed by state law.
('70 Code, Ch. I, Art. V § 2)

Statutory reference:

State agriculture regulations,
see G.S. Chapter 106

AYDEN

PEDDLERS, SOLICITORS, AND MERCHANTS

6

Section

Game Rooms

- 112.01 Definitions
- 112.02 License required
- 112.03 Investigation
- 112.04 Revocation of license
- 112.05 Regulations for operation of game rooms, prohibited conduct

Statutory reference:

Regulations of places of amusement,
see G.S. § 160A-181

GAME ROOMS

§ 112.01 DEFINITIONS.

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

"GAME ROOM." Any place of business that principally operates mechanical games, pay devices, or tables for which charge is made either directly or indirectly. Examples of "GAME ROOMS." by way of illustration and not limitation, are poolrooms, bowling alleys, billiard halls, amusement centers, and the like.
(Ord. 82-83-4A, passed 1-10-83)

§ 112.02 LICENSE REQUIRED.

Every operator of a game room shall apply for and obtain a license from the Chief of Police to operate a game room. Application for such a license shall be made upon forms provided by the Town Clerk upon payment of the required fees as approved by the Board of Commissioners. Such application shall be signed and sworn to by the applicant. The applicant shall further appear at the office of the Police Department and have his fingerprints taken, which shall become a part of the application.
(Ord. 82-83-4A, passed 1-10-83; Am. Ord. 93-94-18, passed 4-11-94) Penalty, see § 10.99

112.03 INVESTIGATION.

(A) The Chief of Police or his designee of the town is hereby charged with the duty of investigating this application by checking the state repository for criminal history. If in such investigation he finds that the applicant has been convicted of a felony; a violation of any federal or state statutes relating to the use or sale of intoxicating liquors; a violation of any federal or state statutes relating to use, possession, or sale of narcotic drugs; violation of any federal or state statute relating to prostitution; unlawful gambling offenses or operation of any gaming devices and is not a resident of the state, then a game room license will not be issued.

(B) Each employee that is hired in a supervisory position during the life of this license shall also be required to fill out an application. The Chief of Police is

charged with the duty of investigating this application by checking with the state repository for criminal history. The employee shall further appear at the office of the Police Department and have his fingerprints taken, which shall become a part of the application.
(Ord. 82-83-4A, passed 1-10-83; Am. Ord. 93-94-18, passed 4-11-94)

§ 112.04 REVOCATION OF LICENSE.

(A) After giving the operator of a game room adequate notice and an opportunity to be heard, the Chief of Police may revoke the license of any game room operator who:

- (1) Violates the provisions of §§ 112.03 or 112.05.
- (2) Is convicted of unlawfully using or selling alcoholic beverages or any narcotic drugs.

(3) Makes false statements on the application.

(4) An employer who hires an employee in a supervisory position, who the operator knows, or should have known, who has violated any of the three conditions above.

(B) The operator may appeal the decision of the Chief of Police to the Town Manager. The appeal must be submitted in writing within ten working days after the license has been revoked.
(Ord. 82-83-4A, passed 1-10-83; Am. Ord. 93-94-18, passed 4-11-94)

§ 112.05 REGULATIONS FOR OPERATION OF GAME ROOMS; PROHIBITED CONDUCT.

(A) Rules for operation of game rooms. The following rules shall be observed by all operators of game rooms within the town.

(1) All game rooms shall be closed from 2:00 a.m. until 5:00 a.m. Monday through Sunday. Game rooms may be open on Sunday between the hours of 1:00 p.m. and 2:00 a.m.

(2) Owners of game rooms may be granted exemption to the above closing hours by the Town Manager or Chief of Police for special events such as Halloween, New Years Eve, and the like. Such a request for extended hours must be submitted in writing at least 48 hours before the event and will state the purpose and hours.

(3) No play on any game shall be allowed during the time when game rooms are required by this section to remain closed.

(4) All game rooms shall be operated only on the ground floor of a building, and plate glass windows shall be in those parts of the building facing any street so that a clear view inside may be had from the street.

(5) No screens, curtains, blinds, partitions, or other obstructions shall be placed between the entrance to the room where games are played and the rear wall of the room, so that a clear view of the interior may be had from the street.

(6) No loud noises shall be allowed to emanate beyond the licensed premises.

(7) There must be an adult (18 years of age or older) managing the business on the premises during hours of operation at all times.

(B) Prohibited conduct. Licensees under this chapter shall not, and neither shall their employees do any of the following:

(1) Suffer or permit any gambling on the licensed premises at any time; nor the sale or use of any racing, football, or other parlay cards or gambling boards or devices.

(2) Employ in carrying on the business any person who has been convicted of unlawfully selling alcoholic beverages or narcotic drugs within the last five years.

(3) Suffer or permit any alcoholic beverages or narcotic drugs to be sold, kept, or consumed on the premises.
(Ord. 82-83-4A, passed 1-10-83; Am. Ord. 93-94-07, passed 8-9-93) Penalty, see § 10.99

Section

113.01 Rules for operation

§ 113.01 RULES FOR OPERATION.

The following rules shall be observed by all owners and operators of any self-service laundry facility:

(A) All laundry facilities shall close at 12:00 midnight and no persons other than the owner-operator or the employees shall be permitted on the premises from that hour until 7:00 a.m. the following morning.

(B) All dryers and dry cleaning equipment shall be vented and maintained to such an extent as to eliminate any and all fire or electrical hazards.

(C) All self-service laundry facilities shall be kept clean and presentable to the public at all times.

(D) It shall be the responsibility of the owner-operator to secure the premises as outlined in division (A) above.
(Ord., passed 11-13-72) Penalty, see § 10.99

AYDEN

SELF-SERVICE LAUNDRIES

10

Section

Taxicab Regulations

- 114.01 Definitions
- 114.02 Certificate of convenience and necessity
- 114.03 Transfer of certificate
- 114.04 Revocation of certificate
- 114.05 Schedule of rates charged by taxicabs; display to passengers
- 114.06 Liability insurance
- 114.07 Transfer of certificate, liability insurance to another vehicle

Taxicab Drivers

- 114.15 Permit required
- 114.16 Permit revocation
- 114.17 Suspension of permit
- 114.18 Display of permit to passengers

Statutory reference:

Regulation of taxicabs, see
G.S. §§ 20-37, 160A-304

TAXICAB REGULATIONS§ 114.01 DEFINITIONS.

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

"TAXICAB." Any motor vehicle seating fewer than ten passengers and operated upon any street or highway on call or demand, accepting or soliciting passengers indiscriminately for hire between such points along the streets or highways as may be directed by the passenger or passengers being transported. "TAXICAB" shall not include motor vehicles or motor carriers as defined in G.S. § 62-3.
('70 Code, Ch. I, Art. I § 1)

§ 114.02 CERTIFICATE OF CONVENIENCE AND NECESSITY.

(A) Unlawful to operate without certificate. It shall be unlawful for any person to operate a taxicab over and upon the streets of the town without first having applied for and secured from the Board of Commissioners a certificate of convenience and necessity as hereinafter set forth.
('70 Code, Ch. I, Art. I § 2)

(B) Application. Every person desiring to operate a taxicab within the town shall file, on forms supplied by the Town Clerk, an application for a certificate of convenience and necessity.
('70 Code, Ch. I, Art. I § 3)

(C) Board of Commissioners to issue certificates. The Board of Commissioners shall have power to, and it shall be its duty to order the issuance or the refusal to issue certain certificates of convenience and necessity for the operation of taxicabs. The Board may attach to the exercise of the privileges granted by such certificates such terms and conditions as in its judgment the public convenience and necessity may require.
('70 Code, Ch. I, Art. I § 4)

(D) Nature and duration of certificate. A certificate shall constitute a franchise from the town for the operation of taxicabs within the town, subject to the provisions of this chapter. Certificates shall be for one calendar year, expiring on December 31 each year. Applications for renewal shall be filed no later than October 1 of each year. Hearings upon the question of renewal shall be conducted as provided in division (F) below.
('70 Code, Ch. I, Art. I § 5)

(E) Factors considered in issuing permit. In determining whether the public convenience and necessity require the franchising of such taxicab or taxicabs, the Board of Commissioners shall among other things take into consideration the following factors:

(1) Whether the public convenience and necessity requires such proposed or additional taxicabs within the town.

(2) The financial responsibility of the applicant and the likelihood of the proposed service being permanent, responsible, and satisfactory.

(3) The number and condition of equipment.

(4) The schedule of proposed rates to be charged.

(5) The number of taxicabs now operated within the town and the demand for increased service, if any.

(6) Whether safe use of the streets by the public, both pedestrian and vehicular, will be preserved, and whether adequate provision has been made for off-street parking of such taxicabs.

(7) The experience of the applicant in the taxicab business.

(8) Such other facts as may be deemed necessary or advisable to consider.
('70 Code, Ch. I, Art. I § 6)

(F) Investigation. Before making any decision with respect to the issuance of any certificate of convenience and

necessity, the Board of Commissioners or a committee thereof, shall make a full and complete investigation of all pertinent facts, and may, if it so desires, subpoena witnesses and utilize the services of the Chief of Police or any other officer or employee of the town.

('70 Code, Ch. I, Art. I § 7)

(G) Hearing; notice. Each application for a certificate shall be scheduled for a hearing not later than 20 days after the same is filed, and the applicant shall be notified by the Town Clerk by mail at the business address set forth in the application of the day, time, and place of the hearing. Such notice shall be sent at least ten days prior to the hearing. The Town Clerk shall also, within the same time, notify all persons who at that time hold certificates of convenience and necessity for the operation of taxicabs within the municipality of the day, time, and place of the hearing, and of the name of the applicant. In addition, the Town Clerk shall cause to be published, within the same time, at least once in a newspaper of general circulation, or posted for ten days in three public places within the town, a notice setting forth the name of the applicant and the purpose, day, time, and place of the hearing. The cost of such notice shall be paid in advance by the applicant.

('70 Code, Ch. I, Art. I § 8)

(H) Burden of proof. The burden of proof shall be upon the applicant to establish the fact that the public convenience and necessity requires the operation of the taxicabs specified in his application, as well as all other facts requisite to the granting of a certificate.

('70 Code, Ch. I, Art. I § 9)

(I) Failure to begin operations. If a certificate is granted to an applicant, and such applicant fails to begin operation in accordance with the provisions of the certificate within 60 days after the date of the certificate, then the certificate shall become null and void.

('70 Code, Ch. I, Art. I § 10) Penalty, see § 10.99

§ 114.03 TRANSFER OF CERTIFICATE.

A certificate of convenience and necessity is not transferable without the consent of the Board of Commissioners. Application for transfer of a certificate shall be made by the proposed transferee and shall be filed in the same manner as an application for an original certificate. The proceedings upon such application for transfer of a certificate shall be the same as those herein provided for the issuance of

a certificate, except that the question of public convenience and necessity need not be proved.

('70 Code, Ch. I, Art. I § 11)

§ 114.04 REVOCATION OF CERTIFICATE.

(A) The Board of Commissioners may, at any time after a public hearing conducted in the same manner as provided in § 114.02(G), revoke any certificate of convenience and necessity issued pursuant to this chapter for any one or more of the following causes:

(1) Failure to operate the taxicabs specified in the certificate in such a manner as to serve the public adequately and efficiently.

(2) Failure to maintain motor vehicle equipment in good repair.

(3) Failure to carry liability insurance or bond as required by this chapter.

(4) Failure to pay the town taxes or license fees imposed on such taxicabs.

(5) Repeated and persistent violations by the taxicab drivers of traffic and safety ordinances, or state laws relating to alcoholic beverages or prostitution.

(6) Failure to report accidents.

(7) Willful failure to comply with any provision of this chapter or other ordinances or state laws relating to the operation of taxicabs.

('70 Code, Ch. I, Art. I § 12)

(B) No certificate shall be revoked until the holder thereof has had five days notice by personal service or registered mail of the charges against him, and of the time and place of a hearing giving him an opportunity to be heard. If after the hearing, the Board of Commissioners finds that the holder is guilty of one or more of the offenses listed in division (A), the Board shall have the power to revoke the certificate, or to condition a revocation upon compliance with its order within any time fixed by the Board.

('70 Code, Ch. I, Art. I § 13)

§ 114.05 SCHEDULE OF RATES CHARGED BY TAXICABS; DISPLAY TO PASSENGERS.

(A) The Board of Commissioners may from time to time establish a schedule of rates to be charged by taxicabs for transporting passengers. The schedule so established shall remain in effect until changed by the Board. The schedule shall at all times be prominently displayed in

each and every taxicab, so as to be visible to passengers therein. The current schedule of rates is on file in the office of the Town Clerk.
('70 Code, Ch. I, Art. I § 14)

(B) Every taxicab operated within the geographical jurisdiction of this chapter shall at all times have prominently displayed therein, in a place readily visible to all passengers, a schedule of the rates, fares, and charges for the use of such taxicab.
('70 Code, Ch. I, Art. II § 8) Penalty, see § 10.99

§ 114.06 LIABILITY INSURANCE.

All owners and operators of taxicabs operated within the town shall procure and maintain upon each taxicab owned or operated by him within the town, liability insurance with some insurance company licensed to do business in the state in the sum of \$5,000 property damage, \$10,000 for injuries to one person, and \$20,000 for injuries to more than one person.
('70 Code, Ch. I, Art. I § 15) Penalty, see § 10.99

§ 114.07 TRANSFER OF CERTIFICATE, LIABILITY INSURANCE TO ANOTHER VEHICLE.

The person to whom a certificate of convenience and necessity has been issued may, by appropriate endorsement thereon by the Town Clerk, substitute another vehicle or vehicles for the vehicle or vehicles for which the certificate was granted. In such instance, the liability insurance or bonds shall also be transferred to the substitute vehicle or vehicles.
('70 Code, Ch. I, Art. I § 16)

TAXICAB DRIVERS

§ 114.15 PERMIT REQUIRED.

(A) Permit required. No person shall operate any taxicab for hire, carrying passengers from place to place within the corporate limits, or carrying passengers between the town to points within a radius of five miles of the corporate limits, unless that person has first applied for and secured from the Chief of Police a permit to operate a taxicab. ('70 Code, Ch. I, Art. II § 1)

(B) Application. Application for a permit to drive a taxicab shall be made upon forms provided by the Town Clerk, upon payment of the required fees as approved by the Board of Commissioners and shall, among other things, state the name, address, social security number, physical conditions, physical description, employment history, court record, and state chauffeur license number. Such application shall be signed and sworn to by the applicant. The applicant shall further appear at the office of the Police Department and have his fingerprints taken, and shall also furnish a recent photograph of himself, both of which shall constitute a necessary part of his application. ('70 Code, Ch. I, Art. II § 2)

(C) Investigation. The Chief of Police of the town or his designee is hereby charged with the duty of checking the state repository for criminal history in investigating the truth of the facts stated in the application. If in such investigation he finds that the applicant has been convicted of a felony; a violation of any federal or state statutes relating to the use or sale of intoxicating liquors; a violation of any federal or state statutes relating to use, possession or sale of narcotic drugs; a violation of any federal or state statute relating to prostitution; repeated violations of traffic laws, then this shall be grounds for denial of a permit. ('70 Code, Ch. I, Art. II § 3)

(D) Standards for granting permit. After the investigation is completed, the Chief of Police shall forward a report to the Town Manager of his findings. If the Chief of Police of the town finds that the applicant has not been convicted of any of the offenses stated in division (C) above, then the Chief of Police shall issue to the applicant a permit to drive a taxicab. ('70 Code, Ch. I, Art. II § 4)
(Am. Ord. 93-94-17, passed 4-11-94)

§ 114.16 PERMIT REVOCATION.

At any time after the issuance of a permit to any person to drive a taxicab, the Board of Commissioners may revoke the permit if the person holding the permit is convicted of a felony; a violation of any federal or state statute relating to the use, possession, or sale of intoxicating liquors; a violation of any federal or state statute relating to the use, possession, or sale of narcotic drugs; a violation of any federal or state statute relating to prostitution; repeated violations of traffic laws; or if the person becomes a habitual user of intoxicating liquors or narcotic drugs.
('70 Code, Ch. I, Art. II § 5)

§ 114.17 SUSPENSION OF PERMIT.

(A) The Board of Commissioners may suspend a taxicab driver's permit for such time as it may deem proper on any ground sufficient for a revocation thereof; if the driver is found to have made a false statement in his application for a permit; if he shall be found to have in his possession or custody any quantity of intoxicating liquor within his cab or upon his person while on duty as a taxicab driver; or if he has violated any provision of this chapter.

(B) Before any suspension of permit is ordered by the Board of Commissioners, the holder of the permit shall be given five day's written notice by the Town Clerk of the time and place of a hearing before the Board of Commissioners, at which the holder of the permit shall have an opportunity to show cause why his permit should not be suspended.
('70 Code, Ch. I, Art. II § 6)

§ 114.18 DISPLAY OF PERMIT TO PASSENGERS.

The driver of every taxicab shall at all times while operating the taxicab prominently display therein, in a place readily visible to all passengers, his permit to drive a taxicab.
('70 Code, Ch. I, Art. II § 7)

Section

115.01 Levying tax on gross receipts

§ 115.01 LEVYING TAX ON GROSS RECEIPTS.

(A) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"CUSTOMER." Any person who leases or rents a vehicle on a short-term lease or rental basis.

"GENERAL STATUTES." Refers to the North Carolina General Statutes and any reference to a particular section thereof shall include the same as may be from time to time amended, modified, supplemented, revised or superseded.

"GROSS RECEIPTS." The amount that is or would be reported as gross receipts on a business's state income tax return if the state return does not separately state gross receipts for the most recently completed tax year. Taxes collected hereunder are not subject to the tax herein imposed and are not included in gross receipts.

"LEASE" or "RENTAL." A transfer, for consideration, of the use but not the ownership of property to another for a period of time. (G.S. § 105-164.3(17))

"LONG-TERM LEASE OR RENTAL." A lease or rental made under a written agreement to lease or rent property to the same person for a period of at least 365 continuous days. (G.S. § 105-187.1(3))

"PERSON." Any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

"SHORT-TERM LEASE OR RENTAL." Any lease or rental of a vehicle that is not a long-term lease or rental. (G.S. § 160A-215.1(e)(1) and G.S. § 105-187.1(8))

"TAX COLLECTOR." Refers to that individual appointed by the governing body pursuant to G.S. § 105-349 (the provisions of the municipal Charter), to collect taxes on behalf of the town and any other person authorized to carry out the duties and functions of such individual.

"TAXPAYER." Any person liable for the taxes imposed by this section.

"VEHICLE." Means any of the following:

(1) A motor vehicle of the passenger type, including a passenger van, minivan, or sport-utility vehicle.

(2) A motor vehicle of the cargo type, including a cargo van, pickup truck, or truck with a gross vehicle weight rating of 26,000 pounds or less, used predominantly in the transportation of property for other than commercial freight, and which does not

require the operator to possess a commercial driver's license.

(3) A trailer or semitrailer with a gross vehicle weight to 6,000 pounds or less. (G.S. § 160A-215.1(e)(2)(c))

(B) Levy of tax. A tax is hereby imposed and levied in an amount equal to 1.5% of the gross receipts derived from the short-term lease or rental of vehicles at retail to the general public. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. § 160A-211.

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

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

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

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

(G) Situs. The transaction giving rise to the tax herein levied shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle. (G.S. § 160A-215.10b)

(H) Penalties and remedies. The provisions with respect to remedies and penalties applicable to G.S. §§ 105-164.1 et seq. and G.S. 105-228.90 et seq., shall be applicable in like manner to the tax authorized to be levied and collected under this section, to the extent that the same are not inconsistent with the provisions hereof. The governing body of the town may exercise any power the Secretary of Revenue may exercise in collecting sales and use taxes. (G.S. § 160A-215.1-d)

(I) Administration. In addition to the provisions herein, the levy and collection of the taxes herein imposed shall be otherwise administered in the same manner as the Sales and Use Tax as provided in G.S. §§ 105-164.1 et seq. (G.S. 160A-215.1-d)

(J) Authority. This chapter is enacted pursuant to the provisions of G.S. § 160A-215.1
(Ord. 99-00-27, passed 6-12-00)

TITLE XIII: GENERAL OFFENSES

Chapter

- 130. OFFENSES AGAINST PUBLIC PEACE
AND SAFETY
- 131. OFFENSES AGAINST PROPERTY
- 132. OFFENSES AGAINST MORALS

Section

- 130.01 Disturbing public meetings
- 130.02 Discharge of firearms, air rifles, or the like
- 130.03 Pyrotechnics
- 130.04 Molotov cocktails, firebombs
- 130.05 Loitering for the purpose of engaging in drug related activity
- 130.06 "Aggressive panhandling" within the town prohibited
- 130.07 Obstruction of sidewalks prohibited
- 130.08 Prohibiting the use of tobacco products in the town park system

Cross-reference:

Carrying of concealed handguns on municipal property prohibited, signs required, see § 103.01

§ 130.01 DISTURBING PUBLIC MEETINGS.

It shall be unlawful to behave in a loud, boisterous, or indecent manner, or to create any disturbance whatsoever at any public entertainment or meeting.
('70 Code, Ch. H, Art. I § 3) Penalty, see § 10.99

Cross-reference:

Noise regulations, see Ch. 98
Assemblages of people not to create loud or unnecessary noise; exceptions, see § 98.03

§ 130.02 DISCHARGE OF FIREARMS, AIR RIFLES, OR THE LIKE.

(A) It shall be unlawful to discharge any firearm within the corporate limits or on any property and rights-of-way belonging to the town and located outside the corporate limits. However, this section shall not apply to law enforcement officers while engaged in the performance of their duty or to funerals conducted by the military.
('70 Code, Ch. H, Art. II § 1) (Ord. 77-78-18, passed 5-8-78)

(B) It shall be unlawful for any person to discharge any air rifle, air pistol, or other BB shooter within the corporate limits, except upon his own premises.
('70 Code, Ch. H, Art. II § 2) Penalty, see § 10.99

Statutory reference:

Authority to regulate firearms and pellet guns, see G.S. §§ 160A-189, 160A-190

§ 130.03 PYROTECHNICS.

It shall be unlawful to explode firecrackers or other pyrotechnics, except by permit from the Town Clerk, authorized by the Board of Commissioners.
('70 Code, Ch. H, Art. II § 3) Penalty, see § 10.99

Statutory reference:

Authority to regulate explosive substances, see G.S. § 160A-183

§ 130.04 MOLOTOV COCKTAILS, FIREBOMBS.

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) "FIREBOMB." Any type of object designed or constructed so that upon being propelled it will explode or ignite its area of impact.

(2) "MOLOTOV COCKTAIL." Any breakable container or any container which is designed in such a manner that upon being propelled it will at impact empty its contents, which is filled with an inflammable fluid or substance, and which is fitted with a fuse or wick.
('70 Code, Ch. H, Art. III § 1)

(B) It shall be unlawful for any person or persons to manufacture, possess, transport, or use any molotov cocktail or other firebomb.
('70 Code, Ch. H, Art. III § 2)

(C) It shall be unlawful for any person or group of persons to possess all items or materials needed to manufacture molotov cocktails or other firebombs, other than on his or their premises.
('70 Code, Ch. H, Art. III § 3) Penalty, see § 10.99

Statutory reference:

Authority to regulate explosive substances, see G.S. § 160A-183

§ 130.05 LOITERING FOR THE PURPOSE OF ENGAGING IN DRUG RELATED ACTIVITY.

(A) Definitions. For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"PUBLIC PLACE." Any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility, or the doorways and entranceways to any building which fronts on any of those places, or a motor vehicle in or on any of those places, or any property owned by the town.

(B) It shall be unlawful for a person to remain or wander about in a public place in a manner and under circumstances manifesting the purpose to engage in a violation of any subdivision of the North Carolina Controlled Substance Act, G.S. Chapter 90, Article 5. Such circumstances shall include but not be limited to:

(1) Repeatedly beckoning to, stopping, or attempting to stop passersby, or repeatedly attempting to engage passersby in conversation;

(2) Repeatedly stopping or attempting to stop motor vehicles;

(3) Repeatedly interfering with the free passage of other persons;

(4) Such person repeatedly passes to or receives from passersby, whether on foot or in a vehicle, or by courier, money or objects;

(5) Such person takes flight upon the approach or appearance of a police officer.

(C) Violation of any provision of this section shall be a misdemeanor as provided by G.S. § 14-4.
(Ord. 89-90-2, passed 9-11-89; Am. Ord. 05-06-05, passed 8-8-05)

§ 130.06 "AGGRESSIVE PANHANDLING" WITHIN THE TOWN PROHIBITED.

(A) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"AGGRESSIVE MANNER." Any of the following:

(1) To approach, speak to, or follow any person(s) in such a manner that would cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person, or upon the property in the person's immediate possession;

(2) To touch another person(s) without their consent in the course of asking for alms;

(3) To continuously ask, beg, or solicit for alms from a person(s) after the person(s) has responded in a negative manner;

(4) To intentionally block or interfere with the safe or free passage of a person(s) by any means, up to and including causing a person(s) to take evasive action to avoid physical contact.

"ASKING, BEGGING, OR SOLICITING ALMS." Includes any spoken, written, printed, or other such means conducted with the purpose of obtaining an immediate donation of money or other thing of value.

(B) Prohibited acts.

(1) It shall be unlawful for any person to ask, beg, or solicit alms, including money and other items of value, in an aggressive manner, in any place open to the general public, including sidewalks, streets, alleys, driveways, plazas, parking lots, parks, buildings, doorways, and entrances to buildings, and the groundways which enclose buildings.

(2) It shall be unlawful for any person to ask, beg, or solicit alms, in an aggressive manner, in any public transportation vehicle or at any bus stop.

(3) It shall be unlawful for any person to ask, beg, or solicit alms from any operator or occupant of a motor vehicle that is in traffic on a public street.

(4) It shall be unlawful for any person to ask, beg, or solicit alms from any operator or occupant of a motor vehicle on a public street in exchange for the reservation or direction to a public parking space.

(5) It shall be unlawful for any person to ask, beg, or solicit alms in exchange for cleaning (including windows), protecting, watching, washing, repairing, or painting a motor vehicle that is in traffic or parked on a public street.

(C) Permitted activity. All acts authorized as an exercise of a person's constitutional right to picket, protest, or

speak and acts that are permitted by a permit issued by the town shall not constitute unlawful activity under this section.

(D) Penalties.

(1) Any violation of any provision(s) of this section shall be a misdemeanor as provided by G.S. § 14-4 and punishable by the maximum penalty of \$500, as provided by G.S. § 14-4(a).

(2) The Town Attorney is authorized to seek injunctive relief against repeat offenders.
(Ord. 05-06-05, passed 8-8-05)

§ 130.07 OBSTRUCTION OF SIDEWALKS PROHIBITED.

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

"OBSTRUCT or OBSTRUCTION." Blocking, narrowing, or otherwise impeding or in any manner contributing to the blocking, narrowing, or impeding of the safe flow of pedestrian travel.

"SIDEWALK." That portion of the street between the curblines, or the lateral lines, of a roadway and the adjacent property lines intended for the use of pedestrians.

(B) Prohibited acts. It shall be unlawful for any person to obstruct any sidewalk owned and operated by the town.

(C) Penalties. A violation of this section shall constitute a criminal misdemeanor punishable as provided in G.S. § 14-4.
(Ord. 05-06-05, passed 8-8-05)

§ 130.08 PROHIBITING THE USE OF TOBACCO PRODUCTS IN THE TOWN PARK SYSTEM.

(A) Authority. This section is enacted pursuant to (for cities: NCGS 130A-498 and 160A-174(a); for counties: NCGS 130A-498 and 153A-121(a)).

(B) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"E-CIGARETTE." Any electronic oral device that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a liquid nicotine solution or any other substance, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor.

"EMPLOYEE." A person who is employed by the Town of Ayden parks system, or who contracts with the Town of Ayden parks system or a third person to perform services for the Town of Ayden parks system, or who otherwise performs services for the Town of Ayden parks system with or without compensation.

"GROUNDS." An unenclosed area owned, leased, or occupied by the Town of Ayden parks system.

"LOCAL HEALTH DEPARTMENT." The district health department, public health authority, or county health department, the jurisdiction of which includes the Town of Ayden parks system.

"PUBLIC PLACE." An enclosed area to which the public is invited or permitted.

"SMOKING." The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.

"TOBACCO PRODUCT." Any product containing or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, or ingested by any other means, including but not limited to cigarettes; e-cigarettes; cigars; little cigars; snuff; and chewing tobacco. A tobacco product excludes any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

"TOWN OF AYDEN PARKS SYSTEM VEHICLE." A passenger-carrying vehicle owned, leased, or otherwise controlled by the Town of Ayden parks system and assigned permanently or temporarily to its employees, agencies, institutions, or facilities for official Town of Ayden parks system business.

"TOWN OF AYDEN PARKS SYSTEM." Any tract of land or body of water comprising part of the Town of Ayden's parks, playgrounds, recreation areas, greenways, or trails.

"TOWN OF AYDEN PARKS SYSTEM BUILDING." A building owned, leased as lessor, or the area leased as lessee and occupied by the Town of Ayden parks system.

"UNIVERSAL 'NO SMOKING AND USE OF TOBACCO PRODUCTS PROHIBITED' SYMBOL." Symbol consisting of a pictorial representation of a burning cigarette and a tobacco product enclosed in a red circle with a red bar across it.

"UNIVERSAL 'NO SMOKING' SYMBOL." Symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.

(C) Areas in which smoking and the use of tobacco products are prohibited.

(1) Smoking and the use of tobacco products are prohibited:

(a) On the grounds of the Town of Ayden's parks system; and

(b) In the Town of Ayden buildings located in the Town of Ayden parks system.

(2) The prohibition on smoking and the use of tobacco products in the places listed in section (a) above includes those times when they are being used for private events.

(D) Areas in which smoking and the use of e-cigarettes are prohibited.

(1) Smoking and the use of e-cigarettes are prohibited: in all enclosed areas of public places within the Town of Ayden parks system, excluding those places identified in NCGS 130A-498(b1) as being exempt from smoking restrictions, including certain tobacco shops, premises of tobacco manufacturers and growers, smoking guest rooms in lodging establishments, certain cigar bars, private clubs, and live production sets.

(2) The prohibition on smoking and the use of e-cigarettes in the places listed in division (1) above includes those times when they are being used for private events.

(E) Implementation Requirements.

(1) The Town of Ayden parks system and persons who manage, operate, or control a public place shall post signs that meet all the requirements in division (F) of this section.

(2) The Town of Ayden parks system and persons who manage, operate, or control a public place shall remove all ashtrays and other smoking receptacles from places where smoking and tobacco products are prohibited, except for ashtrays and receptacles for sale and not intended for use on the premises.

(3) The person in charge of the Town of Ayden parks system building, vehicle, or grounds or his or her designee, shall direct a person who is smoking or using a tobacco product in a prohibited area to cease and, if the person does not comply, shall contact the Town of Ayden Police Department.

(F) Signage. The signs required by division (E) must:

(1) State in English the applicable prohibition for the area (e.g. smoking and the use of tobacco products are prohibited) and include the applicable universal symbol (e.g., the "No Smoking and Use of Tobacco Products Prohibited" symbol).

(2) Be of sufficient size to be clearly legible to a person of normal vision, and be conspicuously posted.

(3) Be posted in each Town of Ayden parks system vehicle in areas visible to passengers, provided that their placement does not interfere with the safe operation of the vehicle. If the vehicle is used for undercover law enforcement operations, a sign is not required to be placed in the vehicle.

(4) Be posted on Town of Ayden parks system grounds in locations and at intervals reasonably calculated to inform employees and the public of the prohibition.

(5) Be posted at the entrance to buildings in the Town of Ayden parks system;

(6) Be posted on the grounds in the Town of Ayden parks system in locations and at intervals reasonably calculated to inform employees and the public of the prohibition.

(7) Be posted at the entrance to each enclosed public place and in other locations within the enclosed public place reasonably calculated to inform employees and the public of the prohibition.

(G) Enforcement and penalties.

(1) Penalty for violation following oral or written notice by the person in charge of an area described in divisions (C) and (D), or his or her designee, failure to cease smoking or using tobacco products constitutes an infraction punishable by a fine of not more than \$50. A citation may be issued by a sworn law enforcement officer. Conviction of an infraction under this section has no consequence other than payment of a penalty, and no court costs may be assessed.

(2) Additional sanctions for employees. In addition to any penalty under division (1), employees of the Town of Ayden who violate this section shall be subject to disciplinary action consistent with the Town of Ayden human resources policies.

(3) Violations by persons who manage, operate, or control a public place. A local health director may take the following actions and may impose the following administrative penalty on a person who manages, operates, or controls a public place and fails to comply with the provisions of this section.

(a) First violation. Written notice of the person's first violation and notification action to be taken in the event of subsequent violations.

(b) Second violation. Written notice of the person's second violation and notification of administrative penalties to be imposed for subsequent violations.

(c) Third and subsequent violations. Impose an administrative penalty of not more than \$200. Each day on which a violation occurs may be considered a separate and distinct violation.

(H) Public education. The Town of Ayden parks system shall engage in an ongoing program to explain and clarify the purposes and requirements of this section to employees and citizens affected by it and to guide operators and managers in their compliance with it. In doing so, the Town of Ayden parks system may rely upon materials and information provided by the local health department.
(Ord. 17-18-12, passed 11-14-17)

Section

131.01 Posting of signs, advertisements, posters, and the like

§ 131.01 POSTING OF SIGNS,
ADVERTISEMENTS, POSTERS, AND THE LIKE.

(A) It shall be unlawful to post any sign, advertisement, picture, or poster on private property without the consent of the owner.
('70 Code, Ch. H, Art. VI § 3)

(B) It shall be unlawful to post any sign, advertisement, picture, or poster on any shade tree; on any electric, telephone, or telegraph pole; or on any municipal property or equipment. ('70 Code, Ch. H, Art. VI § 4)
Penalty see § 10.99

AYDEN

OFFENSES AGAINST PROPERTY

6

Section

- 132.01 Town's right of entry into disorderly house
- 132.02 Profanity in public places
- 132.03 Urinating or defecating in public
- 132.04 Consumption of alcoholic beverages in public

§ 132.01 TOWN'S RIGHT OF ENTRY INTO DISORDERLY HOUSE.

It shall be unlawful for any occupant of a disorderly house to refuse to open the door thereof and to give entrance thereto to any police officer demanding admission for the purpose of suppressing disorderly conduct.

('70 Code, Ch. H, Art. VII § 3) Penalty, see § 10.99

§ 132.02 PROFANITY IN PUBLIC PLACES.

It shall be unlawful to engage in boisterous cursing or swearing, or to use vulgar or offensive language in any street or public place.

('70 Code, Ch. H, Art. VII § 6) Penalty, see § 10.99

§ 132.03 URINATING OR DEFECATING IN PUBLIC.

(A) Purpose and intent. The purpose of this section is to prohibit urinating or defecating in public in order to allow public property to be used more enjoyably and promoting the good health of the public.

(B) Authority. This ordinance is adopted under the authority granted by G.S. § 160A-174.

(C) Jurisdiction. This section applies to all property accessible to the general public.

(D) Definitions. For the purposes of this section, the following words and phrases shall be defined as follows:

"DEFECATE." The act of expelling solid waste from the human body.

"PERSONS." Any individual, firm, partnership, association, corporation, other organizations or groups, or combination of persons acting as a unit.

"PUBLIC PLACE." Any building, street, alley, parking lot, or any other place that is easily accessible to the general public.

"URINATE." The act of expelling liquid waste from the human body.

(E) Prohibited conduct. It shall be unlawful for any person to urinate or defecate in any public place in view of the public.

(F) Enforcement. Any person violating this section will be charged by citation, criminal summons, or by physical arrest for this violation.

(G) Violations and penalties. Any person who knowingly or willingly violates this section shall be guilty of a misdemeanor punishable by imprisonment not to exceed 30 days or a fine not to exceed \$50. (Ord. 94-95-13, passed 4-10-95)

§ 132.04 CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC.

(A) Purpose and intent. The purpose of this section is to prohibit the consumption of malt beverages, unfortified wine or spirituous liquor on or in any public place, or in any place owned or occupied by the town.

(B) Authority. This section is adopted under the authority granted by G.S. § 160A-174.

(C) Jurisdiction. This section applies to all places open to the general public.

(D) Definitions. For the purposes of this section, the following words and phrases shall be defined as follows:

"MALT BEVERAGE." Beer, lager beer, malt liquor, ale, porter and other brewed or fermented beverages containing .05% of alcohol by volume but not more than 5% of alcohol by weight.

"PERSONS." Any individual, firm, partnership, association, corporation, other organizations or groups, or combination of persons acting as a unit.

"PUBLIC PLACE." Any building, street, alley, parking lot, or any other place that is easily accessible to the general public.

"UNFORTIFIED WINES." Wine that has an alcoholic content produced only from natural fermentation or by the addition of pure cane sugar, beet, dextrase sugar, and having an alcoholic content of not less than 5% and no more than 14% of absolute alcohol, the percent of alcohol to be reckoned by volume, and that has been approved as to identity, quality and purity by the state board of alcoholic control as provided in this section.

(E) Prohibited conduct. It shall be unlawful for any person to consume or offer for consumption a malt beverage or unfortified wine, or any spirituous liquor on or in any public place, or on or in any place owned by or occupied by the town.

(F) Enforcement. Any person violating this section will be charged by citation, criminal summons, or physical arrest with such violation.

(G) Violations and penalties. Any person who knowingly or willingly violates this section shall be guilty of a misdemeanor punishable by imprisonment not to exceed 30 days or a fine not to exceed \$50. (Ord. 94-95-14, passed 4-10-95)

TITLE XV: LAND USAGE

Chapter

150. BUILDING CODE ENFORCEMENT X

151. COMPREHENSIVE PLAN X

152. MODEL HOUSING CODE

153. SUBDIVISIONS X

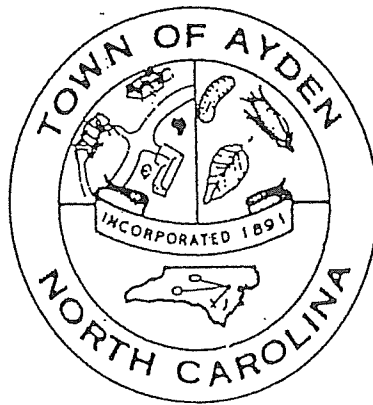
154. TRAILERS AND TRAILER CAMPS X

155. ZONING CODE

156. NON-RESIDENTIAL MAINTENANCE CODE

Town of Ayden

Model Housing Code



FOREWORD

North Carolina law (G.S. Chapter 160A, Article 19, Part 6) authorizes municipalities to adopt an ordinance establishing minimum housing standards and providing for the repair, closing or demolition of dwellings which are unfit for human habitation. The League's Model Housing Code is an ordinance which has been prepared to implement this enabling authority. The Code complies with the constitutional requirements enumerated by the North Carolina Supreme Court in the case of Horton v. Gullledge, 277 N.C. 353 (1970). It has been approved by the staff of the U.S. Department of Housing and Urban Development.

The Model Housing Code ordinance can be divided into two parts. Sections 4 through 11 establish minimum standards for structural conditions, plumbing, heating, electrical equipment, ventilation, maintenance and the like. These standards were developed by the League in cooperation with a committee of local building inspectors. The standards represent the combined thinking of this group and are recommended for adoption, but they are not binding in any way. Changes can be made in these sections to suit local preferences.

The remaining sections of the ordinance establish the procedures for enforcing the minimum housing standards. For the most part, the various procedural steps are established by state law and are not subject to change. The enabling legislation does allow a municipality to designate either its zoning board of adjustment or a housing appeals board to hear appeals from orders and decisions of the building inspector under this ordinance. Therefore, Section 19 of the ordinance has been drafted in two alternate forms, and a municipality must choose one of these options.

On the blue pages immediately following the ordinance are several forms which have been drafted by the League's legal staff to implement the procedural steps of the code. Building inspectors who use these forms should note that there are two, separate forms (Form #7 and #8) for the ordinance by which the governing board directs the inspector to take corrective action. Form #7 applies where repairs are authorized, while Form #8 should be used when removal or demolition is authorized.

State law, G.S. 160A-364, requires that the Model Housing Code ordinance can be adopted only after proper notice has been given and a public hearing held. G.S. 160A-360 provides that this ordinance may also be enforced within the extraterritorial jurisdiction of a municipality (if an ordinance has been adopted specifying the boundaries of the extraterritorial jurisdiction).

Persons using this model ordinance should realize that it is only one of several legal tools available to cities and towns in the field of building and housing code enforcement. Part 5 of Article 19, G.S. Chapter 160A, authorizes certain corrective action against unsafe buildings (no ordinance is required). G.S. 160A-441 authorizes the adoption of an ordinance to provide for the repair, closing or demolition of abandoned structures. In addition, G.S. 160A-174 and G.S. 160A-193 authorize the adoption of ordinances to define and abate nuisances and to remedy conditions which are dangerous to the public health. Any one or combination of these laws may be used to solve the problems caused by unsafe buildings and dwellings.

THE NORTH CAROLINA MODEL HOUSING CODE
AN ORDINANCE ESTABLISHING MINIMUM HOUSING STANDARDS

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF AYDEN:

Section 1. Finding Purpose. Pursuant to G.S. 160A-441, it is hereby declared that there exist in the Town dwellings which are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents and other calamities; lack of ventilation, light and sanitary facilities; and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the Town.

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

Section 2. Definitions. The following definitions shall apply in the interpretation and enforcement of this ordinance:

- (1) Basement shall mean a portion of a dwelling which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.
- (2) Cellar shall mean a portion of a dwelling which is located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.
- (3) Deteriorated shall mean that a dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this ordinance at a cost not in excess of fifty percent (50%) of its value, as determined by finding of the Inspector.
- (4) Dilapidated shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this ordinance except at a cost in excess of 50% of its value, as determined by finding of the Inspector.
- (5) Dwelling shall mean any building, structure, manufactured home or mobile home, or part thereof which is wholly or partly used or intended to be used for living, sleeping or habitation by human occupants, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home used solely for a seasonal vacation purpose. (these changes added May 27, 1983) Temporary housing, as hereinafter defined, shall not be regarded as a dwelling. The term shall include within its meaning the terms rooming house and rooming unit, as hereinafter defined.
- (6) Dwelling unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

- (7) Extermination shall mean the control and elimination of insects, rodents or other pests by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, or trapping; or by any other recognized and legal pest elimination methods approved by the Inspector.
- (8) Garbage shall mean the organic waste resulting from the handling, preparation, cooking and consumption of food.
- (9) Gender - Words having a masculine gender shall include the feminine and neuter genders.
- (10) Habitable room shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.
- (11) Infestation shall mean the presence, within or around a dwelling, or any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.
- (12) Inspector shall mean the Building Inspector of the Town or any authorized agent of the Inspector.
- (13) Manufactured or Mobile Home added in 1983 by Legislature, shall mean a structure as defined in G.S. 143-145 (7).
- (14) Multiple dwelling shall mean any dwelling containing more than two dwelling units.
- (15) Occupant shall mean any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling, dwelling unit or rooming unit.
- (16) Operator shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.
- (17) Owner shall mean any person who alone, jointly, or severally with others:
- a. Shall have title to any dwelling, dwelling unit or rooming unit, with or without accompanying actual possession thereof; or
 - b. Shall be a mortgagee of record for any dwelling, dwelling unit or rooming unit; or
 - c. Shall have charge, care or control of any dwelling, dwelling unit or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this ordinance, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

- (18) Party or parties in interest shall mean all persons who have interests of record in a dwelling, dwelling unit or rooming unit and any persons who are in possession thereof.
- (19) Person shall mean any individual, corporation, firm, partnership, association, organization or other legal entity.
- (20) Plumbing shall mean and include all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), sewage disposal pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connection to water, sewer or gas lines.
- (21) Public Authority shall mean the Town Housing Authority or any officer who is in charge of any department or branch of the government of the Town of Ayden or the State of North Carolina relating to health, fire, building regulations or other activities concerning dwellings in the Town.
- (22) Rooming house shall mean any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, or brother of the owner or operator.
- (23) Rooming unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.
- (24) Rubbish shall mean non-organic waste materials. The term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass and dust
- (25) Supplied shall mean paid for, furnished, or provided by, or under the control of, the owner or operator.
- (26) Temporary housing shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty consecutive days.
- (27) Unfit for human habitation shall mean that conditions exist in a dwelling, dwelling unit, rooming house or rooming unit which violates or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this ordinance.
- (28) Words having certain meaning. Whenever the words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this ordinance, they shall be construed as though they were followed by the words "or any part thereof".

Section 3. Minimum Standards of Fitness for Dwellings and Dwelling Units.

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

Section 4. Minimum Standards for Structural Condition. The following standards shall constitute the minimum standards for structural condition of a dwelling or dwelling unit:

- (1) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.
- (2) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
- (3) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.
- (4) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.
- (5) Adequate facilities for egress in case of fire or panic shall be provided.
- (6) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.
- (7) The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.
- (8) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.
- (9) There shall be no use of the ground for floors, or wood floors on the ground.

Section 5. Minimum Standards for Basic Plumbing, Heating and Electrical Equipment and Facilities.

(a) Plumbing System.

- (1) Each dwelling unit shall be connected to a portable water supply and to a public sewer or other approved sewage disposal system.
- (2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a portable water supply.
- (3) All plumbing fixtures shall meet the standards of the State Plumbing code and shall be maintained in a state of good repair and in good working order.
- (4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(b) Heating System. Every dwelling and dwelling unit shall have facilities for providing heat in accordance with the following:

- (1) Central and electric heating systems. Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of seventy (70) degrees Fahrenheit measured at a point three feet (3') above the floor during ordinary winter conditions.
- (2) Other heating facilities. Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, gas vents or other facilities to which heating appliances may be connected to heat all habitable rooms with a minimum temperature of seventy (70) degrees Fahrenheit measured three feet (3') above the floor during ordinary winter conditions.

(c) Electrical System.

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

- (2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.
- (3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the State Electrical Code.

Section 6. Minimum Standards for Ventilation.

- (a) General. Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be ten percent (10%) of the floor area of such room. Whenever walls or other portions of structures face a window or any room and such light-obstructing structures are located less than five feet (5') from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least fifteen percent (15%) of the total floor area of such room.
- (b) Habitable rooms. Every habitable room shall have at least one (1) window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least forty-five percent (45%) of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.
- (c) Bathroom and water closet rooms. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

Section 7. Minimum Standards for Space, Use and Location.

- (a) Room sizes. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the State Residential Building code.

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

In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

- (b) Ceiling Height. At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches (7'6").
- (c) Floor area calculation. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent (10%) of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet (4'6") shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.
- (d) Cellar. No cellar shall be used for living purposes.
- (e) Basements. No basement shall be used for living purposes unless:
 - (1) The floor and walls are substantially watertight;
 - (2) The total window area, total openable window area and ceiling height are equal to those required for habitable rooms;
 - (3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well or accessway.

Section 8. Minimum Standards for Safe and Sanitary Maintenance.

- (a) Exterior foundation, walls and roofs. Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.
- (b) Interior floors, walls and ceilings. Every floor, interior wall and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.
- (c) Windows and doors. Every window, exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight and rodent proof and shall be kept in sound working condition and good repair.
- (d) Stairs, porches and appurtenances. Every outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in sound condition and good repair.
- (e) Bathroom floors. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit such floor to be easily kept in a clean and sanitary condition.

- (f) Supplied facilities. Every supplied facility, piece of equipment or utility which is required under this ordinance shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
- (g) Drainage. Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.
- (h) Noxious Weeds. Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.
- (i) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Building Code.

Section 9. Minimum Standards for Control of Insects, Rodents and Infestations.

- (a) Screens. In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device. Every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be equipped with screens.
- (b) Rodent control. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be equipped with screens or such other approved device as will effectively prevent their entrance.
- (c) Infestation. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonable insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.
- (d) Rubbish Storage and Disposal. Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by Town ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.
- (e) Garbage Storage and Disposal. Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit, or an approved outside garbage can as required by Town ordinances.

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

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

- (1) Water Closet, Hand Lavatory and Bath Facilities. At least one (1) water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house wherever these facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one (1) story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.
- (2) Minimum Floor Area for Sleeping Purposes. Every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.
- (3) Sanitary Conditions. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house. He shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.
- (4) Sanitary Facilities. Every water closet, flush urinal, lavatory basin and bathtub or shower required by paragraph (1) of this Section shall be located within the rooming house and within a room or rooms which afford privacy, are separate from the habitable rooms, are accessible from a common hall, and are accessible without going outside the rooming house or through any other room therein.

Section 11. Responsibilities of Owners and Occupants.

- (a) Public areas. Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- (b) Cleanliness. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.

- (c) Rubbish and garbage. Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.
- (d) Supplied Plumbing Fixtures. Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.
- (e) Care of facilities, equipment and structure. No occupant shall willfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

(Note: The respective responsibilities of landlords and tenants under rental agreements for dwelling units are further enumerated in State law, G.S. Chapter 42, Article 5.)

Section 12. Powers and Duties of Building Inspector.

The Building Inspector is hereby designated as the officer to enforce the provisions of this ordinance and to exercise the duties and powers herein prescribed. The Building Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this ordinance. The Building Inspector shall have the following powers and duties:

- (1) to investigate the dwelling conditions, and to inspect dwellings and dwelling units located in the Town in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this ordinance with respect to the repair, closing or demolition of such dwellings and dwelling units;
- (2) to take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;
- (3) to keep a record of the results of inspections made under this ordinance and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed;
- (4) to administer oaths and affirmations, examine witnesses and receive evidence;
- (5) to enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with Section 13 of this ordinance and State law, and shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

- (6) to appoint and fix the duties of such officers, agents, and employees as he deems necessary to assist in carrying out the purposes of this ordinance, and to delegate any of his functions and powers to such officers, agents and employees; and
- (7) to perform such other duties as may be prescribed herein or by the (Governing Body).

Section 13. Inspections; Duty of Owners and Occupants.

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

(Note: When permission to inspect a dwelling or its premises is denied, the Building Inspector must obtain a warrant to inspect. G.S. 15-27.2 provides for the issuance of warrants for the conduct of inspections authorized by law. The N.C. Court of Appeals, in In Re Dwelling, 24 N.C. App. 17 (1974), has held that the consent of the tenant-occupant who was in actual possession and control of the premises was sufficient to authorize an inspection without a warrant, notwithstanding the fact that the owner had objected to the warrantless search. When faced with a situation where permission to inspect is denied, building inspectors are advised to seek the advice of the city or town attorney.)

Section 14. Procedure for Enforcement.

- (a) Preliminary Investigation; Notice; Hearing. Whenever a petition is filed with the Inspector by a Public Authority or by at least five (5) residents of the (City) (Town) charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant in courts of law or equity shall not be controlling in hearings before the Inspector.

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

If the Inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this ordinance within a specified period of time, not to exceed ninety (90) days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.

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

- (c) Failure to Comply with Order.

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- (1) In Personam Remedy. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter, or improve or to vacate and close the same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve or to vacate and close and remove or demolish the same within the time specified therein, the Inspector shall submit to the Board of Commissioners at its regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Inspector, as authorized by G.S. 160A-446 (g).
- (2) In Rem Remedy. After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding paragraph (1), the Inspector shall submit to the Board of Commissioners an ordinance ordering the Inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the Inspector, and pending removal or demolition, to place a placard on such dwelling as provided by G.S. 160A-443 and Section 16 of the ordinance.
- (d) Appeals from Orders of Inspector. An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby. Any appeal from the Inspector shall be taken within 10 days from the rendering of the decision or service of the order, and shall be taken by filing with the Inspector and with the Planning and Zoning Board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the board all the papers constituting the record upon
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which the decision appealed from was made. When an appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When an appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except for due cause shown upon not less than one day's written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and subsection (e) of this Section.

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

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

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

Section 15. Methods of Service of Complaints and Orders. Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered or certified mail. If the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same at least once no later than the time at which personal service would be required under the provisions of this ordinance in a newspaper having general circulation in the (City) (Town). Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

Section 16. In Rem Action by Inspector; Placarding. After failure of an owner of a dwelling or dwelling unit to comply with an order of the Inspector issued pursuant to the provisions of this ordinance, and upon adoption by the Board of Commissioners of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443 (5) and Section 14 (c) of this ordinance, the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this ordinance, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Board of Commissioners, and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "this building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful". Occupation of a building so posted shall constitute a misdemeanor.

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

Section 17. Costs, a Lien on Premises. As provided by G.S. 160A-443 (6), the cost of any repairs, alteration, or improvements, or of vacating and closing, or removal or demolition, caused to be made or done by the Inspector pursuant to Section 16 of this ordinance shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, having priority, and be collected in the same manner as the lien for special assessments established by Article 10, Chapter 160A of the General Statutes.

Section 18. Alternative Remedies. Neither this ordinance 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 ordinance by criminal process as authorized by G.S. 14-4 and Section 20 of this ordinance, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

Section 19. Zoning Board of Adjustment to Hear Appeals. All appeals which may be taken from decisions or orders of the Inspector pursuant to Section 14(d) of this ordinance shall be heard and determined by the Zoning Board of Adjustment. As the appeals body, the Board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The Board shall perform the duties prescribed by Section 14(d) and shall keep an accurate journal of all its proceedings.

If the Zoning Board of Adjustment consists of more than five members, the chairman shall designate five members to hear appeals under this ordinance.

Section 20. Conflict with Other Provisions. In event any provision, standard, or requirement of this ordinance is found to be in conflict with any provision of any other ordinance or code of the Town the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the Town shall prevail.

Section 21. Violation; Penlty.

- (a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, altar, or improve the same, or to vacate and close 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. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.
- (b) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to Section 14 of this ordinance, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alternation or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.
- (c) The violation of any provision of this ordinance shall contitute a misdemeanor, as provided by G.S. 14-4.
- (d) In addition to the penaty established by subsection (c) above, and the remedies provided by other provisions of this ordinance, this ordinance may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.

Section 22. Severablity. If any provision of this ordinance is for any reasons held to be invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deems a separate, independent provision and such holding shall not affect the validity of any other provision hereof, and to that end, the provisions of this ordinance are hereby declared to be sererable.

Section 23. Effective Date. This ordinance shall be effective on 13th
October 1986.

Section

- 156.01 Authority
- 156.02 Short title
- 156.03 Jurisdiction
- 156.04 Purpose
- 156.05 Minimum standards for non-residential buildings and structures
- 156.06 Enforcement
- 156.07 Applicability of other codes
- 156.08 Investigation of conditions
- 156.09 Complaint and hearing
- 156.10 Order
- 156.11 Service of complaints and orders
- 156.12 Liens
- 156.13 Civil penalty
- 156.14 Appeals

§ 156.01 AUTHORITY.

In order to protect the health, safety and welfare of the town and its residents and citizens including but not limited to owners and occupants of non-residential buildings or structures, it is the purpose of this division to establish minimum standards of maintenance, sanitation, and safety relating to non-residential buildings or structures, as expressly authorized by G.S. § 160A-439. This division provides for the repair, closing or demolition of non-residential buildings or structures as a result of a public necessity caused by conditions that are dangerous to the public health, safety and welfare.
(Ord. 12-13-25, passed 5-13-13)

§ 156.02 SHORT TITLE.

This chapter shall be known as the "Save Historic Ayden - Downtown and Highway Commercial Non-Residential Building Code" and may be cited as both the "Non-Residential Building Code" or the "Save Historic Ayden Maintenance Code".
(Ord. 12-13-25, passed 5-13-13)

§ 156.03 JURISDICTION.

(A) The provisions of this code shall apply to all premises, structures, and buildings as defined by the Ayden Zoning Ordinance located within the B-1 Central Business District and the B-2 Highway Commercial District. Residential structures shall fall under enforcement of the minimum housing code for the town. For combination structures, both codes would apply. This code establishes minimum standards for the initial and continued occupancy and/or use of all such buildings, and does not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building, equipment or facilities contained therein.

(B) The provisions of this code apply whether the structure or building is occupied or vacant. All unoccupied or vacant structures or buildings shall be secured by any party in interest to prevent the entry of unauthorized persons or the occurrences of conditions not permitted by law.
(Ord. 12-13-25, passed 5-13-13)

§ 156.04 PURPOSE.

It is the purpose of the provisions of this code to provide a just, equitable and practical method, whereby all buildings, structures, and premises which from any cause, endanger the life, limb, health, property, safety, or welfare of the general public or their occupants, diminish property values or detract excessively from the appropriate appearance of the area, may be required to be repaired or demolished. It is further the purpose of this code to preserve the character and integrity of the community and to promote the comfort, happiness and safety of community residents. It is the further purpose of this code to minimize discordant, unsightly and offensive surroundings while preserving beauty as well as the usefulness of the environment. The provisions of this code are cumulative with and in addition to any other remedy provided by law including the current editions of standard codes adopted by the town and Pitt County.
(Ord. 12-13-25, passed 5-13-13)

§ 156.05 MINIMUM STANDARDS FOR NON-RESIDENTIAL BUILDINGS AND STRUCTURES.

It shall be the responsibility of the owner of all buildings, structures, and/or premises in the B-1 Central Business District and the B-2 Highway Commercial District, that they be maintained in compliance with all applicable provisions herein. The following violations shall be corrected subsequent to the notice of violations as enumerated herein:

(A) Minor violations. The following minor violations shall be abated within 15 consecutive days of the notice of violation:

(1) A structure, wall, or other affixed real property visible from a public right-of-way shall not have graffiti for a period of more than 15 consecutive days.

(2) 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.

(3) A structure shall not have weeds, trees, vines, or other uncultivated vegetation growing upon it greater than 12 inches in height in an untended manner.

(4) 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.

(B) Major violations. The following major violations shall be abated within 60 consecutive days of the notice of violation:

(1) A structure shall not have exterior surfaces that do not form a weather-tight surface due to holes, excessive cracks or decayed surfaces for a period of more than 60 consecutive days.

(2) A structure shall not have a roof with leaks that endangers the integrity of the structure or the health, safety, or welfare of tenants or adjoining property owners for a period of more than 60 consecutive days.

(3) A structure shall not have windows with glass that is broken or missing and/or window frames with more than 50% of the surface area covered with disfigured, cracked, or peeling surface materials for a period of more than 60 consecutive days.

(C) Hazardous conditions. Any combination of conditions which in the judgment of the Enforcement Officer renders any building or structure dangerous or injurious to the health, safety, or general welfare of occupants or members of the general public. Hazardous conditions shall be immediately abated.
(Ord. 12-13-25, passed 5-13-13)

§ 156.06 ENFORCEMENT.

The Code Enforcement Officer is hereby designated to exercise the powers prescribed in this chapter in accordance with the provisions of G.S. 160A-439 and specifically the supplemental powers set forth in G.S. 160A-439(1).
(Ord. 12-13-25, passed 5-13-13)

§ 156.07 APPLICABILITY OF OTHER CODES.

The North Carolina State Building Code, General Construction, Volume I; Plumbing, Volume II; Heating, Air Conditioning, Refrigeration and Ventilation, Volume III; the National Electrical Code; the North Carolina State Rehabilitation Code; and the North Carolina State Fire Code, shall govern all repairs or alterations made to any existing structure. Any identified violations under the state building code shall be certified by the County Building Inspector.
(Ord. 12-13-25, passed 5-13-13)

§ 156.08 INVESTIGATION OF CONDITIONS.

(A) Whenever it appears to the Code Enforcement Officer that any non-residential 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 this chapter, the Code Enforcement Officer shall undertake a preliminary investigation.

(B) 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. The Code Enforcement Officer shall seek assistance from the Pitt County Building Inspector when inspecting properties suspected of hazardous conditions.
(Ord. 12-13-25, passed 5-13-13)

§ 156.09 COMPLAINT AND HEARING.

If the preliminary investigation discloses evidence of a violation of § 156.04, the Code Enforcement Officer shall

issue and cause to be served upon the owner of and parties in interest, in the non-residential building or structure, a complaint. The complaint shall state the following:

(A) The charges and a notice that a hearing will be held before the Code Enforcement Officer at a place within the town, scheduled within 30 days after the serving of the complaint;

(B) 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

(C) That the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Code Enforcement Officer.
(Ord. 12-13-25, passed 5-13-13)

§ 156.10 ORDER.

If, after notice and hearing, the Code Enforcement Officer determines that the non-residential 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 established by the governing body, the Code Enforcement Officer shall state in writing 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) Limitations on orders.

(1) An order may require the owner to repair, alter, or improve the non-residential building or structure in order to bring it into compliance with the minimum standards established by the governing body or to vacate and close the non-residential building or structure for any use.

(2) An order may require the owner to remove or demolish the non-residential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed 50% of its then current value. Notwithstanding any other provision of law, if the non-residential 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 governing body determines, after a public hearing as provided by ordinance, that the non-residential building or structure is of individual significance or contributes to maintaining the character of the district, and the non-residential building or structure has not been condemned as unsafe, the order may require that the non-residential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by the governing body.
(Ord. 12-13-25, passed 5-13-13)

(3) 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.

(B) Action by governing body upon failure to comply with order.

(1) 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 governing body may adopt an ordinance ordering the Code Enforcement Officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Code Enforcement Officer 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 Code Enforcement Officer may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The Code Enforcement Officer may cause to be posted on the main entrance of any non-residential 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.

(2) If the owner fails to comply with an order to remove or demolish the non-residential building or structure, the governing body may adopt an ordinance ordering the Code Enforcement Officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Code Enforcement Officer 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 non-residential 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 governing body. 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 Code Enforcement Officer may cause the building or structure to be removed or demolished.

(C) (1) Action by governing body upon abandonment of intent to repair. If the governing body has adopted an ordinance or the Code Enforcement Officer 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 governing body 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 governing body may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(a) If the cost to repair the non-residential building or structure to bring it into compliance with the minimum standards is less than or equal to 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

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

(2) 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 governing body may take action under this division. 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 Code Enforcement Officer shall effectuate the purpose of the ordinance.
(Ord. 12-13-25, passed 5-13-13)

§ 156.11 SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Code Enforcement Officer pursuant to an ordinance adopted under this section 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 ten 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 Code Enforcement Officer in the exercise of reasonable diligence, and the Code Enforcement Officer 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.
(Ord. 12-13-25, passed 5-13-13)

§ 156.12 LIENS.

(A) Upon the Code Enforcement Officer effectuating the order to repair, alter, improve, vacate, close, remove or demolish the non-residential property, the amount of the cost shall be a lien against the real property upon which the cost was incurred. This lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. 160A-10.

(B) The amount of the costs shall also be a lien on any other real property of the owner, 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) When a non-residential building or structure is removed or demolished by the Code Enforcement Officer, the officer 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. All proceeds of the sale shall be credited against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court. The proceeds 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. Nothing in this section shall be construed to impair or limit in any way the power of the City Council to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.
(Ord. 12-13-25, passed 5-13-13)

§ 156.13 CIVIL PENALTY.

In addition to other available remedies provided in this chapter, any violation of this chapter may subject the offender to a civil penalty in the amount of \$50 for each day the violation(s) continue to exist, as provided in § 10.99 of this code.
(Ord. 12-13-25, passed 5-13-13)

§ 156.14 APPEALS.

Any appeals for an order or decision made by the Code Enforcement Officer may be taken to the Zoning Board of Adjustment. Any person aggrieved by a decision or order of the Code Enforcement Officer shall have the remedies provided in G.S. 160A-446.
(Ord. 12-13-25, passed 5-13-13)

BYLAWS AND RULES OF PROCEDURE
TOWN OF AYDEN PLANNING BOARD

I. Offices

A. The principal office of the Town Of Ayden Planning Board shall be at 221 West Avenue, Ayden North Carolina.

B. The permanent mailing address for the purpose of all notices and correspondence is in care of the Town of Ayden, P. O. Box 219, Ayden, North Carolina 28513. Attn. Town Clerk.

C. Except as otherwise directed by the Planning Board, all the books and records of the Board shall be kept at the office of the Town Clerk.

II. GENERAL RULES AND MEMBERSHIP

A. The Town of Ayden Planning Board shall be governed by the terms of Chapter 160A of the General Statutes of North Carolina and all such duly authorized Statutes or ordinances adopted heretofore and hereafter by the General Assembly of North Carolina and the Board of Commissioners of the Town of Ayden. All members of the Board shall thoroughly familiarize themselves with these laws.

B. The Planning Board shall consist of ten members, five members shall be appointed by the Board of Commissioners and shall live within the Corporate limits, and five members appointed by the Pitt County Board of Commissioners after being recommended by the Town Board. These five members shall reside in the extra-territorial area. All members shall be appointed for a three year term, three to expire each year except every third year four terms will expire. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur to serve the period of the unexpired term.

C. The members of the Town of Ayden Planning Board shall also serve as the Board of Adjustment, and their conduct shall be governed by all ordinances adopted heretofore and hereafter by the General Assembly of North Carolina and the Board of Commissioners of the Town of Ayden.

III. OFFICERS AND DUTIES

A. Chairman. A chairman shall be elected by the full membership of the Planning Board from among its regular members. His/Her term of office shall be for one year and until their successor is elected, beginning on the Third Monday in December of each year, and they shall be eligible for re-election. The chairman shall be the chief executive officer of the board and shall preside at all meetings of the Board. The chairman shall decide on all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Board in session at the time. The chairman shall appoint any committees found to be necessary to investigate any matters before the Board.

B. Vice Chairperson. A vice chairperson shall be elected by the Board from among its regular members in the same manner and for the same term as the chairman. They shall serve as acting chairman in the chairman's absence, and at times they shall have the same powers and duties as the chairman.

C. Secretary. A secretary shall be appointed by the chairman of the Board, either from within its membership or from the outside, to hold office during the term of the chairman and/or until a successor secretary has been appointed. The secretary shall be eligible for reappointment. The secretary, subject to the direction of the chairman and the Board, shall keep all records, shall conduct all correspondence of the Board, shall arrange for all public notices required to be given, shall notify members pending meetings and their agenda, shall notify parties to cases before the Board of its decision on such cases, and shall generally supervise the clerical work of the Board. The secretary shall keep the minutes of every meeting in a permanent volume. The minutes shall show a record of all important facts pertaining to each meeting and hearing, every resolution acted on by the board, and all votes of members of the Board on any resolution or on the final determination of any question, indicating the names of members who are absent or fail to vote. If the secretary is chosen from outside the Board's membership, he shall not be eligible to vote on any matter.

D. All legal matters and proceedings of the Board shall be reviewed by the Town Attorney.

IV. RULES OF CONDUCT FOR MEMBERS

A. Members of the Board may be removed for cause, including violation of the rules stated below.

B. Faithful attendance at all Board meeting and conscientious performance of the duties required of the Board members shall be considered a prerequisite of continuing membership on the Board.

C. No Board member shall take part in the hearing, consideration, or determination of any case in which he is personally or financially interested.

D. No Board member shall vote on any matter that decided an application or appeal unless he has attended the public hearing on that application or appeal, or has reviewed the minutes and records thereof.

V. Meetings.

A. Regular Meetings. Regular meetings of the Board shall be held on the third Monday of each month at 7:30 PM in the District Courtroom in the Town Hall ; provided that meetings may be called for a different time or place if the chairman, or vice chairperson in his absence, so directs.

B. Special Meetings. The chairman may call a special meeting of the Board at any time. At least forty-eight (48) hours written notice of the time and place of the special meeting shall be given, by either the secretary or the chairman, to each member of the Board. Notice shall also be given to the public and the media as requires.

C. Cancellation of Meetings. If there is no business for the Board, or if so many regular members notify the secretary that they cannot attend that a quorum will not be available, the chairman may dispense with a regular meeting by giving written or oral notice to all members not less than twenty-four (24) hours before the time set for the meeting.

D. Quorum. Six members of the Board shall constitute a quorum.

E. Voting. All regular members may vote on any issue unless they have disqualified themselves for one or more of the reasons listed in Section IV. The required vote to decide appeals and applications shall be as provided in Section VI-D-4, and shall not be reduced by any disqualifications. In all other matters the vote of the majority of the members present and voting shall decide issues before the Board.

F. Conduct of Meetings. All meetings shall be open to the public. The order of business at regular meetings shall be as follows: (a) approval of minutes of the previous meeting, (b) new business; (c) unfinished or old business.

VI AMENDMENTS

The rules may, within the limits allowed by law, be amended at any time by a affirmative vote of not less than four-fifths of the Board, provided that such amendments be presented in writing at a regular or special meeting before the meeting at which the vote is taken.

Date Approved _____