

MEMORANDUM

TO: Rep. Jonathan C. Jordan and Sen. Andy Wells—Co-Chairs of the Joint Legislative Administrative Procedure Oversight Committee
Rep. James L. Boles, Jr., Rep. Ted Davis, Jr., and Sen. Shirley B. Randleman — Co-Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety

FROM: Jennifer H. Larson, Town Clerk

DATE: November 28, 2018

RE: **Response to the Requirements set forth in Section 3 of Session Law 2018-69 (House Bill 379) for the Town of Fairmont, N.C.**

Attached is the response of the Town of Fairmont, North Carolina to the requirements set forth in Section 3 of Session Law 2018-69 for local governmental units. The attached document contains a list of all the Town of Fairmont's ordinances that create criminal offenses pursuant to G.S. 14-4(a). For further information on our ordinances, visit our website

<http://www.fairmontnc.com/ordinances.htm> or

http://www.amlegal.com/codes/client/fairmont_nc/.

If you have any questions about this Memorandum, please contact me by email at jennyhlaron@bellsouth.net or by phone at 910-628-9766, ext. 217.

CHAPTER 10 – GENERAL PROVISIONS

§ 10.99 GENERAL PENALTY.

(A) In accordance with G.S. 160A-175 and 14-4:

(1) Except as provided in division (A)(2), if any person shall violate any provision of this code, he or she shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500. No fine shall exceed \$50 unless the pertinent section of the code expressly states that the maximum fine is greater than \$50.

(2) If any person shall violate any provision of this code regulating the operation or parking of vehicles, he or she shall be responsible for a civil fine or penalty as set by the code or by separate town ordinance.

(B) An ordinance contained herein may provide for its enforcement by other remedies, as authorized in G.S. 160A-175, including the imposition of civil fines, the ordering of specific equitable relief, including injunctions, or a combination of remedies. In addition, any ordinance contained herein may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

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

CHAPTER 34 – CIVIL EMERGENCIES, PREPAREDNESS

§ 34.02 PROCLAMATION.

(A) *Authorization of Mayor to issue.* 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 a state of emergency, and, in order to more effectively protect the lives and property of people within the town, to place in effect any or all of the restrictions authorized in this section.

(B) *Application of restrictions; persons exempted.* The Mayor is hereby authorized and empowered to limit by the proclamation the application of all or any part of the restrictions to any area specifically designated or described within the corporate limits of the town and to specific hours of the day or night and to exempt from all or any part of the restrictions law enforcement officers, firefighters and other public employees, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; on-duty employees of public utilities, public transportation companies and newspaper, magazine, radio broadcasting and television broadcasting corporations operated for profit; and 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.

(C) *Restrictions enumerated.* During the existence of a proclaimed state of emergency, the Mayor may impose by proclamation any or all of the following restrictions:

(1) Prohibit or regulate the possession off one's own premises of explosives, firearms, ammunition or dangerous weapons of any kind, and prohibit the purchase, sale, transfer or other disposition thereof;

(2) Prohibit or regulate the buying or selling of beer, wine or intoxicating beverages of any kind, and their possession or consumption off one's own premises;

(3) Prohibit or regulate any demonstration, parade, march, vigil or participation therein from taking place on any of the public ways or upon any public property;

(4) Prohibit or regulate the sale of gasoline, kerosene, naphtha or any other explosive or inflammable fluids or substances;

(5) Prohibit or regulate travel upon any public street, alley or roadway or upon any other public property, except by those in search of medical assistance, food or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof; and/or

(6) Prohibit or regulate the participation in or carrying on of any business activity, and prohibit or regulate the keeping open of places of business, places of entertainment and any other places of public assembly.

(D) *Extension, alteration, repeal.* Any proclamation may be extended, altered or repealed in any particular during the continued or threatened existence of a state of emergency by the issuance of a subsequent proclamation.

(E) *Violation of restrictions.* During the existence of a proclaimed state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any proclamation authorized by this chapter.

(1988 Code, § 5-17) Penalty, see § 10.99

Statutory references:

Municipal emergency management, see G.S. § 166A-7

North Carolina Emergency Management Act, see G.S. §§ 166A-1 et seq.

CHAPTER 50 – WATER AND SEWERS

MUNICIPAL WATER SYSTEM

§ 50.36 WATER SYSTEM USE REQUIREMENTS.

(A) *Use of town water.* No person shall take or carry away water from any fire hydrant, public fountain, plug, street washer or other public place, except for firefighting purposes, without prior approval of the Town Manager or his or her designee. Any person receiving water in any manner as described above shall receive the water through a water meter provided by the town and shall pay for the water received in accordance with the water rates in effect at the time.

(B) *Private water supplies.*

(1) *Prohibited use.* It shall be unlawful for any person to furnish, supply or provide any water from a private well or pumps in or to any dwelling house, boardinghouse, inn, hotel, café or other commercial establishment, or any room of the same when the dwelling house or any room therein, is rented or offered for rent to the public, or when the boardinghouse, inn, hotel, café or other commercial establishment is open to, or used by, the public.

(2) *Permitted use.* Private wells, ponds or other water sources shall be allowed for irrigation of lawns, yards, gardens and the like. However, no private water system shall be in any way connected to any water or sewer system constituting a part of the town water or sewer system, nor to any private systems connected in any way to the town systems.

(3) *Providing water to others.* No owner, occupant or agent having access to or control of a private water system shall sell, give, lease, rent or in any other manner furnish, supply or provide any water from a private source to any other person for the purpose of, or when used for, human consumption.

(C) *Access to property.* The Director of Public Works or his or her assistant shall at all reasonable hours have free access to all premises, public or private, for the purpose of examining hydrants, fixtures or connections or for reading or repairing water meters on which town water pressure is maintained.

(D) *Performance of work.* All work on the water system and all connections or disconnections thereto shall be performed by the authorized employees of the town or its authorized contractors. All work shall be performed in accordance with the Plumbing Code of the state and the town and amendments thereto that the Board may from time to time adopt.

(E) *Unauthorized tampering prohibited.* No person shall touch, tamper with or in any manner manipulate or turn the cut-offs on the waterlines, mains or appurtenances forming a part of the water system of the town, nor shall any person tamper with or harm in any manner whatsoever any water line, main or any appurtenance thereto. No person other than authorized town employees shall throw or deposit any material or substance into any waterline, main or appurtenance thereto. It shall be unlawful for any person other than a person authorized by town officials to cut off or cut on the town supply of water.

(Ord. passed 3-12-2002) Penalty, see § 10.99

COLLECTION AND WASTEWATER SYSTEM

§ 50.52 GENERAL SEWER USE REQUIREMENTS.

(A) *Use of public sewers required.*

(1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the town or in any area under the jurisdiction of the town any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any natural outlet within the town or in any area under the jurisdiction of the town any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with this subchapter and with regulations of the Division of Water Quality.

(3) 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.

(4) The owner of all houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, situated within the town and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the town, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within 90 days after date of official notice to do so, provided that the public sewer is within 150 feet of the property line or the owner or tenant will be assessed a monthly access fee equal to the minimum monthly sewer charge.

(B) *Use of private sewage disposal systems.*

(1) Where a public sanitary sewer is not available, the building sewer shall be connected to a private wastewater disposal system complying with applicable state standards. Before commencement of construction of a private water disposal system, the owner shall first obtain a written approval of the state acting through the county health department. The type, capacities, location, and layout of a private wastewater disposal system shall comply with all recommendations of the department of public health and Division of Water Quality. No septic tank or cesspool shall be permitted to discharge to any natural outlet. The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times; at no expense to the town.

(2) At such time as a public sewer becomes available to a property served by a private wastewater disposal system a direct connection shall be made to the public sewer within 60 days. Under unusual and/or special circumstances the town may extend the time of compliance or waive the requirement.

(C) *Protection from damages.*

(1) It shall be unlawful for any person to damage, tamper with or otherwise do harm to the mains, pipes, manholes, apparatus or other parts of the sanitary sewer system, or to place or cause to be placed any object of any nature whatsoever into the system that blocks or obstructs or impedes the normal flow in the sewer system.

(2) No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any equipment or materials, belonging to the town, used for the purpose of making tests or examinations and left upon the premises of a person discharging wastes into the sewers.

(D) *Connection specifications and restrictions.*

(1) All connections to the sanitary sewer system shall be made by authorized employees of the town in accordance with specifications for such connection that may be adopted by the town. If authorized by the Board of Commissioners, connections may be made by plumbers licensed to perform plumbing work in the town. All construction shall be in conformity with the state plumbing and building codes, as amended. Any sewer connection made by an authorized licensed plumber shall be inspected by the approving authority after such work has been completed and prior to the time such connection is covered.

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

(E) *Separate connections required.* Each separate dwelling, structure, business or other building shall have a separate connection to the system; provided, however, that apartments or other multi-use or occupancy buildings may have 1 confined connection within the discretion of the town.

(F) *Connections outside town.* Any person owning or controlling premises beyond the corporate limits of the town and desiring to install a plumbing system for the purpose of discharging domestic and/or industrial waste into the sanitary sewers of the town may do so by complying with the requirements of the town shall be the responsibility of the property owner and shall be done under the general supervision of the public works director of the town.

(G) *Maintenance and repair of connections.* Whenever any service to any building or premise becomes clogged, broken, out of order, or in any condition detrimental to the use of the sewer service, the owner, agent or occupant having charge of such building or premises shall be held responsible for the immediate renewal or repair of the sewer service necessary to maintain an uninterrupted sanitary disposal system. Renewal or repair of sewer service from the main to the property line shall be made at the expense of the town by authorized personnel only; renewal or repair of sewer service from the property line to the source of discharge shall be the responsibility of the property owner.

(H) *Prohibited discharge standards.*

(1) *General prohibitions.* No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.

(2) *Specific prohibitions.* No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater.

(a) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 C.F.R. § 261.21.

(b) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than 1/2 inch in any dimension.

(c) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(d) Any wastewater having a pH less than 5.0 or more than 9.5 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.

(e) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD and the like) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.

(f) Any wastewater having a temperature greater than 150°F (66°C), or which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C).

(g) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(h) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with division (P) of this section.

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

(j) 1. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

2. 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 § 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.

(k) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses or which causes a violation of the town's state or federal wastewater permits.

(l) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable state or federal regulations.

(m) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director.

(n) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l unless authorized by the POTW Director.

- (o) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
- (p) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit.
- (q) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
- (r) Any material that would be identified as hazardous waste according to 40 C.F.R. Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director.
- (s) Any wastewater causing the treatment plant effluent to violate state water quality standards for toxic substances as described in 15A NCAC 2B .0200.
- (t) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (u) Recognizable portions of the human or animal anatomy.
- (v) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
- (w) Any wastes causing two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), to be more than 5%, nor any single reading over 10%, of the lower explosive limit (LEL) of the meter.

(3) Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system.

All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

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

- (a) Advise the user(s) of the potential impact of the contribution on the POTW in accordance with § 50.58(A); and
- (b) Take appropriate actions in accordance with § 50.54 for such user to protect the POTW from interference or pass through.

(I) *National categorical pretreatment standards.* Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 C.F.R. Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 C.F.R. § 403.6(c).

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 C.F.R. § 403.6(e).

(3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 C.F.R. § 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 C.F.R. 403.15.

(J) *Local limits.*

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

BOD	250 mg/l
TSS	250 mg/l
NH ₃	25 mg/l
Arsenic	0.003 mg/l
Cadmium	0.003 mg/l
Chromium	0.05 mg/l (total chromium)
Copper	0.061 mg/l
Cyanide	0.015 mg/l
Lead	0.049 mg/l
Mercury	0.0003 mg/l
Nickel	0.021 mg/l
Silver	0.005 mg/l
Zinc	0.175 mg/l

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

(K) *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter.

(L) *Right of revision.* The town reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in § 50.50(A) or the general and specific prohibitions in division (H) of this section, as is allowed by 40 C.F.R. § 403.4.

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

(N) *Pretreatment of wastewater.*

(1) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this chapter and wastewater permits issued under § 50.54(B) and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in division (H) of this section within the time limitations as specified by EPA, the State, or the POTW Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the town for review, and shall be approved by the POTW Director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Town under the provisions of this subchapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.

(2) *Additional pretreatment measures.*

(a) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(b) The POTW Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

(d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(O) *Accidental discharge/slug control plans.*

(1) The POTW Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in § 50.51(A). All SIUs must be evaluated within one year of being designated an SIU. The POTW Director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the POTW Director may develop such a plan for any user.

(2) All SIUs are required to notify the POTW Director immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see § 50.55(E) and (F).

(3) An accidental discharge/slug control plan shall address, at a minimum, the following:

(a) Description of discharge practices, including non-routine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by § 50.56; and

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(P) *Hauled wastewater.*

(1) Septic tank waste may be introduced into the POTW only at locations designated by the POTW Director, and at such times as are established by the POTW Director. Such waste shall not violate division (B) of this section or any other requirements established by the town. The POTW Director may require septic tank waste haulers to obtain wastewater discharge permits.

(2) The POTW Director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW Director also may prohibit the disposal of hauled industrial waste if he adopts a uniform rule for determining which wastes are prohibited. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

(3) Industrial waste haulers may discharge loads only at locations designated by the POTW Director. No load may be discharged without prior consent of the POTW Director. The POTW Director may collect samples of each hauled load to ensure compliance with applicable standards. The POTW Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(4) 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.

(Ord. passed 3-12-2002; Am. Ord. 10-130, passed 4-20-2010; Am. Ord. 12-150, passed 12-18-2012) Penalty, see § 10.99

CROSS CONNECTION CONTROLS

§ 50.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 .

(B) *Fats, oils, greases, sand and gas control.*

(1) Any person, firm or corporation violating any provisions of §§ 50.70 *et seq.* shall be subject to the loss of public water until the wastewater been proven to contain 200 mg/l or less of grease; less than full compliance for more than 30 days after written notice of violation shall result in loss of public water until the user is fully compliant. If the user remains in violation a any provision of §§ 50.70 *et seq.* in excess of 30 days after written notice of violation, a civil penalty of \$100 per day plus costs required to correct the contamination shall be levied. If not corrected within 45 days from the receipt of the notice of violation, the privilege license of the user will be automatically revoked. Operation after revocation of the privilege license shall constitute a criminal offense punishable by a fine of \$100 per day.

(a) A notification of violation and loss of public water use shall be issued by the Town Manager.

(b) A citation for the civil penalty shall be issued by the Fairmont Police Department.

(c) Each citation for a civil penalty must be paid within a 30 day period.

(d) Each and every day that the violation of any provision of this subchapter continues shall be a separate and distinct offense.

(2) A violator shall be responsible for reimbursement to the Town of Fairmont of all expenses

the town incurs due to the violation. These expenses include, but are not limited to, equipment, material, and labor costs for site remediation and cost recovery of a sanitary sewer overflow and all legal costs associated with the enforcement of §§ 50.70 *et seq.*

(3) The violator shall also be responsible for all costs associated with a public or private penalty against the town due to any violation of §§ 50.70 *et seq.*

(C) *Cross connection controls.*

(1) A written notice of violation shall be given to any person who is determined to be in violation of any provision of §§ 50.80 *et seq.*

(2) Such notice shall set forth the violation and the time period within which the violation must be corrected. The violation must be corrected within a reasonable time, as specified in the notice, not to exceed 30 days from receipt of the notice. If the town determines that the violation is occurring on a customer's private water system and that such violation has created or contributed to the existence of an imminent hazard, the customer may be required to correct the violation immediately.

(3) Water service may be terminated to a customer if the customer fails to correct a violation or to pay any civil penalty or expense assessed under this division. Termination of water service will be without prejudice to the town's ability to assert any other remedy available to the town against the customer or any other person responsible for the violation.

(4) The violation of any provision of this division shall subject the violator to a civil penalty. Each subsequent day that a violation listed in this division continues shall constitute a separate and distinct offense according to the following schedule:

(a) Unprotected cross connection involving a private water system which is a health hazard, per day...\$1,000, or the amount written in the annual town budget ordinance.

(b) Falsifying records that are required to be submitted by this section - certified tester may be removed from the approved certified tester list...\$500, or the amount written in the annual town budget ordinance.

(c) Failing to test backflow prevention assemblies as required...\$200, or the amount written in the annual town budget ordinance.

(d) Failing to maintain backflow prevention assemblies as required...\$200, or the amount written in the annual town budget ordinance.

(e) Any other violation of the provision of this division...\$200, or the amount written in the town budget ordinance.

(5) The town may increase any civil penalty assessed under this division by \$100 or 50% of a maximum civil penalty associated with the violation, whichever is greater, for a second violation of the same provision within a 2-year period. Water service may be terminated after a third violation of the same provision within a 2-year period.

(6) Any person violating any provision of this division shall pay to the town all expenses incurred by the town in repairing any damage to the public water system caused in whole or in part by such violation and any expense incurred by the town in investigating such violation. All such expenses are deemed to be a part of the civil penalty assessed with the violation.

(Ord. 06-101, passed 4-18-2006; Am. Ord. 09-120, passed 7-21-2009)

CHAPTER 52 – SOLID WASTE

MUNICIPAL COLLECTION AND DISPOSAL SYSTEM

§ 52.24 NONRESIDENTIAL CONTAINERS.

(A) *Each business required to procure a container.* Every business, company, office, industry or other nonresidential generator of garbage or refuse shall obtain access to a container approved by the Town Manager or his or her designee. This requirement shall apply regardless of whether the nonresidential generator is a seasonal, part-time or temporary activity or operation.

(B) *Joint use of a container.* In accordance with established procedures, 2 or more nonresidential entities may, on a form furnished by the town, agree to jointly use a single container. The town will bill each user. The town will in no manner assume any role, responsibility or liability in the agreement between users.

(C) *Unauthorized use of a joint container.* No person or business entity shall use any container unless the user is a sole user, or a joint user of the container as shown by the applicable joint user agreement. The Clerk shall maintain a file of joint user agreements and update the file as modified joint user agreements are submitted by the prime users. Unauthorized use of a container as specified in this section shall constitute a misdemeanor, punishable upon conviction by a fine not exceeding \$50 or imprisonment not exceeding 30 days, as provided by G.S. § 14-4.

(1988 Code, § 19-34)

§ 52.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) The intentional killing of animals or the dumping or placing of dead animals on public property or public rights-of-way shall constitute a misdemeanor, punishable upon conviction by a fine not exceeding \$50 or imprisonment not exceeding 30 days, as provided by G.S. § 14-4.

(1988 Code, § 19-41)

CHAPTER 70 – GENERAL PROVISIONS

§ 70.02 PUBLIC EMPLOYEES TO OBEY TRAFFIC REGULATIONS.

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States government, this state, county or town, and it shall be unlawful for any driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter or by state statute.

(1988 Code, § 14-2) Penalty, see § 10.99

Statutory reference:

Similar provisions, see G.S. § 20-168

CHAPTER 71 – TRAFFIC-CONTROL DEVICES

§ 71.06 INTERFERENCE WITH OFFICIAL TRAFFIC-CONTROL DEVICES.

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon or any other part thereof.

(1988 Code, § 14-56) Penalty, see § 10.99

CHAPTER 72 – VEHICLE OPERATION GENERALLY

§ 72.01 SPEED LIMITS.

It shall be unlawful to operate a vehicle in excess of the speeds indicated in Chapter 75, Sch. II on the streets listed in that schedule.

(1988 Code, § 14-76) Penalty, see § 10.99

Statutory reference:

Speed limits, G.S. §§ 20-141 et seq.

§ 72.02 LIMITATIONS ON TURNING AROUND.

The driver of any vehicle shall not turn the vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless the movement can be made in safety and without interfering with other traffic. In this section, the term ***BUSINESS DISTRICT*** means Main Street from Church Street to the railroad tracks.

(1988 Code, § 14-77) Penalty, see § 10.99

§ 72.03 DRIVING ON PLAY STREETS.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon that street or portion thereof except drivers of vehicles having business or whose residences are within the closed area, and then any driver shall exercise the greatest care in driving upon any like street or portion thereof.

(1988 Code, § 14-78) Penalty, see § 10.99

§ 72.04 OBEDIENCE TO NO-TURN SIGNS.

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of that sign.

(1988 Code, § 14-79) Penalty, see § 10.99

§ 72.05 PROCESSIONS.

(A) No driver of a vehicle shall drive between the vehicles of a funeral or other authorized procession while they are in motion and when those vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

(1988 Code, § 14-80)

(B) Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as closely as is practical and safe.

(1988 Code, § 14-81)

(C) A funeral procession composed of a series of vehicles shall be identified by the display upon the outside of each vehicle of a pennant or other identifying insignia or by another method as may be determined and designated by the Traffic Division.

(1988 Code, § 14-81) Penalty, see § 10.99

§ 72.08 GASOLINE AND OIL TRUCKS.

(A) *Number allowed within block at same time.* It is declared unlawful for any person to drive a gasoline or oil truck as described in this section within any block in the town while another gasoline or oil truck is within that block, provided that this provision shall not prevent 2 trucks meeting each other within a block and going in opposite directions provided the trucks allow a reasonable distance between them while so meeting.

(B) *Parking.* It is declared unlawful for any person to park a gasoline or oil truck within the corporate limits of the town; provided that nothing in this section shall prevent a truck from loading or unloading within the corporate limits of the town at a regularly established place of business.

(C) *Speed limit.* It is declared unlawful for the driver of any gasoline or oil truck to operate the same within the corporate limits of the town at a speed in excess of 20 mph.

(1988 Code, § 14-85) Penalty, see § 10.99

CHAPTER 73 – STOPPING, STANDING AND PARKING

§ 73.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 .

(B) Violation of § 73.16 (parking oversize vehicles on public streets) shall result in a \$50 fine. The Police Department shall place a notice on the vehicle notifying the owner or operator of the vehicle that the vehicle has been parked in violation of the provisions of § 73.16.

(Ord. passed 10-8-2002)

CHAPTER 74 – PEDESTRIANS AND BICYCLES

BICYCLES

§ 74.19 RIDING ASTRIDE SEAT.

A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.

(1988 Code, § 14-180) Penalty, see § 10.99

§ 74.20 NUMBER OF PERSONS PERMITTED.

No bicycle shall be used to carry more persons at 1 time than the number for which it is designed and equipped.

(1988 Code, § 14-181) Penalty, see § 10.99

§ 74.22 SPEED.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(1988 Code, § 14-183) Penalty, see § 10.99

§ 74.24 CARRYING ARTICLES.

No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least 1 hand upon the handlebars.

(1988 Code, § 14-185) Penalty, see § 10.99

§ 74.25 PARKING.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in a manner as to afford the least obstruction to pedestrian traffic.

(1988 Code, § 14-186) Penalty, see § 10.99

§ 74.26 RIDING ON SIDEWALKS.

No person shall ride a bicycle on the sidewalks of the town. The Chief of Police is authorized to erect signs on any roadway prohibiting the riding of bicycles thereon by any person and when signs are in place no person shall disobey the signs.

(1988 Code, § 14-187) Penalty, see § 10.99

§ 74.27 AUDIBLE SIGNAL DEVICES.

No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with nor shall any persons use upon a bicycle any siren or whistle.

(1988 Code, § 14-188) Penalty, see § 10.99

CHAPTER 90 - STREETS AND SIDEWALKS

GENERALLY

§ 90.001 PLANTING AND PROTECTION OF TREES AND SHRUBS.

Citizens may plant trees in front of their lots and around their lots on the sidewalks under the supervision of the Director of Public Works, provided they shall not plant any that are detrimental to the town. No trees or shrubs shall be planted in the street rights-of-way or gutters. No person shall cut or damage any tree upon the sidewalks of the town without the permission of the Director of Public Works or shall dig up or injure any tree or shall tack or post any advertisement upon the trees of the town.

(1988 Code, § 20-1) Penalty, see § 10.99

§ 90.002 ASSEMBLIES AND CROWDS.

All crowds or assemblages of persons that shall congregate on the streets or sidewalks of the town, thereby obstructing streets or sidewalks to the inconvenience of pedestrians and vehicle operators, shall be dispersed by the police, and any person who refuses to obey the warning of the officer shall be deemed to violate this section; provided that nothing in this section shall prevent builders from obstructing the streets for a reasonable length of time with material while work is in progress.

(1988 Code, § 20-2) Penalty, see § 10.99

§ 90.003 DISPLAY OF GOODS.

It shall be unlawful for any person to place or set out for exhibition any goods, wares or merchandise directly connected with the business transacted by him or her, on the sidewalk in front of a place of business, store or building owned, controlled or occupied by him or her without specific approval of the Board; however, written request from a sponsoring agency or an individual merchant to hold a 1-day sidewalk sale may be approved by the Town Manager. Sponsoring agency requests will be for town-wide sidewalk sales only and individual requests will be limited to 3 per year.

(1988 Code, § 20-3) Penalty, see § 10.99

§ 90.004 PLACING OBJECTS.

It shall be unlawful for any person to store, pile, deposit, erect, keep or place, or cause, permit or suffer to be stored, piled, deposited, erected, kept or placed upon any sidewalk in the town any wood, coal, boxes, barrels, stone, brick, lumber, dirt, merchandise, shipping case, stand, stall, booth or showcase or other obstruction of any kind, except as otherwise provided by law or ordinance.

(1988 Code, § 20-4) Penalty, see § 10.99

§ 90.005 PLAYING GAMES.

No person shall play baseball, football or any other game of ball or shall pitch or catch a ball on any street or sidewalk within the primary fire limits of the town.

(1988 Code, § 20-5) Penalty, see § 10.99

§ 90.006 MAINTENANCE OF PUBLIC AREAS.

Every owner, lessee, tenant, occupant or person in charge of any commercial establishment or premises which maintains any paved or unpaved areas for the use of the public, either for parking or as access area and incident to the carrying on of the principal business of any commercial establishment or premises and which parking or access areas abut or lie within 10 feet of any public street or other public way, shall keep and maintain areas clean and free from trash, litter, rubbish and any materials liable to be blown, deposited or cast upon a street or other public way.

(1988 Code, § 20-6) Penalty, see § 10.99

§ 90.007 GARBAGE AND TRASH RECEPTACLES.

Suitable receptacles shall be provided in all parking or access areas within the meaning of § 90.006. Receptacles shall be plainly marked and constructed to prevent scattering of any trash, litter, rubbish or other materials deposited therein.

(1988 Code, § 20-7) Penalty, see § 10.99

§ 90.009 STREET-DAMAGING MACHINERY PROHIBITED.

It shall be unlawful for any person to drag, or run or cause to be dragged or run any harrow or other implement, engine, machine or tool upon any asphalt, bithulitic, warrenite or other type of permanently paved street of the town which shall be 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.

(1988 Code, § 20-9) Penalty, see § 10.99

§ 90.010 SIDEWALK POLICY; MAINTENANCE.

(A) *Sidewalk policy.* The Town of Fairmont's policy on sidewalks is based upon G.S. § 160A-217 and is considered an improvement for both the owner and the town.

(B) *Sidewalks:*

- (1) Should be part of the town-wide system only;
- (2) Cannot adversely affect an adjacent property;
- (3) Land should be dedicated as an easement, if not part of an already dedicated right-of-way;
- (4) Costs should be based upon a 50/50 basis and shall be considered by the Board on the availability of funds;
- (5) All work is subject to approval by the town Public Works Director; and

(6) Petitions to the Board should be made according to the guidelines of G.S. § 160A-217 and approval of request(s) by the Town Board should follow the same.

(C) *Maintenance.*

(1) The property owner shall petition to the Town Board on a 50/50 basis for costs incurred from the maintenance performed on sidewalks located on property and that which is located on town-maintained streets.

(2) The town shall repair any damages done at 100% cost, for damages incurred by any town employees and/or vehicles while carrying out town duties.

(3) The owner of the property shall be assessed at 100% of costs from damages to the sidewalks which are located on the owner's property and located on town maintained streets. Those wishing to participate in this policy may do so by petitioning the Board of Commissioners by submitting their request in writing to the office of the Town Manager 4 days before the regular scheduled Board meeting.

(1988 Code, § 20-10) Penalty, see § 10.99

§ 90.011 LOITERING; DRUG-RELATED ACTIVITY.

(A) (1) For the purpose of this section, **PUBLIC PLACE** means any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility, or the doorways and entrance ways 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 of Fairmont.

(2) For the purposes of this section, a **KNOWN UNLAWFUL DRUG USER, POSSESSOR OR SELLER** is a person who has, within the knowledge of the arresting officer, been convicted in any court within this state of any violation involving the use, possession or sale of any of the substances referred to in the North Carolina Controlled Substances Act, G.S. § 90-5, or has been convicted of any violation of any substantially similar laws of any political subdivision of this state or of any other state or of federal law.

(3) 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 Substances Act, G.S. § 90-5. Circumstances shall include:

(a) Repeatedly beckoning to, stopping or attempting to stop passers-by, or repeatedly attempting to engage passers-by in conversation;

(b) Repeatedly stopping or attempting to stop motor vehicles;

(c) Repeatedly interfering with the free passage of other persons;

(d) The person is a known unlawful drug user, possessor or seller;

(e) The person behaves in a manner as to raise a reasonable suspicion that he or she is about to engage in or is engaged in an unlawful drug-related activity;

(f) The person repeatedly passes to or receives from passers-by, whether on foot or in a vehicle, money or objects;

(g) The person takes flight upon the approach or appearance of a police officer;

(h) The person is at a location frequented by persons who use, possess or sell drugs; or

(i) Any vehicle involved is registered to a known unlawful drug user, possessor or seller, or is known to be or have been involved in drug-related activities.

(4) A violation of any provisions of this section shall subject the offender to the penalties set forth in § 10.99 of this code of ordinances.

(1988 Code, § 20-11)

(B) (1) A person commits a violation if he or she loiters or prowls in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon appearance of a police officer, refuses to identify himself or herself or any object. Unless flight by the person or other circumstances makes it impractical, a police officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting the person to identify himself or herself and to explain his or her presence or conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if it had been believed by the police officer at the time, would have dispelled the alarm. Any police officer may arrest any person suspected of being a loiterer or prowler without a warrant if it reasonably appears that the delay in arresting the suspect caused by obtaining a warrant would result in the suspect's escape.

(2) It shall be unlawful for any person, after first being warned by a police officer, or where a "no loitering" sign or signs have been posted, to loiter, stand, sit or lie in or upon any public or quasi-public sidewalk, street, curb, crosswalk, walkway area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonably the free passage of pedestrians or vehicles thereon. It shall be unlawful for any person to block, obstruct or prevent free access to the entrance to any building open to the public.

(3) For the purpose of this section, **PUBLIC PLACE** has the following definition unless the context clearly indicates or requires a different meaning: an area generally visible to public view, including streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not) and buildings open to the general public, including those which serve food or drink or provide entertainment and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

(Ord. passed 6-15-2004) Penalty, see § 10.99

Statutory references:

Enforcement of ordinances, see G.S. § 160A-175

Similar provisions, see G.S. §§ 160A-174 and 14-4

DRIVEWAYS

§ 90.025 CURBS AND GUTTERS.

All curbs and gutters to be installed on public streets of the town shall include construction of that part of any driveway which is within the public right-of-way of the street so as to provide a continuous driveway from the street to the property line, unless the owner of the property or his or her agent should request otherwise. The number, location, width and design of the driveway shall be in accordance with normally accepted standards and practices as determined by the Director of Public Works.

(1988 Code, § 20-21) Penalty, see § 10.99

§ 90.026 PERMIT REQUIRED.

No person shall begin to construct, reconstruct, repair, alter or grade any driveway on the public streets, unless a written permit therefore has been issued by the Clerk upon approval of the Manager or the Director of Public Works.

(1988 Code, § 20-31) Penalty, see § 10.99

§ 90.027 APPLICATION; FEE.

(A) All persons desiring a driveway permit shall make application therefore, which application shall show:

(1) The name and address of the owner or agent in charge of the property abutting the proposed work area;

(2) The name and address of the party doing the work;

(3) The location of the work area;

(4) Attached plans showing details of the proposed alteration;

(5) The estimated cost of the alteration; and

(6) Other information as the approving officer shall find reasonably necessary to the determination of whether a permit should be issued.

(B) Application shall be accompanied by a fee which shall be established by the Board.

(1988 Code, § 20-32) Penalty, see § 10.99

STREET IMPROVEMENTS

§ 90.044 CONSTRUCTION ACCORDING TO SPECIFICATIONS.

All street improvements shall be constructed in accordance with specifications furnished by the Director of Public Works, and all work shall be done under his or her supervision.

(1988 Code, § 20-55) Penalty, see § 10.99

§ 90.046 RESURFACING IMPROVEMENTS.

(A) In all cases where a street is being re-paved, the Director of Public Works shall be authorized to close the street or part of the street from the time the work is started until a time as in his or her judgment the street is suitable for ordinary traffic thereon. If there is any dispute as to the time when pavement is sufficiently set or hardened or otherwise has become fit for travel, the decision of the Director of Public Works shall be final. It shall be the special duty of the Director of Public Works to see that the provisions of this section are enforced, both as to the erection of barriers or enclosures and as to travel on any street by vehicles, during the time prohibited. It shall also be the duty of the Director of Public Works to serve the notice as may be necessary to protect any person having a permanent line thereon, such as bus lines, taxicab lines and the like.

(B) No person shall interfere with the closing or undertaking by operating a car or otherwise traveling thereon before the enclosures have been removed therefrom and the street opened for travel.

(1988 Code, § 20-57) Penalty, see § 10.99

EXCAVATION AND REPAIRS

§ 90.060 SUPERVISION AND CONTROL.

All excavations and work in streets, sidewalks, alleys or public places of the town shall be under the supervision and control of the Director of Public Works, whose duty it shall be to inspect the same from time to time during the progress thereof. Upon the completion thereof, he or she shall make a final inspection and see that the street, sidewalk or public place is restored to a condition as good in all respects as before the excavation or work was made or done, and that all debris, materials, tools and equipment are removed therefrom. Any person refusing or failing to comply with any provision of this section shall be guilty of a violation thereof, and where failure or refusal is continued after notice from the Director of Public Works, every day's continuance shall constitute a separate and distinct offense.

(1988 Code, § 20-76) Penalty, see § 10.99

§ 90.061 STREET REPAIR.

When any part of any street, sidewalk, alley or other public place of the town shall be torn or dug up for any purpose, the person making the excavation or opening shall have the duty of refilling the excavation or opening, and refilling shall be done in accordance with the standards and specifications issued by the Director of Public Works or his or her duly authorized representative. Any person neglecting, refusing or failing to comply with any provision of this section shall be guilty of a violation thereof; and where neglect, refusal or failure is continued, after notice from the Director of Public Works or his or her authorized representative, every day's continuance thereafter shall constitute a separate and distinct offense.

(1988 Code, § 20-77) Penalty, see § 10.99

§ 90.062 REQUIREMENTS DURING EXCAVATIONS.

It shall be unlawful for any person who obtains a permit under this subchapter to do any excavation of any kind which may create or cause a dangerous condition in or near any street, alley, sidewalk or public place of the town without placing and maintaining proper guardrails 3 feet from the ground and signal lights or other warnings at, in or around the excavation, sufficient to warn the public of excavation, and to protect all persons using reasonable care from injuries on account of the excavation. It shall be unlawful to cut drains or ditches across the sidewalks or streets unless boxing is used and the same is covered on a level with the sidewalk.

(1988 Code, § 20-78) Penalty, see § 10.99

§ 90.063 PERMIT REQUIRED.

No person shall make any excavation or opening or dig any ditch, trench, tunnel or hole in, along, across or under any street, sidewalk or other public place for the purpose of laying or placing therein any pipe, wires or poles or for any other purpose unless a written permit therefor has been issued by the Clerk, upon approval of the Manager or Director of Public Works; provided that a permit shall not be required where work is performed under a contract with the town but if work requires a sidewalk or street to be wholly or partially obstructed, the person shall notify the Clerk, the Public Works Department and the Police Department at least 2 hours before obstructing the sidewalk or street, unless prevented by sudden emergency.

(1988 Code, § 20-91) Penalty, see § 10.99

§ 90.064 APPLICATION; FEES.

(A) All persons desiring a permit to make an opening in any street or sidewalk, as set forth in § 90.063, shall make written application therefor, which application shall show the location of the proposed opening, the purpose therefor and the approximate number of square yards of surface to be cut.

(B) Application shall be accompanied by a fee which shall be established by the Board.

(C) All fees collected under the provisions of this section shall be paid into the general fund.

(1988 Code, § 20-92) Penalty, see § 10.99

PARADES AND DEMONSTRATIONS

§ 90.077 CERTAIN ACTIVITIES PROHIBITED.

The following acts or activities when performed or undertaken in conjunction with or as a part of any parade, picket line or group demonstration are hereby prohibited and declared unlawful:

(A) The carrying on or about the person any firearm, any weapon or article including but not limited to blackjacks, nightsticks or flashlights which by their use might constitute a deadly weapon; or

(B) The taking or keeping of any dog or other vicious animal, whether leashed or unleashed.

(1988 Code, § 20-113) Penalty, see § 10.99

Statutory reference:

Possession of weapon at parade, see G.S. § 14-277.2

§ 90.078 INTERFERENCE PROHIBITED.

No person shall hamper, obstruct, impede or interfere with any parade, picket line or group demonstration being conducted under authority of a permit duly issued by the Chief of Police.

(1988 Code, § 20-114) Penalty, see § 10.99

§ 90.079 PICKETING.

(A) Peaceful picketing in the furtherance of a lawful purpose shall be permitted in the town provided the same is done under the following conditions:

(1) Picketing may be conducted only on the sidewalks reserved for pedestrian movement and may not be conducted on the portion of a street used primarily for vehicular traffic.

(2) Not more than 10 pickets promoting the same objective shall be permitted to use 1 of the 2 sidewalks within a block of the town at any 1 time.

(3) Pickets may carry written or printed placards or signs not exceeding 2 feet in width and 2 feet in length promoting the objective for which the picketing is done; provided the words used are not defamatory in nature or would tend to produce violence.

(4) Pickets must march in single file and not abreast and may not march closer together than 15 feet except in passing one another.

(5) If pickets promoting different objectives desire to use the same sidewalk for picketing and use would result in the presence of more than 10 pickets thereon, the Chief of Police shall allot time to each group of pickets for the use of the sidewalk on an equitable basis.

(B) It shall be unlawful for any person to physically interfere with pickets in the use of the sidewalk or to address profane, indecent, abusive or threatening language to or at pickets which would tend to provoke pickets or others to a breach of the peace.

(C) The police officers of the town may, in the event of the assemblage of persons in numbers as to tend to intimidate pickets pursuing their lawful objective through numbers alone or through use of inflammatory words, direct the dispersal of persons so assembled and may arrest any person who fails to absent himself or herself from the place of assemblage when so directed by the police.

(D) Whenever the free passage of any street or sidewalk in the town shall be obstructed by a crowd, the persons composing the crowd shall disperse or move on when directed to do so by a police officer. It shall be unlawful for any person to refuse to so disperse or move on when so directed by a police officer.

(1988 Code, § 20-115) Penalty, see § 10.99

§ 90.080 PERMIT REQUIRED.

It shall be unlawful for any person to organize, conduct or participate in any parade, picket line or group demonstration in or upon any street, sidewalk, alley or other public place within the town unless a permit therefor has been issued by the town in accordance with the provisions of this subchapter.

(1988 Code, § 20-126) Penalty, see § 10.99

§ 90.081 GROUNDS FOR DENIAL.

(A) The Chief of Police shall issue a permit for the proposed parade, picket line or group demonstration unless he or she finds that:

(1) The parades, picket lines or group demonstrations will commence before 6:00 a.m. or terminate after 5:00 p.m.;

(2) The parades, picket lines or group demonstrations are to be held at the same time and place as those designated in a permit issued pursuant to a written application previously received by the Chief of Police or his or her designee;

(3) The conduct of the parade, picket line or group demonstration will substantially interrupt the safe and orderly movement of other traffic contiguous to its route;

(4) The conduct of the parade, picket line or group demonstration will require the diversion of so great a number of police officers of the town to properly police the line of movement of the parade and of contiguous areas that adequate police protection cannot be provided the remainder of the town;

(5) The conduct of the parade, picket line or group demonstration will require the diversion of so great a number of ambulances that adequate ambulance service to portions of the town not occupied by the parade and contiguous areas will be prevented;

(6) The concentration of persons, animals and vehicles at assembly points of the parade, picket line or group demonstration will substantially interfere with adequate fire and police protection of or ambulance service to areas contiguous to the assembly areas;

(7) The conduct of the parade, picket line or group demonstration is reasonably likely to result in violence to persons or property causing serious harm to the public; or

(8) The conduct of the parade, picket line or group demonstration will interfere with the movement of firefighting equipment to an extent that adequate fire protection cannot be provided to the town.

(B) Picket lines or picketing activities shall also be subject to the provisions of § 90.079.

(1988 Code, § 20-127) Penalty, see § 10.99

§ 90.082 APPLICATION; ISSUANCE.

The Chief of Police or his or her designee shall issue permits as required in the preceding section, and in the issuance thereof he or she shall:

(A) Require a written application for permit to be filed not less than 24 hours in advance of the parade, picket line or group demonstration which application shall specify the time and place for the commencement of any picket line and the time and place, route and duration of any parade or group demonstration;

(B) Require that the application for a permit specify whether or not minors below the age of 18 years will be permitted to participate; and

(C) Require that the application for a permit shall specify and the permit shall designate the person in charge of the activity. That person shall be required to accompany the parade, picket line or group demonstration and shall carry the permit with him or her at that time. The permit shall not be valid in the possession of any other person.

(1988 Code, § 20-128) Penalty, see § 10.99

§ 90.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 .

(B) Any person, convicted of violating the provisions of § 90.011 shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed \$500 and/or imprisoned for a period not to exceed 30 days as provided by G.S. § 14-4. Each day of violation shall be considered a separate offense.

CHAPTER 91 – NUISANCES

§ 91.02 ILLUSTRATIVE ENUMERATION.

(A) The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of the following items, conditions or actions are a nuisance.

(B) This enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

(1) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things;

(2) Any condition which provides harborage for rats, mice, snakes and other vermin;

(3) All unnecessary or unauthorized noises and annoying vibrations;

(4) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of odors and stenches;

(5) The carcasses of animals or fowl not disposed of within a reasonable time after death;

(6) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances;

(7) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained;

(8) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground;

(9) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities;

(10) The unauthorized obstruction of any public street, road or sidewalk;

(11) The uncontrolled growth of noxious weeds, bushes, undergrowth or grass to a height in excess of 11 inches causing or threatening to cause a hazard detrimental to the public health or safety;

(12) Any accumulation of animal or vegetable matter that is offensive by virtue of odor or vapors or by the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health;

(13) Any accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health; and

(14) Any condition detrimental to the public health which violates the rules and regulations of the County Health Department.

(1988 Code, § 15-2) Penalty, see § 10.99

§ 91.04 PROHIBITED.

No person shall cause, permit, maintain or allow the creation or maintenance of a nuisance.

(1988 Code, § 15-4) Penalty, see § 10.99

ABANDONED AND NUISANCE VEHICLES

§ 91.22 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 the vehicle to be abandoned.

(B) Upon investigation, proper officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

(1988 Code, § 15-23) Penalty, see § 10.99

Statutory reference:

Removal authorized, see § G.S. § 160A-303(c)

§ 91.23 NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner of a motor vehicle or for the owner, lessee or occupant of the real property upon which the vehicle is located to lease or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

(B) Upon investigation, proper officials of the Department of Code Enforcement may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle and order the vehicle removed.

(1988 Code, § 15-24) Penalty, see § 10.99

Statutory reference:

Removal authorized, see G.S. § 160A-303(c)

§ 91.32 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 subchapter, unless and until all towing and impoundment fees, or bond in lieu of fees, have been paid.

(1988 Code, § 15-34) Penalty, see § 10.99

CHAPTER 92 – FIRE PREVENTION AND PROTECTION

GENERAL PROVISIONS

§ 92.01 INTERFERING WITH FIRE ALARM APPARATUS.

No person shall interfere carelessly or willfully with the fire alarm system or injure the poles, wires, boxes or other apparatus connected therewith.

(1988 Code, § 10-1) Penalty, see § 10.99

§ 92.02 INTERFERING WITH FIREFIGHTERS OR FIRE APPARATUS.

No person shall interfere with a firefighter in the discharge of his or her duty or hinder him or her in the performance of his or her duty, nor shall any person other than members of the Fire Department loiter about any fire station or change, handle or meddle in any manner with any fire engine or any other fire apparatus.

(1988 Code, § 10-2) Penalty, see § 10.99

§ 92.03 RIDING ON VEHICLES.

No person other than a bona fide member of the Fire Department shall mount any fire engine, wagon or apparatus before it leaves the station while on its way to or from a fire or at any other time unless by permission of the driver or officer in command of the engine, wagon or other apparatus.

(1988 Code, § 10-3) Penalty, see § 10.99

Statutory reference:

Municipal fire protection, see G.S. §§ 160A-291 et seq.

FIRE DEPARTMENT

§ 92.16 DUTIES OF CHIEF; AUTHORITY AT FIRES.

(A) (1) The Chief, subject to supervision by the Manager, shall:

(a) Have general control of the Department, the personnel, apparatus and fire alarm systems;

(b) Command the Department and supervise the firefighting and extinguishing of all fires and have the authority to keep away from the vicinity of all fires any and all idle, disorderly or suspicious persons;

(c) Inspect or cause to be inspected all trucks and other equipment of the Fire Department each and every week to ascertain that equipment is being kept in proper condition; and

(d) Inspect or cause to be inspected all fire hydrants at least once every 3 months and shall make a report of the inspection to the Manager.

(2) The Fire Chief shall make a monthly written report to the Manager of all meetings of the Fire Department and the attendance of the members, all fires occurring in the town and all out-of-town calls made by members of the Department.

(3) The Fire Chief shall have all fire hydrants tested at least twice each year and shall notify the Director of Public Works in writing of any hydrants that are not in good working order.

(4) (a) The Chief is to assume the functions of Fire Inspector.

(b) As such, he or she shall have authority to enter any and all premises, at a reasonable time for purposes of inspection.

(c) Upon receipt of a complaint, he or she shall forthwith investigate.

(d) He or she shall investigate the causes of fires and shall keep records of his or her findings as to origin, location, owner, extent of damage and injury.

(e) The findings must be reported to the state insurance commissioner at regular intervals.

(f) He or she shall cause the removal of fire hazards by serving proper orders to the owner or agent of premises in question.

(g) The orders shall state a reasonable time limit.

(h) Failure to comply with the order shall be considered a misdemeanor.

(1988 Code, § 10-18)

(B) (1) The officer in command shall have authority to summon aid.

(2) During the continuance of a fire, the Fire Chief, his or her assistant or the Manager shall have authority to call upon any citizen to render assistance in pulling down or demolishing any building or in removing goods or furniture from a building on fire or in danger of fire, but not without the consent of the Manager or of the officer of the Fire Department who may be in charge.

(3) It shall be unlawful to congregate on the streets or alleys near a fire in a manner which would interfere with the activities of the Fire Department.

(1988 Code, § 10-19) Penalty, see § 10.99

Statutory reference:

Duties of Fire Chief, see G.S. § 160A-292

Fire department authorized, see G.S. § 160A-291

CHAPTER 93 – HEALTH AND SANITATION

§ 93.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) Violation of § 93.15*et seq.* shall subject the offender to a civil penalty in the amount of \$25 to be recovered by the Town of Fairmont. Violators shall be first issued a written warning, then any subsequent violations must be paid within 48 hours of the violation. Violation of § 93.15*et seq.* shall not constitute a misdemeanor or infraction punishable under G.S. § 14-4.

(2) Violation of § 93.15*et seq.* by a town employee may result in a disciplinary action under the town's personnel policies.

(Ord. passed 10-8-2002)

CHAPTER 94 - ANIMALS

§ 94.99 PENALTY.

(A) *Misdemeanor.* Notwithstanding any civil penalties which may be assessed under division (B) below, any person violating any of the provisions of this chapter may be found guilty of a Class 3 misdemeanor under G.S. §§ 14-4 and 153A-123. For a continuing violation, each day's violation shall be deemed to be a separate offense.

(B) *Civil penalties.* In addition to, and not in lieu of the criminal penalties and other remedies provided by this chapter or by state law, a violation of any of the provisions of this chapter may also subject the offender to the civil penalties hereinafter set forth. The Animal Control Officer shall be authorized to issue a citation to the person, giving notice of the violation. Citations so issued may be delivered in person or mailed by registered or certified mail, return receipt requested, to the person charged if the person cannot otherwise be readily located. The civil penalty or penalties set forth in the citation must be paid within 7 days of the receipt of the citation and shall be paid to the Town Clerk. If the person charged fails to pay the civil penalty within the time prescribed, a criminal summons shall be issued against the person charging a misdemeanor violation of this chapter under division (A) above and, upon conviction, that person shall in addition to the penalties prescribed for the misdemeanor violation of this chapter be punished as the court prescribes for failure to pay the civil penalties imposed hereby. The civil penalties for a violation of this chapter shall be as follows:

(1) For a violation of any provision of this chapter, the civil penalty shall be \$25 for a first offense, \$50 for a second and \$100 for a third or subsequent offense.

(2) For a violation of any provisions of § 94.40, the civil penalty shall be \$100 for a first offense, \$250 for a second offense and \$500 for a third or subsequent offense.

(Ord. passed 5-13-2003, and amended on June 20, 2017)

CHAPTER 95 – PARKS AND RECREATION

§ 95.99 PENALTY.

(A) Any person who violates any provision of this chapter may be deemed guilty of a misdemeanor. The Town of Fairmont Police Department may issue citations or take other legal measures as may be allowed to enforce the terms and provisions of the rules and regulations set forth for the Fairmont Community Park.

(B) Any violation of this chapter shall be an infraction punishable by a fine of not more than \$50, plus court costs or imprisonment for not more than 30 days, or both, in the discretion of the court, as provided by G.S. § 14-4.

(C) If any violation continues, each day's violation may be considered a separate offense.

(D) Flagrant misuse of parks and recreation facilities will result in a forfeiture of future use or reservation privileges.

(Ord. passed 10-8-2002)

CHAPTER 110 – GENERAL PROVISIONS

GENERAL REGULATIONS

§ 110.01 TREE CUTTING AND TRIMMING.

(A) It shall be unlawful for any person to cut or trim trees for compensation within the town unless that person has a privilege license.

(B) The person shall immediately remove trimmings and limbs and trash resulting therefrom.

(1988 Code, § 12-1) Penalty, § 10.99

CHAPTER 112 – PEDDLERS AND SOLICITORS

§ 112.05 PEDDLING UPON PUBLIC STREETS.

(A) It shall be unlawful for any person to sell fish, oysters or other freshwater food or seafood from wagons, trucks or other vehicles on any of the public streets or public property.

(B) It shall be unlawful for any person to peddle any goods, wares or merchandise upon any public street or public property.

(1988 Code, § 12-55) Penalty, see § 10.99

§ 112.06 SOLICITING SUBSCRIPTIONS.

It shall be unlawful for any person to solicit subscriptions to newspapers, magazines, periodicals and the like, wherein premiums or gifts are given to obtain subscription or to induce persons to subscribe to same unless the solicitor obtains permission from the Town Manager and pays the Tax Collector a fee fixed by the Board for each day that subscriptions are solicited.

(1988 Code, § 12-56) Penalty, see § 10.99

CHAPTER 113 – GAME ROOMS

§ 113.05 LICENSE REQUIRED.

No interested party shall operate a game room unless the party shall have first applied for and received the regulatory license provided for by this chapter. It shall be unlawful to operate a game room within the town without a regulatory license as required by this section, or in any area where the business is not permitted by the zoning ordinance of the town.

(1988 Code, § 12-91) Penalty, see § 10.99

CHAPTER 130 – GENERAL OFFENSES

§ 130.06 BEGGING, SOLICITING AND PANHANDLING PROHIBITED.

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

ACCOSTING. Approaching or speaking to an individual or individuals in a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his or her person, or upon property in his or her immediate possession.

BEG, SOLICIT or PANHANDLE. The communication, by use of gestures, spoken words, written or printed word or other acts as are conducted in the furtherance of the purpose of immediately collecting contributions of money, food or goods, for the use of one's self or others. As used in this section, the word **SOLICIT**, and its forms includes **BEGGING** and **PANHANDLING**.

COMMERCIAL ESTABLISHMENT. Any store, grocery store, restaurant or carry out, office building, gas station.

FINANCIAL INSTITUTION. Any bank, industrial bank, credit union or savings and loan.

FORCING ONESELF UPON THE COMPANY OF ANOTHER:

(a) Continuing to solicit in close proximity to the individual addressed after the person to whom the solicitation is directed has made a negative response, either verbally, by physical sign, by attempting to leave the presence of the person soliciting or by other negative indication;

(b) Blocking the passage of the individual solicited; or

(c) Otherwise engaging in conduct that could reasonably be construed as intending to compel or force a person to accede to a solicitation.

(B) It shall be unlawful for any person to beg, solicit or panhandle, as defined in division (A) above:

(1) By accosting another, or by forcing oneself upon the company of another;

(2) Within 20 feet of the entrance to any financial institution, any automatic teller machine or any commercial establishment;

(3) At any outdoor dining or merchandise area; provided that areas are in active use at the time;

(4) At any transit stop or taxi stand, or in a public transit vehicle;

(5) While the person being solicited is standing in line waiting to be admitted to a commercial establishment;

(6) By touching the person being solicited without that person's consent;

(7) By blocking the path of a person being solicited or blocking the entrance or exit to any building or vehicle;

(8) By or with the use of profane or abusive language, during the solicitation or following an unsuccessful solicitation;

(9) By or with the use of any gesture or act intended to cause a reasonable person to be fearful of the solicitor or feel compelled to accede to the solicitation;

(10) After dark, which shall mean 1/2 hour after sunset until 1/2 hour before sunrise;

(11) While under the influence of alcohol, as defined in the North Carolina Controlled Substance Act, being G.S. §§ 90-86 *et seq.*;

(12) While on private property after being asked to either leave or refrain from begging, soliciting or panhandling; or

(13) By begging, soliciting or panhandling as part of a group of 2 or more people, using words or gestures intended to intimidate a person into giving money.

(Ord. passed 5-18-2004) Penalty, see § 130.99

Statutory references:

Authority to prohibit or regulate begging, see G.S. §§ 160A-179, 14-4

Enforcement of ordinances, see G.S. § 160A-175

§ 130.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to the provisions of § 10.99.

(B) Any person convicted of violating the provisions of § 130.06 shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed \$500 and/or imprisoned for a period not to exceed 30 days as provided by G.S. § 14-4. Each day of violation shall be considered a separate offense.

(Ord. passed 5-18-2004)

CHAPTER 131 – OFFENSES AGAINST PUBLIC SAFETY

§ 131.01 FIRE BOMBS.

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

FIRE BOMB. Any type of object designed or constructed so that upon being propelled it will explode or ignite its area of impact.

MOLOTOV COCKTAIL . Any breakable container, or any container which is designed in 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.

(B) It shall be unlawful for any person or persons to manufacture, possess, transport or use any Molotov cocktail or other fire bomb.

(C) It shall be unlawful for any person or group of persons to possess all the items or materials needed to manufacture Molotov cocktails or other fire bombs, other than on his or her or their premises. The provisions of this section shall be cumulative and in addition to any other ordinance or general statute of the state on this subject.

(D) The Mayor and in his or her absence, the Mayor Pro Tempore, and in the absence of both officials, the Chief of Police, shall be and they are hereby authorized to enforce this section for periods of time as they shall deem necessary.

(1988 Code, § 13-26) Penalty, see § 10.99

Statutory reference:

Fire bombs and the like, see G.S. § 14-288.8

§ 131.02 CARRYING DEADLY WEAPONS.

(A) It is hereby declared unlawful for any person to carry about his or her person any deadly weapon, under any of the following circumstances or conditions:

- (1) While under the influence of intoxicating drink or narcotic drugs;
- (2) At any public assembly;
- (3) In a manner calculated to inspire terror; or

(4) While taking part in a parade or march the purpose or 1 of the purposes of which is to inspire terror.

(B) This section shall not apply to members of the armed forces of the United States, officers of the government of the United States, this state or any subdivision thereof charged with the execution of the laws of the United States, this state or the town, when acting in the discharge of their official duties.

(1988 Code, § 13-27) Penalty, see § 10.99

Statutory reference:

Possession of weapon at parade, see G.S. § 14-277.2

§ 131.03 DISCHARGING FIREARMS.

(A) It shall be unlawful to discharge any firearms within the corporate limits of the town.

(B) Division (A) does not apply to:

(1) Law enforcement officers, members of the armed forces of the United States or members of the National Guard while engaged in the performance of their official duties; or

(2) Persons exercising the right of self defense, defense of others or defense of property.

(1988 Code, § 13-28) Penalty, see § 10.99

Statutory reference:

Authority to prohibit discharge of firearms, see G.S. § 160A-189

§ 131.04 DISCHARGING AIRGUNS.

No person shall discharge an air rifle or air pistol in the town.

(1988 Code, § 13-29) Penalty, see § 10.99

§ 131.05 UNUSED OR ABANDONED WELLS.

Unused or abandoned wells shall be filled by the owners or agents in charge of the property on which wells are located. Failure to fill wells within 30 days after written notification to do so shall be a violation of this section.

(1988 Code, § 13-30) Penalty, see § 10.99

Statutory reference:

Leaving unused well open and exposed, see G.S. § 14-287

CHAPTER 132 – OFFENSES AGAINST PUBLIC PEACE AND ORDER

§ 132.01 SPITTING.

No person shall spit on the sidewalks or on the floors of any public buildings.

(1988 Code, § 13-51) Penalty, see § 132.99

§ 132.02 NOISE.

(A) It shall be unlawful for any person to create or assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing and unnecessary noise in the town. Noise of that character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

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

(1) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any signal device or any unreasonably loud or harsh sound and the sounding of a device for an unnecessary and unreasonable period of time;

(2) The use of any gong or siren upon any vehicle other than police, fire or other emergency vehicle;

(3) The use or operation of any manual or automatic piano, phonograph, radio, loudspeaker, any other instrument or sound amplifying device so loudly as to disturb persons in the vicinity thereof, or in a manner as to render the same a public nuisance; provided, however, that upon application to the Board, permits may be granted to responsible organizations to produce programs in music, speeches or general entertainment;

- (4) The keeping of any animal or bird which by causing frequent or loud continued noise shall disturb the comfort and repose of any person in the vicinity;
- (5) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in a manner as to create loud or unnecessary grating, grinding, rattling or other noise;
- (6) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger;
- (7) The discharge into the open air of the exhaust of any steam engine, motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;
- (8) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced;
- (9) The erection including excavation, demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays except in the case of urgent necessity in the interest of public safety and then only with a permit from the Clerk, which permit may be renewed for a period of 3 days or less while the emergency continues;
- (10) The creation of any excessive noise on any street adjacent to any school, institution of learning or court while the same is in session, or within 150 feet of any hospital, which unreasonably interferes with the working of the institution, provided conspicuous signs are displayed on streets indicating that the same is a school, court or hospital street;
- (11) The creation of any excessive noise on Sundays on any street adjacent to any church, provided conspicuous signs are displayed in streets adjacent to churches indicating that the same is a church street;
- (12) The creation of loud and excessive noise in connection with loading or unloading any vehicle, of the opening and destruction of bales, boxes, crates and containers;
- (13) The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof;
- (14) The shouting and crying of peddlers, barkers, hawkers, vendors and other persons which disturbs the quiet and peace of the neighborhood;
- (15) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise;

(16) The use of any mechanical loudspeaker or amplifiers on trucks or other moving vehicles for advertising purposes or other purposes except where specific license is received from the Board;

(17) The conducting, operating or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of 9:00 p.m. and 7:00 a.m.;

(18) The firing or discharging of squibs, crackers, gunpowder or other combustible substances in the streets or elsewhere for the purpose of making noise or disturbance except by permit from the Board.

(1988 Code, § 13-52) Penalty, see § 132.99

Statutory reference:

Noise regulations authorized, see G.S. § 160A-184

§ 132.03 PROFANITY.

It shall be unlawful for any person in any public or private place to swear, curse, sing or speak openly obscene words loudly enough to be heard by persons on any street or other public place or to make obscene proposals at those places.

(1988 Code, § 13-53) Penalty, see § 132.99

Statutory reference:

Profanity, see G.S. §§ 14-196 et seq.

§ 132.04 CURFEW FOR MINORS.

(A) The purpose of this section shall be to establish a curfew for minors in the Town of Fairmont, thus promoting the health, safety and welfare of both minors and adults in the town by creating an environment offering protection and security for all concerned.

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

ADOLESCENT MINOR. A minor as defined herein who has reached his or her sixteenth birthday, but has not reached his or her eighteenth birthday.

GUARDIAN. One who legally has the care and management of the person defined as a minor by this section.

JUVENILE MINOR. A minor as defined herein who has not reached his or her sixteenth birthday.

MINOR. A person who has not reached his or her eighteenth birthday and is not married, emancipated or a member of the armed services of the United States. **MINOR** shall include juvenile minors and adolescent minors.

PUBLIC PLACE. Areas such as, but not limited to, all common areas open to all for common use; alleys, streets, public areas, highways, parks; establishments open to the public for the conduct of business.

(C) This section does not apply to a minor who is:

(1) Accompanied by the minor's parent or guardian;

(2) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(3) Involved in an emergency;

(4) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the town, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, and official school, religious or other recreational activity supervised by adults and sponsored by the town, a civic organization or another similar entity that takes responsibility for the minor; or

(5) Married or had been married or had disabilities of minority removed in accordance with state law.

(D) A curfew applicable to minors is established and shall be enforced as follows:

(1) *Time limits.* It is unlawful for any juvenile minor to be or remain upon any public place as defined in this chapter in the town between 11:00 p.m. and 6:00 a.m. on Monday through Sunday. It shall be unlawful for any adolescent minor to be or remain upon any public place as defined in this chapter in the town between midnight and 6:00 a.m. on Monday through Sunday.

(2) *Exceptions.* The restrictions provided by division (C)(1) above shall not apply to any minor who is accompanied by a guardian or other person charged with the care and custody of a minor, nor shall the restriction apply to any minor who is traveling between his or her home or place of employment, church, municipal building or school where a function is being held.

(3) *Responsibility of adults.* It is unlawful for any parent, guardian or other person charged with the care and custody of any minor to allow or permit a minor to be in or upon a public place within the town within the curfew hours set by division (C)(1) except as otherwise provided in division (C)(2).

(4) *Responsibility of business establishments.* It is unlawful for any person, firm or corporation operating a place of business or amusement to allow or permit any minor to remain in or upon any place of business or amusement operated by them within the curfew hours set by division (C)(1), except as otherwise provided in division (C)(2).

(5) *Enforcement.*

(a) When a minor is found to be in violation of this section, the officer will check the curfew file located at the Police Department in the dispatcher's office to see if the juvenile is a first offender. If the juvenile is a first offender, he or she will be taken to the residence of his or her parent or guardian. A written warning will be given to that adult and an information report will be taken by the officer to include the name of the juvenile and adult, the time, date and location of the offense. This report will be kept in the curfew policy file and a copy of the report will be forwarded to the town's juvenile detective.

(b) If, upon checking the curfew policy file, the juvenile is found to be a repeat offender, he or she will be taken to the residence of his or her parent or guardian and the adult will be subject to a criminal citation pursuant to division (C)(6) of this section. A report will be turned in to the curfew policy file and a copy forwarded to the town's juvenile detective.

(c) If the juvenile is under 12 years of age, a report will be made and a copy forwarded to the Robeson County Department of Social Services.

(6) *Aiding and abetting by adult or guardian.* It shall be a violation of this section for an adult, guardian or parent to allow, permit, encourage, aid or abet a minor in the violation of division (C)(1) of this section except otherwise provided in division (C)(2).

(7) *Refusal of guardian or parent to take custody of a minor.* If any guardian or parent refuses to take custody of his or her minor found in violation of this section, the officer(s) with custody of the minor shall contact the Robeson County Department of Social Services and release the minor to that agency, pending further investigation by the Police Department and the Department of Social Services. The adult will be subject to criminal citation pursuant to division (C)(6) of this section.

(1988 Code, § 13-54) (Am. Ord. 06-104, passed 11-21-2006) Penalty, see § 132.99

§ 132.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to the provisions of § 10.99 .

(B) The punishment for violation of § 132.04 shall be a fine of up to \$50 and/or imprisonment up to 30 days.

(1988 Code, § 13-54)

CHAPTER 133 – OFFENSES AGAINST PUBLIC MORALS

GENERALLY

§ 133.01 CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE.

It shall be unlawful for any person to consume malt beverages and unfortified wine on the public streets of the town or any private property which is frequented by the public in the town. For the purposes of this section, the “private property” that is frequented by the public in the town shall include all property wherein persons are invited by express or implied invitation to go upon the property, whether for the purposes of engaging in business or purchasing from establishments located on the property or wherein private properties are used for parking areas for the general public, and shall include any qualified public area in front of or adjacent to any store, shop, restaurant, luncheonette, drive-in restaurant, drive-in car wash, laundry or other place of business, and shall include any parking lots or other vacant private property open to the public.

(1988 Code, § 13-76) Penalty, § 10.99

Statutory reference:

Authority to prohibit consumption of malt beverages and unfortified wine on property owned or controlled by town, see G.S. § 18B-300

SEXUALLY EXPLICIT MATERIALS

§ 133.16 DISPLAY; DEFENSE.

(A) It is a violation of this division if any person knowingly places sexually explicit material upon public display in any public place through which minors pass or to which they are invited as members of the general public, except that sexually explicit material may be displayed as provided in division (A)(1) of this section.

(1) A business shall not be deemed to place sexually explicit material upon public display in any area through which minors pass or to which they are invited as members of the general public, if the following conditions are met:

(a) The sexually explicit material is placed in racks or on shelves separate from racks, shelves or other sales display cases from other material;

(b) The racks or shelves are located at least 60 inches from floor level and within 8 feet or less of a cash register or similar purchase location;

(c) Those racks or shelves are constructed with a full opaque barrier that shields the sexually explicit material so that only the title of the material or material that is not sexually explicit is visible on the covers but so that the materials may be conveniently removed and perused or inspected, subject to the business's practices, by persons not minors;

(d) Any of the racks or shelves or portions thereof that contain 1 or more items of sexually explicit material are clearly and continuously visible without obstruction from the cash register or purchase location; and

(e) The cash register or purchase location is tended by a proprietor or employee of the business, which person shall be under a duty to affirmatively and frequently ascertain that minors are not able to and do not peruse, inspect or leaf through sexually explicit materials.

(2) Nothing in this section shall be deemed to prohibit any other method of removing from minors the opportunity or ability to peruse, inspect or leaf through sexually explicit materials that places materials exclusively under the possession and control of the proprietor or employee of the business until the time of sale of material to a person other than a minor.

(1988 Code, § 13-90)

(B) It shall be a defense to division (A) that:

(1) A minor possessing or handling sexually explicit materials is at the time under parental or parentally-approved adult supervision;

(2) That the proprietor or other employee of the business made a bona fide, good faith effort to determine the minor's age and had reasonable grounds to believe the minor was over 18 years of age.

(1988 Code, § 13-91) Penalty, § 10.99

§ 133.17 VIOLATIONS; DECLARED PUBLIC NUISANCES.

Each violation of this subchapter constitutes a public nuisance. Each item of sexually explicit material publicly displayed in violation of this subchapter shall constitute a public nuisance.

(1988 Code, § 13-92) Penalty, § 10.99

§ 133.18 INTERPRETATION OF MULTIPLE DISPLAYS; VIOLATIONS.

Each instance of public display of an item of sexually explicit material shall constitute a separate violation of this subchapter, but possession of multiple copies of a particular item of sexually explicit material shall constitute a single violation of this subchapter. Each day of public display of sexually explicit material shall constitute a separate violation of this subchapter.

(1988 Code, § 13-93) Penalty, § 10.99

§ 133.19 ENFORCEMENT.

(A) Violation of this subchapter is declared to be a misdemeanor. The Chief of Police may seek from an appropriate official of the general court of justice an arrest warrant or other process initiating criminal charges against any person alleged to have violated this subchapter. No other agent or employee of the town may in his or her official capacity seek an arrest warrant or other criminal process without the prior written approval of the Town Manager.

(B) The town may also enforce this subchapter by bringing suit under G.S. § 160A-175 or any successor provision for the enforcement of town ordinances to abate the public display of sexually explicit materials to minors. No action shall be taken to abate the public display until the alleged violator has been given an opportunity to be heard in an adversarial judicial proceeding to determine whether the materials publicly displayed are sexually explicit within the meaning of this subchapter. Any order of abatement shall apply to material judicially determined to be sexually explicit within the meaning of this subchapter, and shall direct the abatement of the public display by removal, confiscation and destruction of material judicially determined to be sexually explicit and to have been publicly displayed in violation of this subchapter.

(1988 Code, § 13-94) Penalty, § 10.99

§ 133.20 REMEDIES CUMULATIVE.

The remedies provided under this subchapter are cumulative and not exclusive and may be independently pursued against the same person for the same activity constituting a violation of this subchapter.

(1988 Code, § 13-95) Penalty, § 10.99

CHAPTER 152 – MINIMUM HOUSING STANDARDS

GENERALLY

§ 152.05 ALTERNATIVE REMEDIES.

Neither this subchapter 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 subchapter by criminal process as authorized by G.S. § 14-4 and this subchapter. The enforcement of any remedy provided in this subchapter shall not prevent the enforcement of any other remedy provided in this subchapter or in other ordinances or laws.

(1988 Code, § 4-21)

CHAPTER 152A – STANDARDS FOR PROPERTY MAINTENANCE

§ 152A.064 VIOLATIONS.

ABANDONED AND SUBSTANDARD STRUCTURES; NUISANCE ABATEMENT: ABANDONED AND SUBSTANDARD RESIDENTIAL STRUCTURES

It shall be unlawful for the owner of any structure to fail, neglect or refuse to repair or to vacate and close and demolish and remove the same, upon order of the Hearing Officer duly made and served as herein provided, within the time specified in such order.

(Ord. 09-119, passed 5-19-2009) Penalty, see § 10.99

NON-RESIDENTIAL MAINTENANCE AND SAFETY

§152A.087 ALTERNATIVE REMEDIES

Neither this code nor any of its provisions shall be construed to impair or limit in any way the power of the Town of Fairmont to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this code by criminal process as authorized by G. S. 14-4, and Section 152A.091 of this code, and the enforcement of any remedy provided herein or in other ordinances or laws.

(Ord. passed 5-17-2016)

§152A.091 VIOLATIONS; PENALTY

- (A) It shall be unlawful for the owner of any non-residential building or structure to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the code enforcement coordinator and officer duly made and served in accordance with the provisions of this code, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any non-residential building or structure, with respect to which an order has been issued pursuant to section 152A.079 of this code, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration, improvement, or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.
- (B) The violations of any provision of this code shall constitute a misdemeanor, as provided by G. S. 14-4.
- (C) In addition to or in lieu of the other remedies provided by this code, any owner of a non-residential building or structure that fails to comply with an order of the code enforcement official within the time specified therein, shall be subject to a civil penalty in the amount of fifty dollars (\$50.00) for the first offense, one hundred dollars (\$100.00) for the second offense in the calendar year, and two hundred fifty dollars (\$250.00) for the third and subsequent offenses in the calendar year. Each subsequent offense after the third will be subject to a civil penalty of \$250.00. Each thirty (30) day period or part thereof in which a violation is allowed to persist will constitute a separate and distinct offense.

(Ord. passed 5-17-2016)