

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: John Carter, (City Attorney, City of Jacksonville); Carmen Miracle, (City Clerk, City of Jacksonville) and Ryan King, (Planning Administrator, City of Jacksonville.)

DATE: November 26, 2018

RE: Response to the Requirements set forth in Section 3 of Session Law 2018-69 (House Bill 379) for the City of Jacksonville, NC

Please find attached the response of the City of Jacksonville, North Carolina to the requirements set forth in Section 3 of Session Law 2018-69 for local governmental units.

Jacksonville City Code: The attached document contains a listing of the ordinances with the Jacksonville City Code that create criminal offenses pursuant to G.S. 14-4(a), with descriptions of the prohibited conduct. Please take note of "*Sec. 1-11. - General penalty*" of our City Code on Page 1 of this document. Section 1-11 states that "*whenever any ordinance of the city declares that an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in the ordinance requires the doing of any act or the failure to do any act is declared to be unlawful...*" it is a violation of G.S. 14-4. Therefore, we have tried to the best of our ability to include all of the ordinances within our City Code that declare acts to be "unlawful" or "prohibited", etc. (Pages 1-31) However, should you wish to review the entire City Code, please see the link below where you may access the entire document.

https://library.municode.com/nc/jacksonville/codes/code_of_ordinances

Unified Development Ordinance (UDO): Be advised of the Article 8 Sec. 8.6B Criminal Penalties of the City's UDO which states as follows: "*Criminal Penalties Pursuant to Section 14-4 of the North Carolina General Statutes, any person, firm, or corporation convicted of violating the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed the maximum amount authorized by state law.*" Included in our attached report you will find a listing of issues considered to be violations of the City's UDO. (Page 32-33) However, should you wish to review the entire UDO, please see the link below where you may access the entire document.

<https://www.jacksonvillenc.gov/573/UDO>

Flood Damage Prevention Ordinance: Be advised of Article 3 SECTION H: PENALTIES FOR VIOLATION of the City's Flood Damage Prevention Ordinance, which states as follows:

"Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor" The Flood Damage Prevention Ordinance may be downloaded from our website as a pdf document at the following link:
<https://www.jacksonvillenc.gov/DocumentCenter/View/1400/Flood-Plain-Ord-signed-2005?bidId=>

If you have any questions, please contact us via email or telephone.

John Carter, City Attorney: jcarter@jacksonvillenc.gov

Carmen Miracle, City Clerk: cmiracle@jacksonvillenc.gov

Ryan King, Planning Director: rking@jacksonvillenc.gov

Phone: (910)-938-5224.

Please acknowledge receipt of this Memorandum and its sufficiency in complying with Session Law 2018-69, Section 3.

CITY OF JACKSONVILLE, NORTH CAROLINA
CODE OF ORDINANCES IN RESPONSE TO HB-379

Chapter 1 - GENERAL PROVISIONS

Sec. 1-10. - Altering Code. - It shall be unlawful for any person to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby; provided, that supplementation of this Code by authorized persons shall be permitted.

Sec. 1-11. - General penalty; continuing violations. - Whenever in this Code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision or the failure to perform any such act shall be punished by a fine of not exceeding five hundred dollars (\$500.00) or by imprisonment not to exceed six (6) months, or both such fine and imprisonment in the discretion of the court. Each day any such violation or failure to perform such act shall continue shall constitute a separate offense, unless otherwise specifically provided.

State Law reference—Violation of city ordinances declared a misdemeanor, general law penalty, G.S. § 14-4.

Sec. 1-12. - Penalty not exclusive. - The imposition of a penalty under the provisions of this Code shall not prevent the revocation or suspension of any license, franchise or permit issued or granted under the provisions of this Code. In the event any violation of this Code is designated as a nuisance under the provisions of this Code, such nuisance may be summarily abated by the city in addition to the imposition of a fine or imprisonment.

Chapter 3 – ADVERTISING - ARTICLE I. - IN GENERAL

Sec. 3-1. - Posting generally. It shall be unlawful for any person to post, tack, nail, attach or in any other manner fasten signs, bills, circulars, posters, notices, papers, or other advertising matter of any description to any pole, tree, structure or any other property, public or private, without the permission of the owner of such property.

Sec. 3-2. - Banners, signs, etc., upon or across streets. It shall be unlawful for any person to place or maintain in or upon, over or across any street of the city for advertising purposes any banner, streamer, placard, baseball sign or any similar sign or device either for commercial or noncommercial purposes, without the permission of the controlling public agency.

Sec. 3-3. - Deceptive or misleading advertisements. - It shall be unlawful for any person, with intent to sell or in anywise to dispose of merchandise, security, service or any other thing offered by such person directly or indirectly to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, to make public, disseminate, circulate or place before the public in the city in a newspaper or other publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or in any other way an advertisement of any sort regarding merchandise, security, service or any other thing so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading; provided, that such advertisement shall be done willfully and with intent to mislead.

Sec. 3-4. - Removing posters. - It shall be unlawful for any person to remove, tear down, deface or destroy any poster, handbill or other kind of advertisement when the same has been lawfully posted while the same is still of value.

ARTICLE II. - DISTRIBUTION OF HANDBILLS

Sec. 3-23. - License required. - It shall be unlawful for any person to deliver, hand out, distribute or otherwise circulate, except by United States Postal Service, or to cause to be delivered, handed out, distributed or otherwise circulated, except by United States Postal Service, any handbill, circular, poster, pamphlet or similar written matter upon any municipal street, sidewalk or in any public place within the city without obtaining a license therefor.

Sec. 3-25. - Placing on vehicles. - No person shall throw or deposit any handbill in or upon any vehicle.

Sec. 3-26. - Restricted in public places. - It shall be unlawful for any person to hand out or distribute or sell any handbill in any public place; except that a handbill may be personally delivered to any person willing to accept the same.

Sec. 3-28. - Prohibited where properly posted. - No person shall throw, deposit or distribute any handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on such premises a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement" or any similar notice, indicating in any manner that the occupants of such premises do not wish to have their right of privacy disturbed, or to have any handbills left upon such premises.

Sec. 3-29. - Depositing on uninhabited or vacant premises. - It shall be unlawful for any person to throw or deposit any handbill in or upon any private premises which is uninhabited or vacant.

Chapter 4 - ANIMALS AND FOWL - ARTICLE I. - IN GENERAL

Sec. 4-1. - Removal of dead animals. - The owner of any dead animal who shall fail to remove or bury same within twelve (12) hours after notice by the police department shall be guilty of a misdemeanor.

ARTICLE IV. - DANGEROUS NONDOMESTIC ANIMALS

Sec. 4-76. - Keeping of nondomestic animals prohibited. - Except as herein provided, it shall be unlawful for any person, firm, or corporation to possess or harbor any nondomestic animal or animals in the City of Jacksonville, N.C., which are dangerous to persons or property or which have the potential of being dangerous to persons or property. This article shall not apply to traveling zoos, petting zoos, circuses, or other traveling commercial animal exhibitions of limited duration and shall not apply to all small native wildlife species whose possession has been specifically permitted by the North Carolina Wildlife Resources Commission.

Sec. 4-80. - Penalties. - Any violation of this article shall be a misdemeanor, punishable as provided in section 1-11 of the City Code. This article may also be enforced by equitable remedy, injunction, or abatement order issued from a court of competent jurisdiction or other remedy provided by law.

ARTICLE VI. - PROTECTION OF BIRDS

Sec. 4-90. - Protection of birds. - (a) The territory embraced within the corporate limits of the city shall be a bird sanctuary. (b) It shall be unlawful for any person to hunt, kill, maim, injure, trap or otherwise take any birds in the city or to destroy, rob or molest the eggs or nests and breeding places of any birds within the city; provided, that this section does not protect any bird classified as a pest under G.S. ch. 113, art. 22A, § 113-300.1 et seq., and the Structural Pest Control Act of North Carolina of 1995 or the North Carolina Pesticide Law of 1971. A person may take protected birds pursuant to a permit issued by

the state wildlife resources commission under G.S. § 113.274(c)(1a) or under any other license or permit of the wildlife resources commission specifically made valid for use in taking birds within the city limits.

CHAPTER 5 – BUILDING AND CONSTRUCTION - ARTICLE II – TECHNICAL CODES

DIVISION I - GENERALLY

Sec. 5-22. - Construction hours. - Construction activities occurring inside the city limits and within two hundred (200) feet of a residential dwelling unit also located within the city shall be regulated as follows: (1) Construction activities shall include excavating, demolition, alteration, new construction, repair and rehabilitation of existing buildings, and similar activities. (2) Construction shall be regulated regardless of whether construction is being conducted by the property owner, hired contractors, or others conducting said construction activity. (3) Construction hours shall be: a. Monday through Friday, 6:00 a.m. to 9:00 p.m. (no change for daylight savings time); b. Saturday, 7:00 a.m. to 9:00 p.m.; and c. Sunday, 8:00 a.m. to 7:00 p.m. (4) Any person conducting construction activities in violation of these hours as established herein shall be guilty of a misdemeanor. (5) Exemptions: a. Dwelling unit slab pour; b. Non-mechanized landscaping; c. Non-mechanized exterior painting; and d. Interior work after doors and windows are installed. (6) During construction hours, the city's noise ordinance shall continue to be in full effect. (7) Enforcement. Enforcement shall be based upon citizen complaint.

DIVISION 6. - HOUSING CODE

Sec. 5-108. - In rem action by inspector; placarding. -(a) After the failure of an owner of a dwelling or dwelling unit to comply with an order of the inspector issued pursuant to the provisions of this division, and upon adoption by the city council of an ordinance authorizing and directing him to do so, as provided by G.S. section 160A-443(5) and section 5-106(c) of this division, the inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this division, or to be vacated and closed and removed or demolished, as directed by the ordinance of the council, and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor. (b) Each ordinance shall be recorded in the office of the register of deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. section 160A-443(5).

Sec. 5-110. - Alternative remedies. - Neither this division nor any of its provisions shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this division by criminal process as authorized by G.S. section 14-4 and section 5-112 of this division, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

Sec. 5-112. - Conflict with other provisions. - In the event any provision, standard or requirement of this division is found to be in conflict with any provision of any other ordinance or code of the city, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the city shall prevail.

Sec. 5-113. - Violations; penalty. - (a) It shall be unlawful for the owner of any dwelling or unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the inspector duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. (b) It shall be unlawful for the owner

of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to section 5-106, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense. (c) The violation of any provision of this division shall constitute a misdemeanor. (d) This division may also be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.

DIVISION 13. - NONRESIDENTIAL BUILDING OR STRUCTURE CODE

Sec. 5-154. - Interim action by the code enforcement officer. - After failure of an owner of a nonresidential building or structure to comply with an order of the code enforcement coordinator or officer issued pursuant to the provisions of this division and upon adoption by the city council of an ordinance authorizing and directing the owner to do so, as provided by G.S. § 160A-439(f) and subsection 5-149(d) of this division, the code enforcement coordinator or officer shall proceed to cause such nonresidential building or structure to be repaired, altered, or improved to comply with the minimum standards established by this division, or to be vacated and closed or to be removed or demolished, as directed by the ordinance of the city council. The code enforcement coordinator or officer may cause to be posted on the main entrance of any nonresidential building or structure which is to be vacated and closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

Sec. 5-158. - Alternative remedies. - Neither this division nor any of its provisions shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this division by criminal process as authorized by G.S. § 14-4, and section 5-162 of this division, and the enforcement of any remedy provided herein or in other ordinances or laws.

Sec. 5-162. - Violations; penalty. - (a) It shall be unlawful for the owner of any nonresidential 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 division, 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 nonresidential building or structure, with respect to which an order has been issued pursuant to subsection 5-149(c) of this division, 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 violation of any provision of this division 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 division, any owner of a nonresidential building or structure that fails to comply with an order of the code enforcement coordinator or officer 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-day period or part thereof in which a violation is allowed to persist will constitute a separate and distinct offense.

Chapter 6 – CEMETERIES

Sec. 6-3. - Entering after closing hours. - No person shall enter the city cemetery except from dawn to dusk without permission granted by the city manager or his designee.

Sec. 6-4. - Disturbing the peace prohibited; failure of persons to leave after notification to do so. - Any person disturbing the quiet and good order of the city cemetery by unnecessary noise or by other improper conduct may be removed from the grounds. Any person refusing to leave the cemetery when notified to do so for any disturbance, improper conduct or other violations of this Code or other ordinance concerning such cemetery shall be guilty of a misdemeanor.

Sec. 6-7. - Use of cemetery for recreational activities or as a shortcut or pass-through restricted. - The city cemetery nor any of its grounds are to be used for any form of recreational activity, i.e. cycling, horseback riding, motorcycling, riding all-terrain vehicles (ATV), picnicking, parties or wakes, etc. Use of the city cemetery grounds as a shortcut or pass-through from one (1) location to another is prohibited.

Sec. 6-8. - Driving other than on roadways prohibited. - No person shall drive a vehicle on any part of the grounds of the city cemetery except upon driveways provided for such purpose. Equipment necessary for the opening and closing of graves, to prepare for or assist with interments or used to assemble; repair, or place monuments, markers, headstones, etc. are exempt.

Sec. 6-9. - Speed limits. - The speed of vehicles shall not exceed ten (10) miles per hour within the city cemetery.

Sec. 6-10. - Dogs and other pets prohibited. - Dogs and other pets are not allowed within the city cemetery except for the purpose of performing duties as a service animal under the guidelines of the Americans with Disabilities Act (ADA).

Sec. 6-11. - Malicious mischief, disturbance of graves, monuments, etc. - It shall be unlawful for any person in any way to disturb any grave, deface any monument, headstone, or marker, or to pull up or remove anything placed to mark a grave, provided that the same shall not be a violation if done in compliance with the rules and ordinances pertaining to the cemetery, and such action has been authorized by the city manager.

Sec. 6-12. - Planting and removal of trees, shrubs, etc. - No trees, shrubs, or plants, etc. shall be planted, pruned, transplanted, or removed without the consent and approval of the city manager. The city manager shall have the authority to have maintenance crews prune, remove or transplant any tree or shrub, plant or growth upon a lot if he considers such a course necessary for the general beauty, welfare and best interest of the cemetery.

Sec. 6-15. - Curbing, surrounds, raised borders, etc prohibited; flush cornerstones allowed. - Effective 7/22/2014, it shall be unlawful to construct any raised curb, border, wall or fence of any kind on or around any lot or grave space in the cemetery, unless authorized by the city manager. Lots and graves with existing raised curbing, surrounds, etc., prior to the effective date of this section may remain as long as the owner maintains them to an acceptable standard. The city reserves the right under this section to have removed any curbing or surround, etc. that has become damaged or unsightly. If the curbing is removed by the city due to lack of owner maintenance, it may not be reinstalled. Cornerstones designating lot boundaries are permitted; however, they must be installed and maintained flush with the ground.

Chapter 7 - EMERGENCY PREPAREDNESS - ARTICLE I. - IN GENERAL

Sec. 7-7. - Violation of regulations. - It shall be unlawful for any person to violate any of the provisions of this chapter or of the regulations or plans issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay any member of the emergency preparedness organization as herein defined in the enforcement of the provisions of this chapter or any regulations or plan issued thereunder.

ARTICLE III. - STATE OF EMERGENCY

Sec. 7-69. - Restriction of activities. - In the event an emergency is proclaimed under the provisions of this article, the mayor shall have the power and authority to: (a) Impose a curfew upon all or any portion of the city thereby requiring all persons in such designated curfew areas to forthwith remove themselves from the public streets, alleys, parks or other public places; provided, however, that physicians, nurses and ambulance operators performing medical services, firemen and city authorized or requested law enforcement officers and personnel may be exempted from such curfew. No person who is not a resident of the city, as evidenced by a current address on his driver's license or other valid identification, shall be arrested or prosecuted for violation of a curfew without first being given a reasonable opportunity to continue through or otherwise leave the area which is under a state of emergency. Any person who is given a reasonable opportunity to leave such area and does not do so is subject to arrest and prosecution. (b) Order the closing of any business establishments anywhere within the city for the period of the emergency, such businesses to include, but not be limited to, those selling intoxicating liquors, cereal malt beverages, gasoline or firearms. (c) Designate any public street, thoroughfare or vehicle parking areas closed to motor vehicles and pedestrian traffic. (d) Call upon regular and auxiliary law enforcement agencies and organizations within or without the city to assist in preserving and keeping the peace within the city. (e) Issue such other orders as are necessary for the protection of life and property or to bring the emergency under control.

Sec. 7-72. - Penalty. - Any person who shall violate any condition or restriction imposed pursuant to the provisions of this article shall be deemed guilty of a misdemeanor.

Chapter 8 - FIRE PROTECTION AND PREVENTION - ARTICLE I. - IN GENERAL - DIVISION 1. - IN GENERAL

Sec. 8-4. - Obstructing hydrant. - It shall be unlawful for any person to obstruct with building material, or otherwise, any hydrant or fireplug in the city in such a manner as to interfere with or obstruct the easy approach to or the convenient use of the same by the fire department; provided, that this section shall not apply to the closing of a street under authority of the director of public works or of the chief of police, or to material necessarily placed in a street or work done therein by the city or its contractor for the purpose of paving or repairing it.

Sec. 8-6. - Interference at scene of fire. - It shall be unlawful for persons to congregate in the streets, lanes, alleys or squares next to a fire, so as to interfere with the work of the fire department, or for any person to interfere with any member of the fire department or to obstruct the work of the fire department in any way at or during a fire or while answering an alarm of fire.

ARTICLE II. - FIRE DEPARTMENT - DIVISION 1. - GENERALLY

Sec. 8-28. - Ordering electric companies to cut off current. - During any fire in the city, the fire department may order any electric light, electric power or street railway company to cut off the electric current from its wires, whenever it may be considered necessary to preserve life or property. It shall be unlawful for any such company to maintain current on their wires after receiving such order.

Sec. 8-29. - Roping off space adjacent to fire. - The fire department or the police are hereby authorized to lay off, by rope or otherwise, such portions of the streets or lots adjacent thereto as may be deemed necessary for properly fighting any fire. It shall be unlawful for any person to cross over or enter such enclosure without the permission of the police or firefighters.

ARTICLE III. - FIRE PREVENTION CODE

Sec. 8-66. - Penalty for violation of code, etc. - Any person who shall violate any of the provisions of the code hereby adopted; or shall fail to comply therewith; or shall violate or fail to comply with any order made thereunder; or shall build in violation of any details, statements, specification, or plans submitted or approved thereunder; or shall operate not in accordance with the provisions of any certificate, permit, or approval issued thereunder, and from which no appeal has been taken; or who shall fail to comply with such an order as affirmed or modified by the fire marshal or by a court of competent jurisdiction within the time fixed herein shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed six (6) months, or both such fine and imprisonment in the discretion of the court. The imposition of a penalty for any violation shall not excuse the violation nor shall the violation be permitted to continue. All such persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Sec. 8-67. - Violation of this article; prima facie evidence re responsibility. - It shall be unlawful for any person to violate this article, to permit or maintain such a violation, to refuse to obey any provision thereof, or to fail or refuse to comply with any such provision or regulation except as variation may be allowed by the action of the fire prevention inspector or the fire chief in writing. Proof of such unlawful act or failure shall be deemed prima facie evidence that such act is that of the owner or other person in control of the premises. Prosecution or lack thereof of either the owner, occupant, or the person in charge shall not be deemed to relieve any of the others.

Chapter 9 - SOLID WASTE MANAGEMENT -ARTICLE III. - COMMERCIAL COLLECTION/REGULATIONS

Sec. 9-18. - Commercial front end collection service.

(c) *Containers and storage:* Commercial refuse/garbage must be stored in two-cubic yard to eight-cubic yard metal dumpsters provided by customer. The dumpsters must be sanitary, and designed for safe handling by city and/or contractors to prevent animal invasion, scattering of refuse, and leakage of liquid waste. The dumpsters must be maintained in a reasonably clean condition and must be kept free of defacing marks, rust, and safety hazards. Lids for these dumpsters must be kept in working order to prevent trash and garbage from blowing out. The immediate area must be kept free of refuse and litter, and dumpsters used for refuse/garbage must be regularly washed (in a location draining to a sanitary sewer). See screening and buffer yard standards set forth by the Planning Department for the City of Jacksonville. It shall be the duty of every person owning, controlling, managing, operating, policing, renting or occupying any premises where garbage and/or trash accumulates to replace within ten (10) days after receipt of a condemnation notice issued by the city, acting through its duly authorized officials, any containers that have deteriorated or that have jagged edges capable of causing injuries to those whose duty it is to handle the containers or that have been damaged to such an extent. All construction and demolition contractors shall provide on-site refuse receptacles, bulk containers or detachable containers for construction debris and other trash which is capable of being moved or blown about by the wind and which is produced by those working on the site. All such materials shall be containerized by the end of each day, and the site shall be kept in a reasonably clean and litter-free condition. Construction debris and refuse deposited upon any public or private property as a result of construction or demolition shall be immediately removed by the contractor. Construction sites shall be kept clean and orderly at all times. It shall be unlawful to dispose of any item or material in a refuse container located upon public or private property without the consent of the owner or renter of the container.

ARTICLE IV. - MEDICAL WASTE, LITTERING - DIVISION 2. - LITTERING

Sec. 9-23. - Littering—In general. - No person shall throw, place or deposit any garbage or litter, including leaves, grass clippings or pine straw in any street, alley, public place or private property within the city limits except in garbage containers as provided in this chapter. Violation of this section shall constitute a misdemeanor. (1) Duty of property owner upon receipt of notice to abate: Whenever such trash or debris is found in the public streets, parks, or alleys, it shall be the responsibility of the fronting property owner to remove said trash or debris upon written notice by the code enforcement officer. (2) Contents of notice: The notice shall contain: a. An order to remove the trash or debris from the street, park or alley within two (2) days of the notice. b. The statement that if the trash or debris is not removed from the street, park, or alley within the prescribed time, the city will abate such nuisance and assess the cost thereof against such person. (3) Abatement by city: Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this chapter to abate the same, the city shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof. (4) Payment of costs: Upon completion of the abatement of the nuisance herein described by this city under the provisions of this chapter, the code enforcement officer shall deliver to the city finance officer a statement including the costs of labor, hauling, and other necessary items of expense for such abatement. The city finance officer shall thereupon mail to the owner of the lot a bill covering the costs. As provided in G.S. § 160A-193, the amount of the bill shall become a lien upon said property and if not paid within thirty (30) days shall be collected in the same manner as provided for the collection of delinquent taxes. (5) Criminal action, other civil remedies: The abatement of any nuisance in accordance with the procedure prescribed by this chapter shall not prevent the city from proceeding in a criminal action against any person violating the provisions of this chapter. Violations of this chapter may be subject to abatement summarily by appropriate injunction issued by a court of competent jurisdiction.

ARTICLE V. - GENERAL REGULATIONS

Sec. 9-28. - In general. - (g) *Accumulation prohibited:* No garbage that has become decayed or that shall otherwise be a menace to health or cleanliness shall be allowed to remain in any dwelling house, motel, boardinghouse, cafe, restaurant, lunch stand, fruit stand, meat market, store or other building or on any premises a longer time than shall be reasonably necessary to remove and deposit the same in cans as hereinafter provided in this chapter. (i) *Duty of customer.* It shall be unlawful for any customer going upon the premises of another in any manner to dispose of wastepaper, wrapping paper, paper napkins, cartons, package containers and other used or waste materials, except in receptacles provided for such purposes. (l) *Scavenging—Generally.* Whenever a resident or person places recyclable materials into a container at a city recycling center or on the curbside for recycling collection, the materials are deemed to be abandoned by such person and have become the property of the city or its authorized agent. From the time of the placement of these materials in a recycling container, it shall be unlawful for any person, firm, or corporation not authorized by the city to collect or pick up or cause to be collected or picked up, any such materials.

ARTICLE VII. - PENALTIES AND REMEDIES

Sec. 9-60. - Penalties and remedies—In general. (a) Any violation of any provision of this chapter shall constitute a misdemeanor as provided for in G.S. § 14-4 and shall be punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or imprisonment for not more than six (6) months.

Chapter 10 - INTOXICATING LIQUORS

Sec. 10-1. - Adoption of state law. - All the provisions of Chapter 18B of the General Statutes of North Carolina, relating to the licensing and sale of whiskey, beer, wine and other beverages as defined therein which may be enforced by and on behalf of the city are hereby adopted and made applicable to the city. The license taxes therein imposed shall be collected by the city tax collector and the regulations therein imposed shall be enforced by the proper officers of the city as they may be authorized by said chapter and by this section.

Sec. 10-4. - Consumption in public. - (a) It shall be unlawful for any person to consume or display any intoxicating liquor or alcoholic beverage in any public park, athletic field, recreation area, public building, or other property owned or under the control of the city, except as provided below: (1) Any property, or portion thereof, that has been leased to a third party by the city through specific council action is exempted from this restriction. Said lease agreement will require lessee to provide an alcohol management plan which is acceptable to the city manager and director of public safety. Additionally, proof of insurance covering events serving alcohol in an amount required by the city manager in consultation with the city attorney and finance director showing the City of Jacksonville as an additional insured. Application for this exemption and alcohol management criteria forms shall be made available and filed in the city manager's office. Once the said alcohol management plan is approved, a permit will be issued by the city for alcohol event(s). Said permit shall not exceed a one-year period; or (2) Malt beverages and unfortified wine events, may be approved by the city manager on city property, for 501c3 organizations as long as an alcohol management plan is submitted which is acceptable to the city manager and director of public safety. Additionally, proof of insurance covering events serving alcohol in an amount required by the city manager in consultation with the city attorney and finance director showing the City of Jacksonville as an additional insured. Application for this exemption and alcohol management criteria forms shall be made available and filed in the city manager's office. Once the said alcohol management plan is approved, a permit will be issued by the city for alcohol event(s). Said permit shall not exceed a one-year period. (b) Revocation, suspension of an issued permit. The city may immediately revoke or suspend any permit issued by the city, if it is found that: (1) The applicant or permit holder has violated or failed to meet any of the provisions of this article, or any conditions of the permit. (2) Any required ABC licenses were not obtained or have been suspended, revoked or canceled; (3) The permittee has violated any federal, state or city law or regulation; (4) The control plan for crowd, traffic, alcohol distribution, age verification or any other matter required in the permit is deemed by the director of public safety to be inadequate during the event or the behavior of the crowd becomes such that the director of public safety or his designee deems it a hazard to the participants and/or to the public safety.

Chapter 12 - MESSAGE PARLORS - ARTICLE I. - IN GENERAL

Sec. 12-4. - Penalty for violation. - Violation of any of the provisions of sections 12-5 through 12-9 and 12-26 by any firm, person or corporation engaging in the massage business or by any person engaging in the professions of masseur, masseuse or massagist shall constitute a misdemeanor and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisoned for not more than six (6) months, or both. Each and every violation shall constitute a separate and distinct offense.

Sec. 12-5. - Treatment of persons of opposite sex. - (a) It shall be unlawful for any person holding a license under this chapter to treat a person of the opposite sex, except upon the signed order of a licensed physician, osteopath, chiropractor or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten (10). The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by the police at any reasonable time. The requirements of this section shall not apply to treatments given in the residence

of a patient, the office of a licensed physician, osteopath or registered physical therapist, chiropractor, or in a regularly established and licensed hospital or sanitarium. (b) It shall be unlawful for any massage business to knowingly provide, allow or permit a massage or treatment to be given by a person to a person of the opposite sex, in violation of the provisions of subsection (a) of this section.

Sec. 12-8. - Minors—Patronage restricted. - It shall be unlawful for any person under the age of eighteen (18) years to patronize any massage parlor or similar establishment licensed under this chapter unless such person carries with him at the time of such patronage, a written order directing the treatment to be given signed by a regularly licensed physician.

Sec. 12-2. - Exceptions. - (a) The provisions of this chapter shall not apply to a regularly established and licensed hospital, sanitarium, nursing home or medical clinic nor to the office or clinic operated by a duly qualified and licensed medical practitioner, osteopath or chiropractor in connection with his practice of medicine, chiropractic or osteopathy, provided, however, that such office or clinic is regularly used by such medical practitioner, chiropractor or osteopath as his principal location for his practice of medicine, chiropractic or osteopathy. (b) The provisions of this chapter shall not apply to the following: (1) Athletic trainers employed by educational institutions who offer services solely to athletes in athletic programs. (2) Members of the American Massage Therapy Association and Associated Bodywork and Massage Professionals who meet one of the following qualifications: a. Graduation from COMTAA (Commission on Massage Therapy Accreditation/Approval) approved/accredited training program; or b. Nationally Certified in Therapeutic Massage and Bodywork; or c. Possess a license from an AMTA accepted state or province. This exception shall not apply to associate and/or student members of the American Massage Therapy Association Bodywork and Massage Professionals. (3) Individuals who have passed a state board examination for massage and whose license to practice massage remains in good standing with that state.

Chapter 14 – NUISANCES - ARTICLE I. - IN GENERAL

Sec. 14-2. - Prohibited. - It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance as defined herein.

ARTICLE III. - ENFORCEMENT

Sec. 14-41. - Notice to abate. - Whenever a nuisance is found to exist within the city or within the city's extraterritorial jurisdiction, the administrator of the city shall give written notice to the owner or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance.

Sec. 14-42. - Contents of notice. - The notice to abate a nuisance issued under the provisions of this chapter shall contain: (1) An order to abate the nuisance or to request a hearing within a stated time, not to exceed ten (10) days. (2) The location of the nuisance, if the same is stationary. (3) A description of what constitutes the nuisance. (4) A statement of acts necessary to abate the nuisance. (5) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the city will abate such nuisance, assess the cost thereof against such person, and/or will assess a civil penalty.

Sec. 14-47. - Criminal action, other civil remedies. - (a) A violator who fails to abate a nuisance in the time specified shall be subject to a civil penalty of fifty dollars (\$50.00). No penalty shall be assessed until the person alleged to be in violation has been notified of the violation by certified mail, return receipt requested, or by personal service. (b) For each day the violation is not corrected, the violator will be guilty of a new and separate offense and subject to additional civil penalties. (c) If the violator fails to pay this penalty within ten (10) days after being cited for violation, the penalty may be recovered by the city in a civil action in the nature of debt. (d) In addition to or in lieu of the penalty,

the administrator may seek a mandatory injunction seeking enforcement of this chapter. (e) If the same violation occurs within a five-year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to an additional civil penalty as set forth in this section.

Chapter 15 - OFFENSES AND MISCELLANEOUS PROVISIONS - ARTICLE I. - IN GENERAL

Sec. 15-2. - Failure to pay admission fee. - It shall be unlawful for any person to attempt to see any public entertainment for which a fee is charged without paying the admission fee.

Sec. 15-6. - Obstructing passage for purpose of soliciting, etc., prohibited. - Any person who shall be found in any of the streets or highways or upon any sidewalks in the city and engaged in obstructing the passage along any such streets or highways or upon any of such sidewalks by catching hold of or soliciting persons or in any way interfering with their free passage along such streets, highways, or sidewalks for the purpose of inducing or compelling them to buy any article or thing from any store or standing along or on such street or highway, shall be deemed guilty of a misdemeanor.

Sec. 15-11. - Firearms and other weapons prohibited on city property. (a) Except as provided in subsection (g) below all persons are prohibited from possessing any firearm and other weapons, including a handgun carried under the authority of a lawful concealed handgun permit, in city owned buildings and their appurtenant premises, as defined herein. (b) Except as provided in subsection (g) below all persons are prohibited from possessing any firearm and other weapons, unless carried concealed under the authority of a lawful concealed handgun permit, in any city park. However, the exception for concealed carry on a lawful concealed handgun permit does not apply to those locations identified in subsection (c). (c) Except as provided in subsection (g) below all persons are prohibited from possessing any firearm and other weapons, including a concealed handgun carried under the authority of a lawful concealed handgun permit, at the following city recreational facilities (i.e. athletic facilities and athletic fields during an organized athletic event) in accordance with G.S. 14-415.23: (d) Except as provided in subsection (g) below all persons are prohibited from possessing weapons, other than firearms, as defined in G.S. 14-269 in city owned buildings, their appurtenant premises, and in city parks and recreational facilities, as defined herein. (e) Nothing herein is intended to prohibit a person from storing a firearm within a motor vehicle while the vehicle is on the aforementioned properties in the city. (f) For the purposes of this section, "buildings" is defined as set forth in G.S. 14-54(c) as including any dwelling, dwelling house, uninhabited house, building under construction, building within the curtilage of a dwelling house, and any other structure designed to house or secure within it any activity or property. For the purposes of this section, "weapons" shall be defined as a rifle, pistol, bowie knife, dirk, dagger, sling shot, loaded cane, metallic knuckles, razor, stun gun, or other dangerous or deadly item of the like kind. (g) This prohibition shall not apply to the following persons: (1) Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons; (2) Civil officers of the United States while in the discharge of their official duties; (3) Officers and soldiers of the militia and the national guard when called into actual service; (4) Sworn law enforcement officers; (5) County of Onslow animal control officers; (6) Private security officers under contract with the city, while in the actual performance of their required duties; (7) Persons allowed to hunt at the land application site pursuant to terms of hunting leases approved by the city council; (8) Persons firing firearms without projectiles in organized educational, entertainment, instructional, or ceremonial events authorized or sponsored by the city. (h) A conspicuous notice shall be posted at each entrance to any property set forth in (a), (b), or (c) above outlining the restrictions prescribed in this section. (i) Any person in violation of this section shall be guilty of a misdemeanor and upon conviction shall be fined five hundred dollars (\$500.00) or imprisoned for six (6) months or both. (j) Firearms and other weapons possessed in violation of this ordinance are hereby declared to be contraband. The chief of police or his designee shall dispose of such weapons pursuant to applicable state law.

Sec. 15-12. - Camping. - (a) *Permit required.* So long as either the city or the county shall operate a twenty-four-hour a day emergency homeless shelter, it shall be unlawful to camp or stay overnight in or on any city park, greenway, street, or any other city property without first receiving a permit from the director of recreation and parks. Camping shall include, but not be limited to, the use of park land, greenway, street, public right-of way, or under any bridge or viaduct, or any other city property for living accommodations, such as sleeping, storing personal belongings, making fires, digging, or cooking. (b) *Removal of campsite.* Upon discovery of an unattended campsite, removal of the campsite by the city may occur under the following circumstances: (1) Prior to removing the campsite, the city shall post a notice, twenty-four (24) hours in advance. (2) At the time that a twenty-four-hour notice is posted, the city shall inform a local agency that delivers social services to homeless individuals where the notice has been posted. (3) The local agency may arrange for outreach workers to visit the campsite where a notice has been posted to assess the need for social service assistance in arranging shelter and other assistance. (4) All personal property shall be given to the police department whether twenty-four-hour notice is required or not. The property shall be stored for a minimum of fourteen (14) days during which it will be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed for fourteen (14) days may be disposed of. For purposes of this paragraph, "personal property" means any item that is reasonably recognizable as belonging to a person and that has apparent utility. Items that have no apparent utility or are in an insanitary condition may be immediately discarded. Weapons, drug paraphernalia and items that appear to be either stolen or evidence of a crime shall be given to the police department. (5) The twenty-four-hour notice required under subsection (b)(4) of this section shall not apply: a. When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring. b. In the event of an exceptional emergency such as possible site contamination by hazardous materials or when there is immediate danger to human life or safety. (c) *Application outside city.* This chapter applies to acts committed on property owned by the city that is located outside the city.

ARTICLE II. - OFFENSES AGAINST PUBLIC PEACE - DIVISION 1. - GENERALLY

Sec. 15-28. - General prohibitions. - Subject to the provisions of this article, the creation of any unreasonably loud, disturbing and unnecessary noise in the city is prohibited. Noise of such character, intensity, and duration as to be detrimental to the life or health of any individual is prohibited.

Sec. 15-29. - Discharge of firearms. - It shall be unlawful for any person to needlessly fire any rifle, gun or revolver within the city limits; provided that this section shall not apply to any officer while in the discharge of the duties of his office.

Sec. 15-30. - Discharging dangerous instruments. - It shall be unlawful for any person to discharge any air rifle, pellet gun, BB-gun, slingshot, bow and arrow or any other similar weapon within the city.

Sec. 15-31. - Fireworks, firearms. - The firing or discharging of a gun, 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 police department, provided; however, that this section shall not prohibit the possession, sale, use or firing of paper caps and paper cap pistols so long as the same shall not constitute a willful breach of the peace, shall be deemed a violation of this article.

Sec. 15-32. - Hunting and trapping. - It shall be unlawful for any person to engage in the hunting or trapping within five hundred (500) feet of any dwelling or place of business within the city limits. Hunting will be permitted in those unpopulated areas of the city limits traditionally used for hunting purposes. Trapping will not be permitted in any area of the city limits unless conducted by animal control officers or under the supervision of wildlife officers.

Sec. 15-35. - Blowing horns. - The sounding of any horn, whistle or signal device on any automobile, motorcycle, bus or other vehicle or railroad train, except as a danger signal or as required by law, so as to create any unreasonable, loud or harsh sound or the sounding of such device for an unnecessary and unreasonable period of time shall be deemed a violation of this article.

Sec. 15-36. - Sirens. - The use of any gong or siren upon any vehicle other than police, fire or other emergency vehicle shall be deemed a violation of this article.

Sec. 15-37. - Bells, gongs. - 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 shall be deemed a violation of this article.

Sec. 15-38. - Blowing steam whistles. - The blowing of any steam whistles attached to any stationary boiler, except as a warning of danger or to give notice of the time to begin or stop work, shall be deemed a violation of this article.

Sec. 15-43. - Use of vehicles. - The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or operated in such manner as to create loud or unnecessary grating, grinding, rattling, screeching of tires or other noise shall be deemed a violation of this article.

Sec. 15-44. - Discharge of exhaust. - The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, boat motor or engine, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, shall be deemed a violation of this article.

Sec. 15-45. - Compressed air devices. - The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced, shall be deemed a violation of this article.

Sec. 15-46. - Blowers, engines. - The operation of any noise-creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise emitting therefrom is sufficiently muffled and the engine is equipped with a muffler device sufficient to deaden such noise, so that the same shall not cause annoyance to the public nor unreasonably disturb the rest and quiet of persons on adjacent premises or within the vicinity thereof shall be deemed a violation of this article.

Sec. 15-47. - Loading, unloading operations. - The creation of loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and containers shall be deemed a violation of this article.

Sec. 15-48. - Malfunctioning devices. - The operation of any noise-producing appliance or other mechanical device which, due to operational deficiencies, malfunction or other type of disrepair, causes loud and excessive noises in such a manner as to unreasonably annoy the public or disturb the rest and quiet of persons on adjacent premises or within the vicinity thereof shall be deemed a violation of this article.

Sec. 15-49. - Garage, filling stations. - 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 11:00 p.m. and 7:00 a.m. shall be deemed a violation of this article.

Sec. 15-50. - Pets. - The keeping of any animal or bird, which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity shall be deemed a violation of this article.

Sec. 15-51. - Quiet zones. - The creation of any excessive noise on any street adjacent to any school, institution of learning, library, or sanitarium, or court while the same is in session, or within one hundred fifty (150) feet of any hospital, which unreasonably interferes with the working of such institutions; provided, that conspicuous signs are displayed in such streets indicating that the same is a school, court or hospital street, shall be deemed a violation of this article.

Sec. 15-52. - Hawkers, peddlers, etc. - The shouting and crying of peddlers, hawkers, vendors, which disturbs the quiet and peace of the neighborhood shall be deemed a violation of this article.

Sec. 15-53. - Noises to attract attention. - The use of any bell, drum, loudspeaker, or other instrument for the purpose of attracting attention by creation of noise to any performance, show, sale, display, or advertisement of merchandise shall be deemed a violation of this article.

DIVISION 2. - AMPLIFIED SOUND

Sec. 15-55. - Amplified sound prohibitions. - It shall be unlawful to: (1) Operate or allow the operation of any sound amplification equipment in a residential area so as to create sounds registering 70 dB between 9:00 a.m. and 10:00 p.m. or 60 dB between 10:00 p.m. and 9:00 a.m., as measured anywhere within the boundary line of the nearest residentially occupied property, except in accordance with a permit obtained from the city police department. (2) As to multifamily structures including apartments, condominiums, or other residential arrangements where boundary lines cannot readily be determined, operate or allow the operation of any sound amplification equipment so as to create sounds registering 55 dB(A) between 9:00 a.m. and 10:00 p.m. or 50 dB(A) between 10:00 p.m. and 9:00 a.m., as measured from any point within the interior of another residential unit in the same complex or within the boundary line of the nearest residentially occupied property, except in accordance with a permit obtained from the city police department. When conducting indoor sound level measurements, the measurements shall be taken at least three (3) feet from any wall, floor or ceiling and all exterior doors and windows shall be closed prior to conducting measurements. When measuring total sound level all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms. (3) Operate or allow the operation of any sound amplification equipment in any business, office, commercial, shopping center, or industrial zoned area so as to cast amplified sounds which are unreasonably loud and disturbing or which register more than 70 dB(A) at or on the boundary of the nearest public place or adjacent property. (4) Operate or allow the operation of any sound amplification equipment in the public right-of-way: a. Without a permit issued by the city police department; or b. So as to produce sounds registering more than 70 dB ten (10) feet or more from any electromechanical speaker between the hours of 9:00 a.m. and 10:00 p.m. or 60 dB ten (10) feet or more from any electromechanical speaker between the hours of 10:00 p.m. and 9:00 a.m. or so as to be plainly audible at a distance of twenty-five (25) feet in any direction from the operator. (b) Maximum permissible increase in total sound levels within a residential property. (1) No person shall cause, suffer, allow, or permit the operation of any amplified sound production device in such a manner that the sound crosses a property line and raises the total sound levels above the neighborhood residual sound level by more than the permissible sound level limits when measured within the residence of a complainant. These sound level measurements shall be conducted with the sound level meter set for "C" weighting. The officer will take four (4) consecutive readings of thirty (30) seconds each. If of all four (4) of these readings exceeds the allowed limits, a violation of the ordinance has occurred. (2) When conducting indoor sound level measurements, the measurements shall be taken at least three (3) feet from any wall, floor or ceiling and all exterior doors and windows shall be closed prior to conducting measurements. When measuring total sound level all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

Sec. 15-56. - Motor vehicles. - Personal vehicular music amplification equipment shall not be operated in such a manner as to be plainly audible at a distance of twenty five (25) feet in any direction from the operator or registering more than 70 dB(A) ten (10) feet or more from the vehicle.

Sec. 15-58. - Enforcement and penalties. - (a) Any person who violates any provision of this division shall be subject to the following criminal penalties for violations. The first offense for violating any section of chapter 15 shall be a fine of no more than one hundred dollars (\$100.00). The second offense shall be a fine of no more than two hundred fifty dollars (\$250.00). The third and subsequent offense shall be a fine of no more than five hundred dollars (\$500.00) or imprisonment for up to thirty (30) days or both at the discretion of the court. (b) Each calendar day during which the violation occurs shall constitute a separate and distinct offense. (c) No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this ordinance or from other law.

DIVISION 3. - CURFEWS

Sec. 15-59. - Curfews for minors. -(c) A curfew applicable to minors is established and shall be enforced as follows: (1) *Time limits:* It is unlawful for any minor to be or remain upon any public place as defined in this section in the city between midnight Friday and five o'clock a.m. on Saturday, or between midnight Saturday and five o'clock a.m. on Sunday, or between the hours of eleven o'clock p.m. and five o'clock a.m. of the following morning on Sunday, Monday, Tuesday, Wednesday, or Thursday. (2) *Exceptions:* The restrictions provided by subsection (c)(1) shall not apply to any minor which is accompanied by a guardian, parent or other person charged with the care and custody of such minor, or other responsible person over eighteen (18) years of age, nor shall the restriction apply to any minor who is traveling between his 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 such minor to be in or upon, or remain in or upon a public place within the city within the curfew hours set by subsection (c)(1), except as otherwise provided in subsection (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 be in or upon, or to remain in or upon, any place of business or amusement operated by them within the curfew hours set by subsection (c)(1), except as otherwise provided in subsection (c)(2). (5) *Enforcement:* a. When a minor is found to be in violation of this section the officer will, by telephone, check with the records center of the city police department to determine if the juvenile is a first offender. If the juvenile is a first offender, he/she will be taken to the residence of his/her parent or guardian. A written warning will be given to that adult and an information report taken by the officer to include the name of the juvenile and adult, and the time, date, and location of the offense. This report will be turned in to the records center and entered into the police department computer system. A copy of the report will be forwarded to the juvenile officers of the police department. b. If upon checking with the records center, the juvenile is found to be a repeat offender he/she will be taken to the residence of his/her parent or guardian and the adult will be subject to a criminal citation pursuant to subsection (c)(6) of this article. A report will be turned into the records center and entered into the police department computer system. A copy of the report will be forwarded to the juvenile officers of the police department. c. If the juvenile is under twelve (12) years of age a report will be made and a copy forwarded to the county department of social services. (6) *Aiding and abetting by adult, guardian, or parent:* 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 subsection (c)(1) of this section, except as otherwise provided in subsection (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/her minor child found in violation of this section, the officers with custody of said minor shall contact the 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 a criminal citation pursuant to subsection (c)(6) of this section. (8) *Emergency curfew:*

Under the authority of N.C.G.S. 14-288-12, whenever the mayor of the city deems that an emergency exists, and there is a clear and present danger to the preservation of the public peace, health, life, or safety or to public or private property in the city necessitating expansion of the curfew provisions set forth in subsection (c)(1), the mayor may effect such expansion effective for the period of the emergency by proclamation. The proclamation shall contain a statement of the reasons for such necessity, the period of the expanded curfew, and provide that no minor under the age of sixteen (16) shall be upon or about or remain upon or about public places as defined by this section in the city between the hours of 8:00 p.m. and 5:00 a.m. of the following morning unless accompanied by his/her parent, guardian, or responsible adult. Said proclamation may further provide that no parent or guardian of any minor under the age of sixteen (16) shall allow the child to be upon or about or remain upon or about any public place as defined by this section in the city between the hours of 8:00 p.m. and 5:00 a.m. of the following morning unless the child is under direction or protection of some adult person with authority and consent of such parent or guardian for his/her being there. Said proclamation shall become effective thirty (30) minutes after being publicly announced by the mayor for the said period or until rescinded by the mayor or repealed by council in the manner in which ordinances are repealed. As soon as is reasonably possible the proclamation shall be published and reported in the local media and posted conspicuously about the city. (9) *Punishment:* The punishment for violation of this section shall be a fine of up to five hundred dollars (\$500.00) and/or imprisonment up to six (6) months.

ARTICLE IV. - SMOKING IN MUNICIPAL BUILDINGS AND VEHICLES

Sec. 15-66. - Smoking regulated in municipal buildings. - It shall be unlawful for any person to smoke in any building or facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed or controlled by the city, except in specially designated smoking areas. The city manager shall have the authority to designate smoking areas within city buildings or facilities. An area within any building or facility may be designated as a smoking area only if the ventilation of such area is sufficient, any adverse impact on municipal employees and members of the public is minimal, and no fire or other safety hazard will be created by smoking in such area.

Sec. 15-67. - Smoking regulated in municipal vehicles. - It shall be unlawful for any person to smoke in any vehicle now or hereafter owned or leased by the city.

Sec. 15-68. - Penalty. - Violation of this article shall constitute a misdemeanor punishable by a fine of not exceeding five hundred dollars (\$500.00) or by imprisonment not to exceed six (6) months, or both such fine and imprisonment in the discretion of the court.

ARTICLE V. - CITY TREE CARE

Sec. 15-78. - Tree topping. - It shall be unlawful as normal practice, except as described in this section, for any person or unauthorized city department to top any street tree, park tree or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than two (2) inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees that interfere with or are an imminent threat to utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section at the determination of the

Sec. 15-80. - Interference with city personnel. - It shall be unlawful for any person to prevent, delay or interfere with city personnel engaging in and about the planting, cultivation, mulching, pruning, spraying or removing of any street trees, park trees or trees on public grounds, as authorized in this division.

Sec. 15-81. - Tree protection during construction. - It shall be unlawful for any person in the construction of any structures or other improvements to place solvents, material, construction machinery or temporary soil deposits within six (6) feet or two-thirds (2/3) of the drip line, as defined in this division, whichever is greater, of any street tree or park tree.

Sec. 15-82. - Permits required. - It shall be unlawful for any person to prune, treat or remove any street tree or park tree within the city without first filing an application and procuring a permit from the city manager or his/her designee. The city maintains the right to review the application and the tree(s) in question in determining whether or not to issue a permit

Sec. 15-83. - Emergencies. - In case of emergencies, such as hurricanes, windstorms, flood, freeze or other disasters, the requirements of this division may be waived by the city manager, upon a finding that such waiver is necessary so that public or private work to restore order in the city will not be impeded.

Sec. 15-86. - Penalty. - Any person violating any provision of this division shall be, upon conviction or plea of guilty, subject to a fine not to exceed five hundred dollars (\$500.00).

Chapter 16 - PARKS AND RECREATION - ARTICLE I. - IN GENERAL

Sec. 16-1. - Park hours. - It shall be unlawful, when signs designating park hours are posted by the director of parks and recreation, for any person to enter upon or to use city park facilities outside the approved hours of use, unless such person receives special permission from the director.

Sec. 16-3. - Parks enumeration; Freedom Fountain. (b) - *Specific regulations: Freedom Fountain.* The following are specifically prohibited on the premises of the Freedom Fountain: a. All pets including dogs, whether on leash or loose. b. Placement of persons, animals or other items into the fountain components including the water, landscaping areas, the wall of the Freedom Fountain, etc. c. Skateboarding.

ARTICLE II. - PARKS AND RECREATION SAFETY

Sec. 16-21. - Selling, peddling, charging admission. (a) It shall be unlawful for any person(s) to solicit, peddle, charge admission or fees, or sell goods or services on any city property unless previously authorized in writing by the recreation and parks department. Goods shall include but not be limited to concession goods, t-shirts and similar merchandise. Persons may also receive authorization for the selling of services through the recreation and parks director. (b) It shall be unlawful for any vehicle to park on the streets within the parks or play areas of the city for the purpose of vending goods or merchandise.

Sec. 16-22. - Motor vehicles. - (a) It shall be unlawful for any person to operate or park any vehicle motorized or power driven, to include but not limited to motorbikes, go-carts, golf-carts, mini-bikes, and ATVs, in any park, on any grass, trail or walkway other than as authorized within public vehicular areas and roadways. Authorized city vehicles may be operated in city parks for the purpose of security or maintenance. (b) It shall be unlawful for any person to perform any non-emergency automotive work, including, but not limited to, vehicle maintenance, repairs or cleaning in any area of the city parks.

Sec. 16-24. - Possess firearm/weapon/fireworks. - (a) It shall be unlawful for any person to possess or carry on or about his/her person, whether openly or concealed, any deadly weapon as defined in G.S. 14-269, including but not limited to: bowie knife, dirk, dagger, loaded cane, metallic knuckles, razor, shurikin, stun gun, nightstick or other weapons, excluding guns. Possession or carrying of any pistol, revolver, gun, rifle, within any city park or trail is prohibited except as to permitted concealed carry in

accordance with G.S. 14-415.23 and also as specifically defined in section 15-11 of this Code. This section shall not apply to law enforcement or other government personnel acting within the scope of their employment; nor shall this section apply to weapons used for officially sanctioned ceremonial purposes. (b) It shall also be unlawful for any person to possess a sling shot, BB gun, paint gun or other similar toy or weapon which entails the use of or forcibly hurls a projectile or missile within any city park or trail way. (c) It shall be unlawful for any person to possess, set off or otherwise cause to explode or discharge or burn any firecrackers, fireworks or explosives within any city park or trail way, except when given prior approval through both the recreation and parks director and the city fire department.

Sec. 16-26. - Pets. - It shall be unlawful for any pets to run at large in any park or trail way except where otherwise posted. Pets must be restrained by a leash of not more than six (6) feet in length. This section shall not apply to dogs used by law enforcement authorities or other service animals.

Sec. 16-27. - Hunting and trapping. - It shall be unlawful for any person to hunt, trap, wound, injure or kill any animal in any city park.

Sec. 16-29. - Fires. - It shall be unlawful for any person to make or kindle a fire in any city park, except in a regularly constructed fireplace or grill. It shall be unlawful for any person to leave any fire unattended, or to fail to completely extinguish a fire and all the embers thereof before leaving such fire.

Sec. 16-30. - Swimming. - It shall be unlawful for any person to bathe, swim or wade in any city-owned or maintained lake, pond, fountain or other water feature unless otherwise posted and approved by the recreation and parks director

Sec. 16-31. - Removal of plants, animals, rocks or minerals. - It shall be unlawful for any person to take, cut, remove, destroy or injure any artifact, rock, tree, flower, shrub, fern or other plant or mineral in any park. This shall not be construed to interfere with or limit authorized city staff operating, maintaining, managing, improving and beautifying the parks.

Sec. 16-32. - Hitting golf balls. - It shall be unlawful for any person(s) to hit golf balls, either from a tee or from the ground, within any city park.

Sec. 16-33. - Registered sex offenders in city parks or recreation facilities. - *Registered sex offender* shall mean any person who is required to register in any sex offender registration program or similar registration program by the law of the State of North Carolina, the law of any other state, or the law of the United States of America, or any person whose name is published on any state or federal registered sex offender listing, including, but not limited to the sex offender registry established in G.S. Chapter 14, art. 27A. It shall be unlawful for any person(s) registered as a sex offender to knowingly enter any city park or recreation facility except when the facility is used as a polling place and recreational activities are suspended.

Sec. 16-35. - Enforcement and penalties. - (a) Officers of the city police department shall enforce this article and shall have the authority to eject from any park all persons acting in violation of this article or section of this article or any law of the state. (b) Any person who violates any provision of this article shall be guilty of a class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00) in addition to any other punishment allowed by law at the discretion of the court. (c) Each calendar day during which the violation occurs shall constitute a separate and distinct offense. (d) No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this ordinance or from other law.

Chapter 17 - PEDDLERS

Sec. 17-1. - Peddlers, itinerant merchants and solicitors. - (b) *Permit required.* It is unlawful for any person, firm or corporation to sell, offer for sale, or solicit orders for goods, wares, merchandise, food, periodicals or services as an itinerant merchant or by going from door-to-door ("peddle" or "solicit") within the city without having first secured a peddler/solicitor's permit (hereinafter referred to as peddler permit) from the city as provided for in this section, unless it is done with the prior request or invitation of the residents, businesses or occupants of the premises visited. Additionally, it is unlawful to sell as an itinerant merchant, peddle or solicit unless the following requirements are met: (1) Such peddling/soliciting/selling shall be permitted only between the hours of 8:00 a.m. and 9:00 p.m. during eastern daylight time and 8:00 a.m. to 6:00 p.m. during eastern standard time. (2) The peddler permit issued for that person shall be carried and displayed at all times while conducting such solicitations in such a manner as to be clearly visible to a reasonable person of adequate vision. (3) All other permits or licenses required by law shall have been obtained. *Exemptions.* This section shall not apply to: (1) The delivery of goods or services which have been ordered before delivery; (2) The circulation of petitions for signature or lawful distribution of advertising materials, flyers, or materials expressing views on political, social or religious matters; (3) The lawful promotion or expression of views concerning political, social, religious and other like matters; (4) The sale or offering for sale of goods, wares, merchandise, food, periodicals or services by bona fide members or representatives of charitable, religious, civic, or fraternal organizations who receive no compensation of any kind for their services, and such sale or offering by children under the age of eighteen (18) years who are students in a public or private school for school activities; (5) The solicitation of contributions or pledges thereof for bona fide nonprofit organizations; (6) The sale or delivery of goods to business establishments; (7) The sale or soliciting of orders for the sale of milk, dairy products, vegetables, poultry, eggs, and other farm and garden produce so far as the sale of such commodities named herein is now authorized by law. (i) *Peddling/soliciting from rights-of-way.* Peddling or soliciting from rights-of-way is prohibited in accordance with G.S. 20-175 except that the distribution of newspapers on the non-traveled portions of a street is allowed, provided that the distribution does not impede the normal movement of traffic. (j) *Penalty.* Peddling or soliciting without a permit or otherwise in violation of any of the provisions of this section, including failing to surrender a revoked permit, shall constitute a criminal misdemeanor.

Chapter 22 - SOIL EROSION AND SEDIMENTATION

Sec. 22-20. - Penalties. - (a) *Civil penalties.* (1) Any person who violates any of the provisions of this chapter, or rules or orders adopted or issued pursuant to this chapter, or who initiates or continues a land-disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be subject to a civil penalty. The maximum civil penalty for a violation is five thousand dollars (\$5,000.00). A civil penalty may be assessed from the date of service of the violation. Each day of a continuing violation shall constitute a separate violation. The person alleged to be in violation will be notified of the violation by registered or certified mail, return receipt requested or other means reasonably calculated to give actual notice. The notice shall describe the violation with reasonable particularity, specify a reasonable date within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. If, after the allotted time period has expired, the violator has not completed corrective action, a civil penalty may be assessed from the date of the notice of violation. However, no time period for compliance need be given for failure to submit an erosion control plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his/her official duties. Each day of continuing violation shall constitute a separate violation. (2) The city manager or his/her designee, shall determine the amount of the civil penalty to be assessed under this subsection and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. In determining the amount of the penalty the city manager or his/her designee shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage,

the amount of money the violator saved by noncompliance, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with this chapter and shall direct the violator to either pay the assessment or contest the assessment within thirty (30) days after receipt of the notice of assessment, by written demand for a hearing before the city manager. Notice of the assessment shall be by registered or certified mail or other means reasonably calculated to give actual notice. A hearing on a civil penalty shall be conducted by the city manager within thirty (30) days after the date of the written demand for the hearing. The city manager shall make his/her recommendation to the city council within fifteen (15) days after the date of the hearing. The city council shall render its final decision on the civil penalty within thirty (30) days of the receipt of the recommendation from the city manager. (3) Any appeal from the determination of the city council must be filed with the superior court of the county where the violation occurred within thirty (30) days following the city council determination. If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to the city attorney for institution of a civil action in the name of the city in the appropriate division of the general courts of justice for recovery of the penalty. A civil action must be filed within three (3) years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment. (4) Civil penalties collected pursuant to this chapter shall be credited to the general fund of the city as non-tax revenue. (b) *Criminal penalties.* Any person who knowingly or willfully violates any provision of this chapter, or rule or order adopted or issued pursuant to this chapter, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a class 2 misdemeanor which may include a fine not to exceed five thousand dollars (\$5,000.00) per calendar day as provided in N.C.G.S. § 113A-64.

Chapter 23 - STREETS AND SIDEWALKS - ARTICLE I. - IN GENERAL

Sec. 23-3. - Depositing garbage, etc., in ditches prohibited. - It shall be unlawful to deposit in any ditch, drain or on any street or sidewalk any garbage, filth or dead animal or any other thing of offensive nature.

Sec. 23-7. - Drainage and utilities easements. - Easements for installation and maintenance of utilities and street drainage facilities are reserved as shown on recorded property plats. Within these easements, no structures, planting or other materials should be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through the drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those specific improvements for which a public authority or utility company is responsible. When a drainage plan has been approved by the city council, the approved drainage structures have been constructed, and the easements have been approved by the city council, no modifications, including pipe installations, can be made to the drainage without the authorization of the Public Works Director and the City Manager. The violation of any such provision shall be punished by a fine of not exceeding five hundred dollars (\$500.00) or by imprisonment in the discretion of the court. Each day of violation shall constitute a separate offense, unless otherwise specifically provided.

Sec. 23-13. - Solicitation of any employment, business, or contributions on public highways or streets. - *Intent.* The purpose of this section is to regulate and ensure the safety of vehicular and pedestrian traffic flow and to promote roadway safety and sidewalk safety and promote, protect and preserve the health, safety and general welfare of the people of the city and to help regulate solicitation of any employment, business, or contributions on public highways or streets. (b) *Time.* Any person is allowed to solicit any employment, business, or contributions for his or her own personal gain on public highways or streets from 9:00 a.m. until 4:00 p.m. each and every day (including during daylight

savings time) in accordance with the regulations hereinafter set forth. (c) *Place*. Any person who solicits any employment, business, or contributions on public highways or streets for his or her own personal gain when the person is in any of the following places is committing a violation of this section: (1) At any bus stop; (2) In any public transportation vehicle or facility; (3) In any vehicle on the street; (4) On private property, unless the person has written permission from the owner of the property to beg or solicit alms on the property; (5) On any school property or adjacent public street during the posted school zone hours for student arrival times or during the student departure times; (6) On any sidewalk adjacent to an outdoor restaurant, motion picture theatre, outdoor theatre or palladium, any valid licensed vendor location, or where a line of patrons has formed; (7) On any public library property or other governmental property during hours of operation; (8) Within fifty (50) feet in any direction from an automatic teller machine or entrance to a bank. For purposes of this section, "automated teller machine facility" shall be defined as the area comprised of one (1) or more automatic teller machines and any adjacent space which is made available to banking customers after regular banking hours; (9) Within fifty (50) feet of any crosswalk; (10) Upon any street or highway which shall include the main traveled portion of such streets or highways, curbs or medians; (11) Within one thousand (1,000) feet of any off-ramp, on-ramp, exit, entrance, merging lanes or interchange for any numbered U.S. highway or interstate, including upon sidewalks, shoulders, curbs, medians, marked or unmarked crosswalks and rights-of-way. (12) In the area of any street corner created by drawing an imaginary triangle running twenty-five (25) feet along the curb line of intersecting roads and then connecting those ending points; (13) Within any city park including but not limited to: The Commons, Wooten Park, NE Creek Park, Wilson Bay Park, Riverwalk Park, Willingham Park, Kerr Street Park, Riverwalk Landing Marina, Jacksonville Landing, Phillips Park, Richard Ray Park, Northwoods Park; (14) Within any of the following high traffic intersections, on the sidewalk or shoulder of the roads or within the right-of-way and within fifty (50) feet of the intersection of any of the following city streets as they intersect with any state or federal highway: a. Brynn Marr and Western. b. Huff Drive and Western. c. Gateway North and Western. d. Gateway South and Western. e. Carolina Forest and Western. f. Williamsburg and Gum Branch. g. Plantation and Gum Branch. h. Doris and Henderson. i. New Bridge and Johnson. j. New Bridge and Old Bridge. k. Georgetown and Highway 17. l. Corbin and Highway 24. (d) *Manner*. Any person who solicits, any employment, business, or contributions on public highways or streets for his or her own personal gain in any of the following manners is guilty of a misdemeanor by: (1) Coming within three (3) feet of the person being solicited, until that person has clearly indicated that he or she wants to make a donation; (2) Being under the influence of alcohol or after having illegally used any controlled substance as defined in the state Controlled Substance Act; (3) Blocking the path of the person being solicited along a sidewalk or street; (4) Following the person being solicited after they have walked away; (5) Using profane or abusive language, either during the solicitation or following a refusal; (6) Soliciting in a group of two (2) or more people; (7) Making any statement, gesture or other form of communication by which a reasonable person in the situation of the person solicited would perceive to be a threat. (8) Using violent or threatening gestures toward a person solicited; or (9) Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting any employment, business, or contributions on public highways or streets. (e) *False or misleading solicitation*. Any person who knowingly makes any false or misleading representation in the course of soliciting any employment, business, or contributions on a public highway or street is guilty of a misdemeanor. False or misleading representations include, but are not limited to, the following: (1) Stating that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet that need and does not disclose that fact; (2) Stating that the donation is needed to meet a need which does not exist; (3) Stating that the solicitor is from out of town and stranded when that is not true; (4) Wearing a military uniform or other indication of military service, when the solicitor is neither a present nor former member of the service indicated; (5) Wearing or displaying an indication of physical or mental disability, when the solicitor does not suffer the disability indicated; (6) Use of any makeup or device to simulate any deformity; (7) Stating that the solicitor is homeless, when he or she is not; or (8) Any person who solicits a donation stating that the funds are needed for a specific purpose and then spends the funds received for a different purpose is guilty of a misdemeanor. (f) *Violations*. Any person in violation of this section shall be guilty of a

misdemeanor and upon conviction shall be fined five hundred dollars (\$500.00) or imprisoned for six (6) months or both. (g) *Prohibited acts.* (1) By stepping into, standing, sitting or walking in any roadway; (2) By delivering or receiving any tangible item to or from any occupant of any vehicle in a lane that is not contiguous with the curb or roadside on which the solicitor is present; (3) By displaying a sign larger than two (2) feet in any dimension; (4) By stopping or attempting to stop a vehicle that is approaching a traffic signal unless the traffic signal requires the vehicle to come to a complete stop; (5) By interfering with or impeding the normal movement and quick and safe passage across the roadway of pedestrians or of persons in or on wheelchairs or other devices designed or intended to assist the mobility-impaired or by interfering with or impeding the normal flow of vehicle traffic; or (6) While violating any litter or traffic safety law.

ARTICLE II. - ENCROACHMENT AND EXCAVATIONS

Sec. 23-23. - Permit required; bond. - It shall be unlawful for any person to make any excavation or do any other work which may cause a dangerous condition in or on any street, alley, sidewalk, public way or public place in the city, unless a written permit therefor shall have been first obtained from an officer of the city vested with authority to grant the same. No permit shall be issued in any case where a bond is required, until a bond shall have been executed and filed with the city clerk. The officer having authority to grant the desired permit may refuse to grant the same for good and sufficient cause, but the applicant therefor shall have the right to appeal from such refusal to the council.

Sec. 23-25. - Supervision and control. - All excavations and work in the streets, sidewalks, alleys or public places of the city 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 shall make a final inspection and shall see to it 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, material, 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 such failure or refusal is continued after notice from the director of public works, every day's continuance shall constitute a separate and distinct offense.

Sec. 23-26. - Restoration of streets. - When any part of any street, sidewalk, alley or public place of the city shall be torn, dug up or taken up, for any purpose, the person doing the same shall immediately upon the completion of such purpose, and as speedily as practicable during the accomplishment thereof, return the earth, ram and water-tamp or puddle the same to firm and solid bearing, in such manner as will entirely prevent the settling of such earth; and shall replace the surface of the street, sidewalk, alley or public place and restore the same to a condition as good in all respects as before the excavation was made, all of which shall be done according to the directions of the director of public works and to his entire satisfaction. Any person neglecting, refusing or failing to comply with any provision of this section shall be guilty of a violation thereof, and where such neglect, refusal or failure is continued, after notice from the street superintendent, every day's continuance thereof shall constitute a separate and distinct offense.

ARTICLE III. - UTILITY POLES

Sec. 23-49. - Cutting, painting, etc., utility poles prohibited; exception. - It shall be unlawful for any person to deface, injure by cutting, painting, posting of bills or other materials on, any telegraph, telephone, electric light or power pole on any street or public place in the city; provided that nothing herein shall be construed to apply to any officer or employee of the city, or of the utility company removing any pole in the discharge of his duty.

ARTICLE IV. - PARADE AND PUBLIC ASSEMBLY

Sec. 23-70. - Prohibitions. The following prohibitions shall apply to all parades and public assemblies:

(1) It shall be unlawful for any person to stage, present, or conduct any parade or public assembly without first having obtained a permit as herein provided; (2) It shall be unlawful for any person to participate in a parade or public assembly for which the person knows a permit has not been granted; (3) It shall be unlawful for any person in charge of, or responsible for the conduct of, a duly licensed parade or public assembly to knowingly fail to comply with any condition of the permit; (4) It shall be unlawful for any person to engage in any parade or public assembly activity that would constitute a substantial hazard to the public safety or that would materially interfere with or endanger the public peace or rights of residents to the quiet and peaceful enjoyment of their property; (5) It shall be unlawful for any person participating in any parade or public assembly to carry or possess any length of metal, lumber, wood, or similar material for purposes of displaying a sign, poster, plaque or notice, unless such object is one-fourth ($\frac{1}{4}$) inch or less in thickness and two (2) inches or less in width, or if not generally rectangular in shape, such object shall not exceed three-fourths ($\frac{3}{4}$) inch in its thickest dimension; (6) It shall be unlawful for any person to carry any sign, poster, plaque, or notice, whether or not mounted on a length of material as specified in subsection (5) of this section, unless such sign, poster, plaque, or notice is constructed or made of a cloth, paper, or cardboard material; (7) It shall be unlawful for any person to erect or place any structure, whether permanent or temporary, on a city street, sidewalk, or right-of-way unless advance approval for the erection or placement of the structure is obtained from the city council or city manager. Signage that is otherwise compliant with subsection (5) of this section is not considered a "structure" which would require any additional approvals; and; (8) It shall be unlawful for any person to ride, drive, or cause to be ridden or driven any animal or any animal-drawn vehicle upon any public street, unless specifically authorized by the permit.

Sec. 23-73. - Penalties. - Any person violating the provisions of any section of this article shall, upon conviction, be punished in accordance with City Code sections 1-11 et al.

ARTICLE V. - STREET ADDRESSING AND NAMING OF PUBLIC STREETS, PARKS, AND FACILITIES

Sec. 23-79. - Enforcement. - (a) It shall be unlawful for any person or corporation to remove or deface a street address which is displayed in accordance with this article. It shall also be unlawful to allow an incorrect street address to remain on a building. (b) No building permit shall be issued until an official building number has been assigned for a lot. (c) No certificate of occupancy shall be released until a building number is displayed in accordance with this article. (d) Any violation of this section shall be subject to the enforcement provisions of this article. Each day's continuing violation shall be a separate and distinct offense.

Chapter 24 – TAXICABS - ARTICLE I. - IN GENERAL

Sec. 24-11. - Penalty for violating chapter. - Any person, owner or operator or driver who shall violate any provision of this chapter shall be subject to penalties as provided in this chapter. Any person, owner, operator or driver who violates any of the provisions of this chapter shall be guilty of a misdemeanor and may be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six (6) months. In the event the person violating any provision of this chapter is a corporation, any officer, agent or employee thereof who shall violate or procure, aid or abet any violation of any provision of this chapter shall be subject to the same penalties as if he himself had committed such violation, and upon conviction of any violation of the provisions of this chapter, the chief of police may suspend or revoke any certificate of necessity held by such person; and the inspector of taxicabs may suspend or revoke the permit of any driver for the violation of any provisions of this chapter.

ARTICLE III. – RATES

Sec. 24-63. - Fares, payment to be at established rates. - (a) It shall be unlawful for the owner or operator of a taxicab to charge fare rates in excess of or under the fixed rates provided by city council from time to time. It shall be unlawful for any passengers to pay rates or fares in excess thereof or to refuse to pay fares as may be charged in accordance therewith.

Chapter 25 – TRAFFIC - ARTICLE I. - IN GENERAL

Sec. 25-2. - Obedience to chapter. - It is a misdemeanor for any person to do any act forbidden, or fail to perform any act required, in this chapter.

Sec. 25-9. - Boarding, etc., moving vehicles, etc. - No person shall board, or alight from, any public conveyance or other vehicle while such conveyance or vehicle is in motion.

Sec. 25-10. - Entering, etc., vehicles without permission. - No person shall enter, jump on or ride any automobile or other vehicle, without the consent of the owner or driver.

Sec. 25-11. - Keeping body wholly within vehicle, etc. - No person shall allow any part of his body to protrude beyond the limits of the vehicle in which he is riding, except to give such signals as are by law required, and no person shall hang on to any vehicle whatsoever.

Sec. 25-12. - Front seat passengers restricted. - It shall be unlawful for the driver or the person in charge of any motor vehicle to permit more than three (3) persons, including driver, to ride in the front or driver's seat.

Sec. 25-13. - Clinging to moving vehicles. - Any person riding upon any bicycle, motorcycle, coaster, sled, roller skates, skateboard or any other toy vehicle, shall not attach the same, or himself, to any public conveyance, or moving vehicle, upon any roadway.

Sec. 25-14. - Riding other than in places intended for passengers. - No person shall ride on any public conveyance or vehicle not designated or intended for the use of passengers, or on a bicycle or motorcycle except on the seat provided for that purpose. This provision shall not apply to an employee engaged in the necessary discharge of a duty nor to persons riding within truck bodies in spaces intended for merchandise.

Sec. 25-15. - Skating on streets or sidewalks; penalty. - (a) *Business section.* It shall be unlawful to skate or go upon on roller skates or skateboards any of the streets or sidewalks within the business section. (b) *Residential streets; state-maintained roads.* It shall be unlawful to go upon on roller skates or skateboards on any of the residential streets listed in this section or any street or highway maintained by the state department of transportation within the city: (c) *Penalty.* The first offense for violating section 25-15 shall be a warning. The second offense for violating section 25-15 shall be not more than twenty-five dollars (\$25.00). The third and subsequent offense shall be not more than double the previous offense up to a maximum of five hundred dollars (\$500.00) fine or imprisonment for six (6) months or both at the discretion of the court.

Sec. 25-16. - Playing ball, etc., in streets. - It shall be unlawful for any person to play ball or any other game in the streets.

Sec. 25-17. - Vehicles, etc., with lugs, etc., prohibited. - No person shall drive over any hard surfaced asphalt paved street any vehicle with sharp blades, discs, or spikes that will drag on the pavement, or any traction engine with caterpillar wheels or any heavy piece of machinery that will in any way damage or injure the paving.

ARTICLE II. - OPERATION OF VEHICLES

Sec. 25-34. - Moving cars from parked positions. - Parked cars shall move out in the direction headed, or if they are parked at an angle with the curb, they shall back out at that angle until they have cleared the other cars and shall then proceed in the direction they are most nearly headed.

Sec. 25-35. - Driving on roadways laned for traffic. - All vehicles operated on any roadway which has been clearly marked with traffic lanes shall be driven, as nearly as practical, entirely within a single lane and shall not be moved out of such lane until the driver has first ascertained that such movement can be made with safety.

Sec. 25-36. - Driving in school zones. - Whenever authorized signs are placed designating any street, or part thereof, as a school zone, drivers of motor vehicles using such street shall exercise the greatest care for the protection of children.

Sec. 25-38. - Driving through barricaded streets. - No person shall drive any vehicle of any kind into or upon any alley or street when such street or alley has been barricaded by the city.

Sec. 25-39. - Driving over fire hose. - No vehicle shall be driven over any hose of the fire department without the consent of the fire department official in command.

Sec. 25-40. - Driving on sidewalks. - The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

Sec. 25-41. - Obstructing intersections prohibited. - No driver shall move his vehicle across an intersection, or a marked crosswalk, unless he knows that there is sufficient space on the other side of the intersection or crosswalk, to accommodate his vehicle without obstructing the passage of other vehicles or pedestrians, although a traffic control signal may be indicating his right to proceed.

Sec. 25-42. - Manner of making left turns. - In making left turns at street intersections, all traffic when approaching an intersection, shall keep close to the center line of the street and the left turn shall then be made beyond the center of the intersection as may, or may not, be indicated by buttons, markers or other directing signs, and shall proceed in the new direction along the right-hand lane, except certain intersections which may be expressly designated by the city.

Sec. 25-43. - Driving through funeral processions. - No vehicle may be driven through a funeral procession, except fire department vehicles, police patrols and ambulances, and only if the same are responding to calls.

Sec. 25-44. - Limitations on backing. - The driver of a vehicle shall not back it into any intersection, or over a crosswalk, nor shall he back it otherwise unless such movement can be made in safety, and ample warning has been given by hand and horn or other signals.

Sec. 25-45. - Limitations on turning around. - No driver shall turn any vehicle and proceed in the opposite direction on any city street.

ARTICLE III. - TRAFFIC-CONTROL DEVICES

Sec. 25-64. - Duty to obey. - The driver of any vehicle shall obey the directions of any official traffic control device placed in accordance with this chapter, subject to certain exceptions which are granted the driver of an authorized emergency vehicle in section 25-6, unless either are otherwise directed by a police officer.

Sec. 25-66. - Moving or damaging devices. - No person shall move, deface or otherwise damage any sign, signal or other traffic-control device placed upon the streets of the city.

Sec. 25-67. - Display of unauthorized signs, signals or markings. - No person shall place, maintain or display upon or in view of any highway an unauthorized sign, signal, marking or device which purports to be, is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

Sec. 25-75. - Quiet zone. - Whenever authorized signs are placed indicating a zone of quiet, the person operating a motor vehicle within such zone shall not sound the horn or any other warning device, except in an emergency.

ARTICLE IV. - SPEED LIMITATIONS^[4]

Sec. 25-92. - Reasonable, prudent rule. - It shall be unlawful for any person to operate any motor vehicle upon any street or highway in the city at a speed greater than is reasonable and prudent under the conditions then existing.

Sec. 25-93. - Residential streets. - Except as may otherwise be permitted under the provisions of this article, it shall be unlawful for any person to operate a motor vehicle upon any street or highway in a residential section of this city at a greater rate of speed than twenty-five (25) miles per hour. Streets that enter residential neighborhoods may be posted with signs that indicate that all streets within the residential neighborhood have a maximum speed limit of twenty five (25) miles per hour.

Sec. 25-94. - Business district. - Except as may otherwise be permitted under the provisions of this article, it shall be unlawful for any person to operate a motor vehicle upon any street or highway in a business district in this city at a greater speed than twenty (20) miles per hour.

ARTICLE V. - STOPPING, STANDING AND PARKING - DIVISION 1. - GENERALLY

Sec. 25-113. - Stopping in streets prohibited; exceptions. - No vehicle shall stop in any street, except for the purpose of parking as prescribed in this chapter, unless such stop is made necessary by the approach of fire apparatus, by the approach of a funeral or other procession which is given right-of-way, by the stopping of a public conveyance, by the lowering of railway gates, by being given countermanding traffic signals, by the passing of some other vehicle or a pedestrian, or by some emergency; in all cases covered by these exceptions such vehicles shall stop so as not to obstruct any footway, pedestrian aisle, safety zone, crossing, or street intersection if it can be avoided.

Sec. 25-119. - Parking for certain purposes prohibited. - No person shall stand or park a vehicle upon any street for the principal purposes of: (a) Displaying it for sale. (b) Washing, greasing, or repairing such vehicle, excepting repairs necessitated by an emergency. (c) Storage thereof by garages, dealers or other persons. (d) Storage of any detached trailer, or van, when the towing-unit has been disconnected. (e) Transferring merchandise, or freight, from one vehicle to another. (f) For the primary purpose of advertising. It shall be unlawful for any person to park or place, upon or in any area used or maintained for park purposes in the city, a motor vehicle for the purpose of waxing, cleaning or repairing said vehicle. It shall be unlawful for any person to wax, clean or repair a motor vehicle in or upon any area in the city used or maintained by the city for park purposes. Any person found guilty of violating this paragraph may be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six (6) months. Each violation shall constitute a separate offense.

Sec. 25-120. - Prohibited at certain places. - No person shall stop, stand, or park a vehicle, except when conflict with other traffic is imminent or when so directed by a police officer or traffic control device in any of the following places: (a) On a sidewalk. (b) Within an intersection. (c) On a crosswalk. (d) Grade crossing approaches. No vehicle shall park on either side of any street leading to a grade crossing, within fifty (50) feet of the closest rail; provided, that where existing permanent structures are located closer than fifty (50) feet, parking may be permitted in front of such structures unless otherwise prohibited and if such parking does not block the view in either direction of the approach of a locomotive or train. (e) Alongside or opposite any street excavation or obstruction, if such stopping, or standing, or parking would obstruct traffic. (f) Upon any bridge or other elevated structure or within any underpass structure. (g) Within fifteen (15) feet in either direction of the entrance to a hotel, theatre, hospital, sanitorium or any public building. (h) On the roadway side of any vehicle stopping, standing, or parking at the edge or curb of a street. (i) Within ten (10) feet of any fire plug or hydrant. (j) Within fifteen (15) feet of any intersection. (k) In front of any driveway.

Sec. 25-120.1. - Public conveyances prohibited except in designated zones. - Public conveyances shall not stop, stand, or park in any street except within zones specifically designated by the city council to be used for such vehicles.

Sec. 25-121. - Moving vehicles into prohibited area. - No person shall move a vehicle not owned by such person, into any prohibited area, or sufficiently away from a curb to make such distance unlawful.

Sec. 25-123. - Same—Commercial vehicles. - There shall be no parking or storage of commercial vehicles, as that term is defined in the city's zoning ordinance, in residential areas, except for the purposes of loading and unloading of fuel oil, goods, wares or merchandise.

Sec. 25-124. - Duration in business areas. - In business areas other than those mentioned in the following section, there shall be no parking of motor vehicles for a period longer than forty-eight (48) hours regardless of ownership of property or motor vehicles.

Sec. 25-129. - Fines for parking violations. - All parking violations, to include handicapped, shall be punishable by a fine as specified by rates set by the city fee schedule adopted annually.

DIVISION 2. - PROHIBITED, RESTRICTED ON CERTAIN STREETS

Sec. 25-140. - Designation of no-parking areas. - When signs are placed, erected or installed giving notice thereof, or the curbing has been painted yellow or red in lieu of such signs, no person shall park a vehicle at any time in any zone designated as a no-parking zone, as provided in section 25-62. In the event that parking is prohibited in such zone only between certain hours, this section shall apply only between such hours, as indicated on the signs erected in such zone. Such zones shall be clearly and distinctly marked and indicated upon the official traffic-control and parking regulation signs, markings and other devices map on file in the office of the police department.

Sec. 25-141. - Parking in limited parking zone. - Whenever a parking zone is designated in accord with section 25-62, limiting the time or conditions under which such vehicle may be parked, no person shall park any vehicle in such zone, except in accord with the signs and markings, erected therein. Such zones shall be clearly and distinctly marked and indicated upon the official traffic-control and parking regulation signs, markings and other devices map on file in the office of the police department. A change of position of a vehicle from one point directly to another point in the same block shall be deemed one continuous parking period.

ARTICLE VI. – BICYCLES - DIVISION 1. - GENERALLY

Sec. 25-158. - Observance of traffic regulations. - Any person operating a bicycle shall be required to observe traffic-control signals in the same manner as is required of motor vehicles and shall also be required to have such bicycle under complete control before entering any arterial highway within the city.

Sec. 25-159. - Impounding. - Any law enforcement officer of this city may impound any bicycle operated in violation of the provisions of this chapter and retain possession of the same until ownership is established; provided, that nothing herein contained shall be construed to limit the authority of law enforcement officers to take into custody any bicycle believed to have been stolen.

Sec. 25-160. - Riding on sidewalks. - It shall be unlawful for any person to ride or operate a bicycle upon any sidewalk or pedestrian way in the city except when a sidewalk or pedestrian way is designated as part of the Jacksonville Trails and Greenways System.

Sec. 25-161. - Clinging to moving vehicles. - It shall be unlawful for any person riding upon a bicycle to attach the same or himself to any moving vehicle upon any roadway.

Chapter 26 - WATER AND SEWERS - ARTICLE I. - IN GENERAL

Sec. 26-3. - Damage, trespass of equipment. - It shall be unlawful for any person, not having authority to do so, to open any water hydrant or tamper with any utility service furnished by the city to consumers, or to in any other way molest, damage or trespass upon any equipment or premises belonging to the city connected with any utility service.

Sec. 26-11. - Rules, regulations. - The city council shall have the authority to establish by rule or regulation such standards and specifications as may be deemed necessary for the installation, construction and maintenance of any utility service system owned and operated by the city within or without the city and under the management of the council. Such rules, regulations, standards and specifications shall be filed in the office of the city clerk. Violation of such rules, regulations, standards and specifications shall be deemed a misdemeanor.

Sec. 26-18. - Not to use contrary to permit. - Any person having a permit from the city for the use of any utility service offered by the city who shall use such utility service for any purpose other than mentioned in such permit or who shall make any unauthorized changes in such service shall be deemed guilty of a misdemeanor.

Sec. 26-19. - Sale of service by customer. - It shall be unlawful for any person to resell to others any utility service obtained from the city except only by special arrangement with the city council.

Sec. 26-20. - Unlawful connections. - Any person who shall make any connection in any manner to any utility system, whether owned by the city or not, without the prior knowledge and consent of the owner of such utility system shall be deemed guilty of a misdemeanor.

ARTICLE IV. - SEWER USE - DIVISION 1. - GENERALLY

Sec. 26-105. - Deposit of objectionable wastes. - 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 city or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or other objectionable waste.

Sec. 26-106. - Private facilities restricted. - Except as hereinafter provided, it shall be unlawful for any person to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

Sec. 26-109. - Discharge into storm sewers, natural outlets. - (a) It shall be unlawful for any person to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article. (b) No sanitary sewage shall be discharged to a storm sewer or natural outlet.

Sec. 26-117. - Wastewater discharge permit application and issuance. - (a) *Wastewater dischargers.* It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the city. When requested by the director, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.

Sec. 26-131. - Civil penalties. - (a) Any discharger who violates this division or the orders, policies or permits issued hereunder, may be liable to the city for a civil penalty of up to ten thousand dollars (\$10,000.00), plus actual damages incurred by the POTW, per violation per day so long as the violation(s) continues. In addition to the above described penalty and damages, the city may recover attorney's fees, court costs and other expenses of the enforcement litigation. (b) Appeals of civil penalties assessed in accordance with this section shall be as provided in section 26-118.

Sec. 26-132. - Other available remedies. - Remedies, in addition to those previously mentioned in this division, are available to the Director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to: (1) *Criminal violations.* The district attorney for the Onslow Judicial District may, at the request of the city, prosecute noncompliant users who violate the provisions of N.C.G.S. 143-215.6B. (2) *Injunctive relief.* Whenever a user is in violation of the provisions of this division or an order or permit issued hereunder, the director, through the city attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question. (3) *Water supply severance.* Whenever an industrial user is in violation of the provisions of this division or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply. (4) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this division or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the director. Any person(s) creating a public nuisance shall be subject to the provisions of the City Ordinance, Article 1, Section 14-2, subsection 8 governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

Sec. 26-133. - Remedies nonexclusive. - The remedies provided for in this division are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the director may take other action against any user when the circumstances warrant. Further, the director is empowered to take more than one enforcement action against any noncompliant user.

ARTICLE VI. - WATER SYSTEM CROSS CONNECTION CONTROL

Sec. 26-311. - Enforcement. (a) *Notices of violation.* (1) The consumer and/or owner of any installation found to be in violation of the provisions of this article shall receive, in writing, an explanation of the violation, the remedial action(s) to be taken, and the time period within which the violation(s) must be

corrected. (2) The notice shall be served by personal delivery, registered mail, or certified mail to the consumer and/or owner. (3) Failure by the consumer and/or owner to correct the violation within the time specified, or to pay any civil penalty or expense assessed under this section upon the city's written demand of payment shall be just grounds for immediate termination of city water service. Service shall be re-established when the violation is corrected and any applicable civil penalties and other required fees are paid. (b) *Civil penalties.* (1) Any person, firm or corporation who violates this article, the orders or policies issued hereunder, shall be liable to the city for a civil penalty of up to one thousand dollars (\$1,000.00) per violation, plus actual damages incurred. In addition to the above-described penalty and damages, the city may recover the attorney's fees, court costs, and other expenses of the enforcement litigation. All civil penalties must be paid within thirty (30) days of assessment and written notification to do so. (2) The city may petition the general court of justice to impose, assess and recover penalties. In determining the amount, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user and any other factor which justice requires. (c) *Criminal penalties.* (1) If any person, firm or corporation acts contrary to the provisions of this article, state or federal requirements or any order or policy issued hereunder, the city attorney may commence an action for appropriate legal and/or equitable relief in the general court of justice for the county. (2) Any person who knowingly makes any false statements, representation or certification in any application for service or other document filed or required to be maintained pursuant to this article, or who tampers with or knowingly renders inoperative any backflow prevention device or method required under this article, shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six (6) months, or by both. (d) *Injunctive relief.* Whenever a consumer is in violation of the provisions of this article, or any order or policy issued hereunder, the city, through the city attorney, may petition the general court of justice for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, which restrains or compels the activities in question.

Chapter 28 – STORMWATER - ARTICLE II. - PHASE II STORMWATER STANDARDS

Sec. 28-26. - Enforcement and violations. - a) *General.* (1) *Authority to enforce.* The provisions of this article shall be enforced by the city manager or any authorized agent of city. Whenever this section refers to the city manager, it includes his or her designee as well as any authorized agent of city. (2) *Violation unlawful.* Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this article, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this article, is unlawful and shall constitute a violation of this article. (3) *Each day a separate offense.* Each day that a violation continues shall constitute a separate and distinct violation or offense. (4) *Responsible persons/entities.* Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this article shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs. For the purposes of this article, responsible person(s) shall include but not be limited to: a. *Person maintaining condition resulting in or constituting violation.* An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists. b. *Responsibility for land or use of land.* The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or

responsibility for, the use, development or redevelopment of the property. (b) *Remedies and penalties*. The remedies and penalties provided for violations of this article, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order. (1) *Remedies*. a. *Withholding of certificate of occupancy*. The city manager or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein. b. *Disapproval of subsequent permits and development approvals*. As long as a violation of this article continues and remains uncorrected, the city manager or other authorized agent may withhold, and the city planning board may disapprove, any request for permit or development approval or authorization provided for by this article or the city unified development ordinance for the land on which the violation occurs. c. *Injunction, abatements, etc.* The city manager may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this article. Any person violating this article shall be subject to the full range of equitable remedies provided in the General Statutes or at common law. d. *Correction as public health nuisance, costs as lien, etc.* If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. § 160A-193, the city manager may cause the violation to be corrected and the costs to be assessed as a lien against the property. e. *Stop work order*. The city manager may issue a stop work order to the person(s) violating this article. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations. (2) *Civil penalties*. Violation of this article may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within thirty (30) days after notice of the violation is issued by the city manager. Civil penalties may be assessed up to the full amount of penalty to which the city is subject for violations of its phase II stormwater permit. (3) *Criminal penalties*. Violation of this article may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

Sec. 28-27. - Illicit discharges. - (a) *Illicit discharges and connections. Illicit connections*. a. Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in subsection (1) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.

CITY OF JACKSONVILLE, NORTH CAROLINA
UNIFIED DEVELOPMENT ORDINANCE
RESPONSE TO HB-379

Article 8 Sec. 8.6B Criminal Penalties of the City's UDO, as previously set out in the Cover Memo, states as follows: "*Pursuant to Section 14-4 of the North Carolina General Statutes, any person, firm, or corporation convicted of violating the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed the maximum amount authorized by state law.*"

ARTICLE 8: ENFORCEMENT

8.3 Violations

A. Violations Generally

1. Failure to Comply with Ordinance or Term or Condition of Approval Constitutes Ordinance Violation

Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this ordinance, or the terms or conditions of any permit or other development approval or authorization granted in accordance with this ordinance, shall constitute a violation of this ordinance punishable as provided in this article.

2. Permits or Permit Approvals Only Authorize Development Approved

Permits or permit approvals issued by a decision-making body authorize only the use, arrangement, location, design, density or intensity, and development set forth in such permits or development approvals.

B. Violation Examples

It shall be a violation of this ordinance to undertake any land-disturbing activity, land-use activity, or construction activity, contrary to the provisions of this ordinance, including, but not limited to, any of the following:

1. Develop without Obtaining or Complying with Appropriate Permits or Approvals

Develop land or a structure without first obtaining all appropriate permits or development approvals, and complying with their terms and conditions.

2. Occupy or Use without Obtaining or Complying with Appropriate Permits or Approvals

Occupy or use land or a structure without first obtaining the appropriate permits or development approvals, and complying with their terms and conditions.

3. Subdivide without Obtaining and Complying with Appropriate Permits or Approvals

Subdivide land without first obtaining the appropriate permits or development approvals required to engage in subdivision, and complying with their terms and conditions.

4. Disturb Land without Obtaining and Complying with Appropriate Permits or Approvals

Excavate, grade, cut, clear, or undertake any land disturbing activity without first obtaining all appropriate permits and development approvals, and complying with their terms and conditions.

5. Removal of Required Trees without Obtaining and Complying with Appropriate Permits or Approvals

Removal of required trees from a site or parcel of land without first obtaining appropriate permits and development approvals, and complying with their terms and conditions.

6. Construct Signs without Obtaining and Complying with Appropriate Permits or Approvals

Install, create, erect, alter, or maintain any sign without first obtaining the appropriate permit or permit approval, and complying with their terms and conditions.

7. Fail to Remove Abandoned/Expired Signs

Fail to remove any sign installed, created, erected, or maintained in violation of this ordinance, or for which the permit has expired.

8. Change Nonconformities

Create, expand, replace, or change any nonconformity except in compliance with this ordinance.

9. Reduce Development, Design, or Dimensional Standards

Reduce or diminish the requirements for development, design, or dimensional standards below the minimum required by this ordinance.

10. Increase Intensity or Density

Increase the intensity or density of development, except in accordance with the standards of this ordinance.

11. Fail to Comply with Any Other Provision

Through any act or omission, fail to comply with any other provisions, procedures, or standards as required by this ordinance.

To review the complete UDO, please visit this link: <https://www.jacksonvillenc.gov/573/UDO>