



**Winston-Salem**

**City Attorney's Office**

City of Winston-Salem  
P.O. Box 2511  
Winston-Salem, NC 27102  
CityLink 311 (336.727.8000)  
Fax 336.748.3816  
[www.cityofws.org](http://www.cityofws.org)

November 30, 2018

Representative Jonathan C. Jordan, Co-Chair  
Joint Legislative Administrative Procedure Oversight Committee  
NC House of Representatives  
300 N. Salisbury Street, Room 420  
Raleigh, N.C. 27603-5925

Senator Andy Wells, Co-Chair  
Joint Legislative Administrative Procedure Oversight Committee  
NC Senate  
16 W. Jones Street, Room 1028  
Raleigh, N.C. 27601-2808

Representative James L. Boles, Jr., Co-Chair  
Joint Legislative Oversight Committee on Justice and Public Safety  
NC House of Representatives  
300 N. Salisbury Street, Room 528  
Raleigh, N.C. 27603-5925

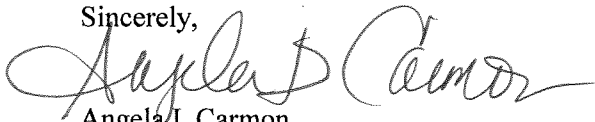
Representative Ted Davis, Jr., Co-Chair  
Joint Legislative Oversight Committee on Justice and Public Safety  
NC House of Representatives  
300 N. Salisbury Street, Room 417B  
Raleigh, N.C. 27603-5925

Senator Shirley B. Randleman, Co-Chair  
Joint Legislative Oversight Committee on Justice and Public Safety  
NC Senate  
300 N. Salisbury Street, Room 628  
Raleigh, N.C. 27603-5743  
Re: Session Law 2018-69

Dear Committee Members,

In compliance with Session Law 2018-69, please find enclosed the City of Winston-Salem's report regarding city ordinances with criminal punishment/remedies with a description of each. Should you have any questions, please do not hesitate to let me know.

Sincerely,



Angela I. Carmon,  
City Attorney

cc: Lee D. Garrity, City Manager

**CityLink311**

Call 311 or 336-727-8000  
[citylink@cityofws.org](mailto:citylink@cityofws.org)

City Council: Mayor Allen Joiner; Vivian H. Burke, Mayor Pro Tempore, Northeast Ward; Denise D. Adams, North Ward; Dan Besse, Southwest Ward; Robert C. Clark, West Ward; John C. Larson, South Ward; Jeff MacIntosh, Northwest Ward; Annette Scippio, East Ward; James Taylor, Jr., Southeast Ward; City Manager: Lee D. Garrity



# **Crime-list for the City of Winston-Salem Code of Ordinances**

## **Chapter 1-General Provisions.**

There are no provisions in Chapter 1 that provide for or impose a criminal remedy.

## **Chapter 2-Administration.**

### **Article 1. In General.**

#### **Section 2-2. Purchasing and contracts generally.**

This section makes it unlawful for any city employee except an authorized purchasing agent to purchase supplies or make contracts in the name of the city unless upon resolution of the city council.

## **Chapter 6. Animals and Fowl.**

### **Section 6-1 Enforcement of chapter; penalties.**

Subsection (b) makes a violation of violation of section 6-8, 6-9, 6-10, 6-11, 6-12(b) 6-15 or 6-17, or any part thereof, a class 3 misdemeanor. Each of the sections are inserted below:

#### **Sec. 6-8. - Noisy fowl.**

Any person keeping within the corporate limits of the city, or within one mile thereof, one or more flocks of fowl which habitually crow or cackle for at least 15 minutes during the nighttime or before or after daybreak in such a manner as to result in serious annoyance to neighboring residents and as to interfere with the reasonable use and enjoyment of the premises occupied by such residents shall be guilty of maintaining a nuisance.

#### **Sec. 6-9. - Noisy dogs.**

Any person keeping within the corporate limits of the city, or within one mile thereof, one or more dogs which habitually and regularly bark, howl or whine for at least 15 minutes so as to result in serious annoyance to neighboring residents and as to interfere with the reasonable use and enjoyment of the premises occupied by such residents shall be guilty of maintaining a nuisance.

#### **Sec. 6-10. - Complaint of violation of section 6-8 or 6-9; abatement of nuisance.**

Upon complaint being made to the police department of a violation of section 6-8 or 6-9, a representative of the police department shall notify such person maintaining the nuisance set out in such sections that a complaint has been made, and thereupon such person shall abate such nuisance within 24 hours.

**Sec. 6-11. - Applicability of section 6-9 to commercial dog kennels.**

The provisions of section 6-9 shall apply to premises lawfully used and maintained by veterinarians and operators of commercial dog kennels only if such premises and the dogs thereon are used and kept in a negligent or unreasonable manner.

**Sec. 6-12. - Sanitation requirements for dogs.**

(b) *Off premises of owner (private property).* It shall be unlawful for the owner of any dog to permit the dog to leave its feces on the property of another.

**Sec. 6-15. - Riding horses on public property.**

It shall be unlawful for any person to ride, lead or drive any horse, mule, donkey, pony or like animal in or upon any public park, public recreation area, public school grounds or other publicly owned property within the corporate limits of the city; provided, however, that this prohibition shall not apply to the riding, leading, driving or use of such animals:

(1) In connection with the building, alteration or maintenance of such public properties;  
or

(2) At specific locations under the jurisdiction of and designated by the city recreation and parks commission for such use, in accordance with rules and regulations governing the use of such animals for recreation purposes, at such location promulgated by the recreation and parks commission.

**Sec. 6-17. - Restraint of dogs.**

(a) *On premises of owner.* No dog shall be left unattended outdoors unless it is restrained and restricted to the owner's property by a tether, rope, chain, fence or other device. Fencing as required in this section shall be adequate in height, construction and placement to keep resident dogs on the lot and keep other dogs and children from accessing the lot. One or more secured gates to the lot shall be provided.

(b) *Off premises of owner.* In addition to all other penalties prescribed by law, a dog is subject to impoundment and all other applicable provisions of the county animal control ordinance if the dog is found off the premises of the person owning or having possession, charge, care, custody or control of such dog and is not under the control of a competent person and restrained by a leash, chain, rope or other means of adequate physical control.

## **Chapter 10 – Building Regulations**

### **Article 1. In General.**

**Sec. 10-3. - Penalty.**



The following shall be deemed to be expressly incorporated by reference within each section of this chapter, except for article V: A violation of this section, or any part thereof, shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00.

**Sec. 10-2. - Permits, inspections and enforcement.**

- (a) *Permit required; prerequisites for issuance.* No person shall commence or proceed with:
- (1) The construction, reconstruction, alteration, repair, movement to another site, removal or demolition of any building or structure;
  - (2) The installation, extension or general repair of any plumbing system;
  - (3) The installation, extension, alteration or general repair of any heating or cooling equipment system; or
  - (4) The installation, extension, alteration or general repair of any electrical wiring, devices, appliances or equipment;
- without first securing from the inspections division any and all permits required by the state building code and any other state or local laws applicable to the work. A permit shall be in writing and shall contain a provision that the work done shall comply with the state building code and all other applicable state and local laws. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof. If the General Statutes of the state require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the state seal of a registered architect or of a registered engineer. When any provision of the General Statutes of the state or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under G.S. 143-136 et seq. or G.S. 143-151.8 et seq. shall be required for any construction, installation, repair, replacement or alteration costing \$5,000.00 or less in any single-family residence or farm building unless the work involves the addition, repair or replacement of load-bearing structures; the addition (excluding replacement of same size or capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning or electrical wiring, devices, appliances or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a misdemeanor.
- (g) *Final inspection; certificate of occupancy.* At the conclusion of all work done under a permit, the inspector shall make a final inspection, and, if he finds that the completed work complies with all applicable state and local laws and with the terms of the permit, he shall issue a certificate of compliance. No new building or part thereof may be occupied, and no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied, until the inspection division has issued a certificate of compliance. A temporary certificate of compliance may be issued permitting occupancy for a stated period of specified portions of the building that

the inspector finds may safely be occupied prior to final completion of the entire building. Violation of this section shall constitute a misdemeanor.

(h) *Stop work orders.* Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered or repaired in a hazardous manner, or in substantial violation of any state and local building law, or in a manner that endangers life or property, the appropriate inspector may order the specific part of the work that is in violation or presents such a hazard to be immediately stopped. The stop order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons therefor, and the conditions under which the work may be resumed. The owner or builder may appeal from a stop order involving alleged violation of the state building code, or any approved local modification thereof, to the state commissioner of insurance, within a period of five days after the order is issued. Notice of appeal shall be given in writing to the commissioner of insurance, with a copy to the local inspector. The commissioner of insurance shall promptly conduct a hearing at which the appellant and the inspector shall be permitted to submit relevant evidence, and shall rule on the appeal as expeditiously as possible. Pending the ruling by the commissioner of insurance on an appeal, no further work shall take place in violation of a stop order. Appeals from a stop order based on violation of any other local ordinance relating to building shall be taken to the local official designated by that ordinance and shall be taken, heard and decided in the same manner as prescribed in this section for appeals to the commissioner. Violation of a stop order shall constitute a misdemeanor.

In addition to other requirements of this section, there shall be a fee of \$225.00 to lift a valid stop work order.

## **Article II. Building.**

### **Sec. 10-34. - Enforcement.**

(a) The inspections director or any properly authorized representative acting in his behalf is hereby empowered to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this article. Any person who, having been served with an order to remove any such violation of the building code, or to cease and desist from a continuing violation of the building code, shall fail to comply with such order within ten days after service thereof or shall continue to violate any provision of the building code in the respect named in such order shall be guilty of a violation of this code. Any trial which might be conducted pursuant to the authority of this section or the building code shall not constitute former jeopardy of the defendant therein, and, if such defendant continues in the violation of the building code for which such trial was held, such continuing violation shall be a separate offense for which such defendant may again be tried.

(b) In addition to the remedies set out in subsection (a) of this section, the inspections director may maintain in the name of the city an action of injunction to restrain any violation of the building code.

### **Sec. 10-35. - Burial of trees, brush, stumps, limbs or other organic material.**

Except where a demolition landfill permit is obtained pursuant to the state solid waste management rules and regulations, it shall be unlawful for any person or company to bury any trees, brush, stumps, limbs or other organic material within the city.

### **Article III. Mechanical Code.**

#### **Division 1. Generally.**

##### **Sec. 10-61. - Designation.**

The North Carolina State Building Code, Volume III, shall be known as the mechanical code.

##### **Sec. 10-62. - Purpose.**

The mechanical code shall be construed to secure the beneficial interest and purposes thereof, which are health, sanitation, general public safety and welfare, by regulating installation and maintenance of all mechanical equipment.

##### **Sec. 10-63. - Scope.**

The provisions of the mechanical code shall apply to the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators and other energy-related systems to the extent authorized by the state building code.

##### **Sec. 10-64. - Maintenance of mechanical systems.**

All mechanical systems, both existing and new, and all parts thereof shall be maintained in a safe condition. All devices or safeguards which are required by the mechanical code shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of mechanical systems.

##### **Sec. 10-65. - Appointment, compensation and duties of inspectors.**

The requirements and provisions of this mechanical code shall be enforced by mechanical inspectors, operating under the direction and supervision of the inspections director.

##### **Sec. 10-66. - Conflict of interest of inspectors.**

No officer or employee connected with the inspections division shall be financially interested in the furnishing of labor, material or appliances for the construction, alteration or maintenance of mechanical installations or in the making of plans or of specifications therefor, unless he is the owner of such building. No such officer or employee shall engage in any work which is inconsistent with his duties or with the interests of the inspections division.

##### **Sec. 10-67. - Right of entry of inspectors.**

The mechanical inspector shall enforce the provisions of the mechanical code, and he or his duly authorized representative may enter any building, structure or premises during reasonable hours to perform any duty imposed upon him by the mechanical code.

**Sec. 10-68. - Stop work orders.**

Upon notice from the mechanical inspector that work on any mechanical installation is being done contrary to the provisions of the mechanical code or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of such property, or to his agent, or the person doing the work, and shall state the conditions under which work may be resumed. Where any emergency exists, oral notice given by the mechanical inspector shall be sufficient.

**Sec. 10-69. - Revocation of permits.**

The mechanical inspector may revoke a permit or approval issued under the provisions of this article in case there has been any false statement or misrepresentation as to the material facts in the application or plans on which the permit or approval was based. In all such cases no permit fees shall be refunded.

**Sec. 10-70. - Approval of alternate materials and methods of installation.**

Alternate materials and alternate methods of installation shall be approved in accordance with the mechanical code.

**Sec. 10-72. - Evidence that alternate materials or methods comply with health and safety standards.**

The mechanical inspector shall require sufficient evidence to enable him to judge whether proposed alternates meet the requirements of the mechanical code for safety and health.

**Sec. 10-73. - Tests of alternate materials or methods.**

When there is insufficient evidence to substantiate claims for alternates, the mechanical inspector may require tests as proof of compliance, which shall be made by an approved agency at the expense of the applicant. Tests shall be made in accordance with generally recognized standards.

**Sec. 10-74. - Violations.**

Any person, or his agent, who shall violate a provision of the mechanical code or fail to comply therewith or with any of the provisions thereof, or violate a detailed statement or plan submitted and approved thereunder, shall be guilty of a misdemeanor.

**Article IV. Plumbing.**

#### **Sec. 10-164. - Contractor's bond.**

Every person who desires to engage in the business of plumbing in the city shall file a justified bond in the sum of \$2,500.00, made payable to the city and conditioned to secure the faithful performance of all plumbing work in conformity with this article and the ordinances and regulations of the city, and to indemnify the city from loss or damage either to the water or sewer system, the streets or other property of the city, or to any person or property for which the city may be liable, caused by the unskillfulness or negligence of the licensee or his agents or employees, and for the payment of all fees incurred in connection with such work as fixed by the ordinances of the city, action on such bond to be brought either in the name of the city or of the person aggrieved. When plumbing work is done on the premises of the owner by the owner or by a person regularly employed by the owner, no bond shall be required, provided that it shall be unlawful for either such owner or such employee to do any plumbing work or make any excavation in a public street or sidewalk, it being the intention of this section that such owner or such employee of the owner shall work only within the premises of the owner. No bond shall be required of any person who makes only minor repairs or replacements to an already installed plumbing system, on the housed side of a trap, provided such repairs or replacements in no wise disrupt the original water supply, waste or ventilating systems.

#### **Sec. 10-165. - Penalty for violation of section 10-164.**

Any person who shall violate the provisions of section 10-164 shall be guilty of a misdemeanor, and upon conviction shall be punishable as provided by law.

### **Chapter-14 Cemeteries.**

#### **Article I. In General.**

#### **Sec. 14-1. - Penalty.**

The following shall be deemed to be expressly incorporated by reference within each section of this chapter: A violation of this section or any part thereof, shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 14-8. - Single-grave and multiple-grave sections.**

Sections will be set aside for the sale of single gravesites, but the sale of lots in multiples of two or three will be allowed in other sections.

#### **Sec. 14-9. - Restrictions on rights of lot owners.**

Purchasers of lots acquire a right to bury in a certain location in the form of a certificate of burial rights. All certificates of burial rights are subject to the restrictions and reservations in this chapter and the city reserves the right to modify or amend these restrictions and reservations without notice.

**Sec. 14-11. - Certificate of burial rights and purchase price of gravesite.**

No interment will be made in a single grave nor any certificate of burial rights issued until the purchase price of the lot, portion of lot or single grave and all applicable fees have been paid in full.

**Sec. 14-14. - Joint ownership of lots.**

When two or more persons own the same lot, each owner having an undivided interest, and all owners having equal rights therein. The City may require that an agreement in writing be executed and filed in the office of the city secretary setting out the portions of such lots as are to be used by such owners.

**Sec. 14-15. - Application for sale, transfer or assignment of lot.**

No sale, transfer or assignment of any lot, part thereof or interest therein shall be valid or be recognized by the city unless written application therefor, giving the name, address and occupation of the purchaser or assignee, is made to and approved by the cemeteries supervisor and all outstanding indebtedness against such lot and the usual charge of the city for entering such sale, transfer or assignment upon its records are paid.

**Sec. 14-16. - Authorization of transfer of lot; right of city to repurchase lot.**

The transfer of any lot, portion of lot or single gravesite is expressly prohibited unless the cemeteries supervisor specifically authorizes such transfer in writing. The transferor shall make full disclosure to the city as to his dealings with the transferee for such lot, portion of lot or single gravesite. All outstanding indebtedness against such a lot and the usual charge of the city for having such transfer or assignment made (\$30.00) are to be paid. The city reserves the right to purchase from the owner, at the current price, any unused lot, providing it is sellable, and shall have the right to dispose of the lot so purchased at current prices.

**Sec. 14-17. - Lots not to be sold for purpose of resale.**

Lots will not be sold to funeral directors or any person for resale.

**Sec. 14-18. - Sizes of grave openings; prices of burial sites.**

Sets the maximum grave opening sizes and prices of burial sites for infants, babies, youths, adults, and cremation urns. Openings larger than these maximums require the purchase of and use of two grave spaces.

**Sec. 14-19. - Nonliability of city for damage to memorials, plants, or other property.**

The city will not be responsible for any loss or damage done to any memorial, plant or vase or any property within the cemetery or on a lot brought about by hail, storm, the elements, thieves, trespassers, operation of automobiles by visitors in the cemetery, act of God, common enemy,

vandals, strikers, malicious mischief makers, children, explosions, unavoidable accidents, invasions, riots, civil authorities or persons within the cemetery, whether damage is direct or collateral, and in no event will the city be responsible for loss, destruction or removal of anything brought into or allowed to remain in the cemetery in violation of any rule or regulation of the city.

**Sec. 14-21. - Written consent required to make alterations in lots.**

It shall be unlawful for any lot owner to make any change or alteration in any lot, including the removal or change in position of any memorial of any kind, without the written consent of the city, and if so made the city will restore such lot to its former condition without notice and at the expense of the owner of such lot.

**Sec. 14-24. - Placing articles on lots generally; artificial flowers and wreaths.**

After floral offerings are removed following interment, it shall be unlawful for any person to place anything on any lot or grave, with the exception of a memorial erected in accordance with the rules and regulations of this chapter, or cut flowers placed in flower vases approved by the cemeteries supervisor and approved flags on graves of soldiers, sailors or marines. Artificial wreaths may be used at Christmas but shall be removed by February 1 following Christmas. Potted plants may be used at Easter and Christmas. Flowers placed on a gravesite but not in permanent vases or attached to a monument will be removed within two weeks of any holiday during mowing season. When flags, flowers or wreaths become wilted, unsightly or interfere with routine cemetery maintenance, they shall be immediately removed.

**Sec. 14-27. - Persons entering or leaving cemetery to use gates.**

It shall be unlawful for any person to enter or leave the cemetery grounds except through an open gate.

**Sec. 14-28. - Hours when persons permitted in cemetery.**

It shall be unlawful for any person, except an employee of the city, to be on the cemetery grounds when the gates are closed, without the express written permission of the cemeteries supervisor.

**Sec. 14-29. - Certain persons and things prohibited in cemetery.**

The following persons and things are forbidden to enter or be carried onto the cemetery grounds and are subject to be removed or ejected therefrom: children under 12 years of age; delivery trucks, wagons and vehicles; persons passing through cemetery without business; persons carrying firearms; unauthorized items or material; bicycles and motorcycles; intoxicating liquors or soft drinks; and dogs.

**Sec. 14-30. - Prohibited acts generally.**

The following acts are not permitted in or on the cemetery grounds: picnicking, lunching, loitering, camping, etc.; cutting, picking and pulling flowers, branches, etc., or defacing monuments,

buildings or other property; littering; sitting or climbing on markers or other fixtures; peddling, begging, etc.; distributing handbills, etc.; playing games; placing flowers or other items in preservatives or under enclosures; fishing, hunting, etc.; scattering of cremated remains.

**Sec. 14-31. - Operation of vehicles.**

Sets speed limits, where and how vehicles can be driven and parked.

**Sec. 14-40. - Supervision and control of interments; opening or closing of graves by unauthorized persons prohibited.**

The cemeteries supervisor shall exercise supervision and control of all interments. It shall be unlawful for any person to open or close a grave, except an employee of the city who has been authorized to do so by the cemeteries supervisor.

**Sec. 14-50. - Lot owner not to have body interred for remuneration.**

No lot owner shall have the right to have a body interred within the bounds of his lot for any remuneration, sale or hire of space, and whenever required the cemetery may require an affidavit verifying the facts as stated.

**Sec. 14-52. - Remains to be encased in casket and outside box or vault or in urn.**

**Sec. 14-54. - Work by unauthorized persons prohibited.**

It shall be unlawful for any person, except employees of the city authorized by the cemeteries supervisor to do so or monument dealers holding a permit or persons having a contract with the city, to be allowed to do any work within the cemetery.

**Sec. 14-56. - Planting trees, flowers or other plants.**

It shall be unlawful for any lot owner to plant any tree, flower or shrub or sow seed of any kind or have such things planted or sown on his lot without approval of the city. The city has the exclusive right and privilege of doing this. Any planting or sowing done within the cemetery in violation of this section will be immediately removed without notice.

**Sec. 14-57. - Pruning trees.**

It shall be unlawful for any person to trim or prune or remove any branch from any tree in the cemetery, whether on his lot or not. The city may do any pruning it may consider advisable.

**Sec. 14-59. - Bringing in, destroying or removing sod, seed, soil, fertilizer or tools.**

It shall be unlawful for any person, not authorized by the city, to bring into, destroy or remove from the cemetery any sod, seed, soil or fertilizer, spades, shovels, saws or tools.



**Sec. 14-60. - Removing plants, flowers or cuttings.**

It shall be unlawful for any person, not authorized by the city, to take, remove or destroy any plant, flower or cutting from the cemetery.

**Article II. Monuments, Mausoleums and Markers.**

**Sec. 14-94. - Permit required for construction of monument; supervision of work.**

Before beginning any work to place monumental construction, the dealer or employee thereof must contact the cemeteries supervisor and procure his express permission, and when the permission is given all work must be done under his or his designee's immediate supervision.

**Sec. 14-95. - Permit, bond and insurance for persons installing monuments or other memorials.**

No monument, marker, bench, sundial, urn, or mausoleum may be set or moved in the cemetery except by a person holding a permit from the cemetery to do such work, and no permit will be given until satisfactory evidence is furnished that the applicant has complied with the laws with reference to monument dealers and is qualified to perform the work for which employed. A permit will be revoked at any time for violation of the cemetery rules, or for other reasons satisfactory to the cemeteries supervisor. The city may require of any dealer a bond or liability insurance indemnifying the cemetery and the public from any negligence, or guaranteeing faithful performance of contracts for construction.

**Chapter 18- Civil Defense.**

There are no provisions in Chapter 18 that provide for or impose a criminal remedy.

**Chapter 22- Fire Prevention. And Protection**

**Articles. In General.**

**Sec. 22-1. - Penalty.**

Except for Article III, the following shall be deemed to be expressly incorporated and be referenced within each section of this chapter: A violation of this section, or any part thereof, shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00.

**Sec. 22-6. - Duties of fire prevention bureau; approval of construction plans; general fire safety regulations.**

(a) *General duties of fire prevention bureau.* It shall be the duty of the officers of the bureau of fire prevention to enforce all laws and ordinances covering the following:

- (1) The prevention of fires.

- (2) The storage and use of explosives and flammables.
- (3) The installation and maintenance of automatic and other private fire alarm systems and fire extinguishing equipment.
- (4) The maintenance and regulation of fire escapes.
- (5) The maintenance of protection and the elimination of hazards in buildings and structures, including those under construction.
- (6) The means and adequacy of exit in case of fire from factories, schools, hotels, lodginghouses, asylums, hospitals, churches, halls, theaters, amphitheaters and all other places in which numbers of persons work, live or congregate, from time to time, for any purpose.
- (7) The investigation of the cause, origin and circumstances of fires.

(b) *Additional duties of fire prevention bureau.* The officers of the bureau of fire prevention shall have such other powers and perform such other duties as are set forth in other sections of this Code and as may be conferred and imposed from time to time by law.

(c) *Approval of building plans.* Where buildings, excluding residential occupancies under four stories, are required by ordinances adopted by the city to have fire protection and other safety to life requirements included in the construction, or to have facilities for protection against conditions hazardous to life or property in use or occupancy, building plans shall be submitted to the fire prevention bureau of the city fire department. The plans must be approved by the fire marshal or his duly authorized agent as being in compliance with the fire prevention code before a permit may be issued and before construction begins. The bureau of fire prevention may issue permits for footings prior to actual construction on portions of buildings regulated by the fire prevention code.

(d) *Certificate of compliance for sprinkler and standpipe systems.* All persons, upon completion of any installation, alteration or renovation of any sprinkler or standpipe system, shall submit a letter certifying compliance with the state building code and applicable required standards to the city fire department.

(e) *Approval of plans for alarm systems and fire extinguishing systems.* Plans for any and all fire alarm systems, sprinkler systems, standpipe systems, fire extinguishing equipment and automatic fire extinguishing systems shall be submitted to the fire prevention bureau for approval prior to the installation of such systems in the city, and such fire protection equipment shall be installed in compliance with applicable code provisions.

(f) *Bonfires and rubbish fires.* No person shall kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or maintained on any private property, or on or in any public ground, without a permit or other proper authorization. During construction or demolition of buildings or structures, no waste materials or rubbish shall be disposed of by burning on premises or in the immediate vicinity without having obtained a permit or other proper authorization. Furthermore, no person shall kindle or maintain any such fire which emits smoke or fumes in such quantity as to create a hazard or nuisance.

(g) *Smoking.* Smoking is prohibited under certain conditions. For purposes of this subsection, smoking shall mean and include the carrying of a lighted pipe, cigar or cigarette, or tobacco in any form.

**Sec. 22-7. - Congregating in streets around fires; interference with work of fire department.**

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.

**Sec. 22-8. - Boarding apparatus going to or coming from fires.**

It shall be unlawful for any person, not a member of the fire department, to board any fire engine, truck or other fire apparatus en route to or from any fire, without permission of the chief of the fire department.

**Sec. 22-9. - Discarding burning objects.**

It shall be unlawful for any person, either willfully or negligently, to throw down or drop any lighted match, cigar, cigarette or other burning object in combustible material or in close proximity thereto, when such person does not remain to control such burning as may develop.

**Sec. 22-10. - Inspection schedule.**

In order to preserve and protect public health and safety, and to satisfy the requirements of G.S. 153A and G.S. 160A-424, with respect to political subdivisions assuming inspection duties, as set out in G.S. 153A-351 and G.S. 160A-411, and to satisfy the requirements of the state building code, the following inspection schedule shall apply to all buildings within the city except those buildings listed under section 103, "Exceptions to Applicability" in the North Carolina State Building Code, Volume V, Fire Prevention:

- (1) Once every year (12 months): Hazardous, institutional, high-rise, assemblies with an occupant load of 100 or greater, and residential (except one- and two-family) occupancies.
- (2) Once every two years (24 months): Industrial and educational occupancies.
- (3) Once every three years (36 months): Assemblies with an occupant load of 99 or less, business, mercantile, storage, church, synagogue, and miscellaneous occupancies.

**Sec. 22-11. - Identification placard for hazardous materials.**

Any person operating a business, having in his possession, storing or using, in any amount, material classified as a dangerous material in any building or on any premises shall place a placard upon the material therein or upon any premises. The placard shall identify the material by a coded system of numbers from zero to four, the numbers of which will identify the severity of the hazard,

with a zero indicating no special hazard and the higher number of four indicating a severe hazard. The placard shall be diamond shaped and also provide a color code as further identification of the materials therein as set forth in NFPA Pamphlet 704M, Identification System, Fire Hazard of Materials 1990.

**Sec. 22-12. - Automatic telephone alarm devices.**

(a) No person shall use or operate, attempt to use or operate, or cause to be used or operated, or arrange, adjust, program or otherwise provide for or install, any device or combination of devices that will, upon activation, either mechanically, electronically or by any other automatic means, initiate an intrastate call and deliver a recorded message to any telephone number assigned to any police or fire station of the city.

(b) The term, "telephone number," as used in this section, includes any additional number assigned by a public utility company engaged in the business of providing communication services and facilities to be used by means of a rotary or other system to connect with the subscriber having such primary number when the primary telephone number is in use.

**Sec. 22-13. - Approval of hydrant locations and distribution for new subdivisions.**

Prior to the department of public works issuing a building permit for new construction for single-family or multifamily subdivisions, it shall be required that the office of the fire prevention bureau approve and accept the proposed hydrant locations and hydrant distribution for the subdivision.

**Sec. 22-41. - Authority to order electric companies to cut off current during fires.**

During any fire in the city, the chief of the fire department or his deputy may order any electric light or electric power company to cut off the electric current from its wires, whenever it may be considered necessary to preserve life or property, and it shall be unlawful for any such companies to maintain current on their wires after receiving such order.

**Sec. 22-42. - Police powers of firefighters.**

The chief of the fire department and his deputies and the captain of each fire company shall have all the powers of a police officer of the city during the existence of any fire, and it shall be their duty to arrest any person for violation of the law or any of the provisions of this Code or other city ordinances within a distance of 100 yards of the fire.

**Sec. 22-43. - Roping off spaces around fires.**

The fire department or the police department is hereby authorized to lay off, by rope or otherwise, such portions of the street or lots adjacent thereto and to do any other acts reasonably necessary to extinguish fires and protect property and life from fire. It shall be unlawful for any person, including owners of burning or endangered property, to cross over or enter such enclosure without the permission of the police or firefighters.

**Sec. 22-44. - Permission required for fire apparatus leaving city or use for other than fire purposes.**

No fire engine, fire truck or other fire apparatus of the city shall leave the city without the consent of the city manager, the chief of the fire department or the deputy chief of the fire department. No fire apparatus shall be used for other than fire purposes without the consent of the chief or deputy chief of the fire department.

## **Chapter 26 - Garbage and Trash**

### **Article 1. In General.**

**Sec. 26-2. - Penalty.**

Except as provided in subsections 26-3(e), 26-5(d)(1), 26-6(h)(2), 26-10(a), 26-10(k) and 26-10(j), any person charged with a violation of any section or provision of this chapter shall, upon conviction, be guilty of a class 3 misdemeanor and be fined not more than \$500.00.

**Sec. 26-5. - Collection in central business district.**

(a) *Collection times.* The sanitation division will collect garbage and business trash between the hours of 5:00 p.m. and 7:00 p.m., Monday through Saturday of each week.

(b) *Approved containers.* For purposes of this section, garbage and business trash shall be collected from bulk containers as required by section 26-3 herein, where feasible. In the event bulk containers are not feasible for a business, as determined by the assistant city manager/public works or his designee, such business may use heavy duty plastic bags, 32- or 20-gallon refuse receptacles, or 96-gallon mobile roll-out receptacles as approved by the assistant city manager/public works or his designee.

(c) *Container location.* All owners, proprietors or managers of retail stores, hotels, restaurants, or office buildings, or occupants of houses within the central business district, may have garbage and business trash collected by the city by putting such refuse in approved containers referred to in subsection (b) of this section. Bulk containers shall be placed in areas and maintained as prescribed by section 26-8 herein. Businesses permitted to use non-bulk containers shall place such containers in the alleys or on the sidewalks adjoining the premises between 5:00 p.m. and 7:00 p.m. on nights such collections are made.

(d) *Violations.* It shall be a violation of this section for any person to place, or allow to remain, garbage or business trash on the street, or sidewalks in containers other than as provided in this section, or at any time other than the hours designated in this section, or for any person to place or allow to remain empty receptacles or bags on the street or sidewalks. In the event a violation is found, the following shall occur:

(1) A civil penalty of \$50.00 per violation shall be assessed the violator or owner of the premises where the violation occurred and notification of such assessment

shall be given to the property owner within five business days after discovery of the violation by the city. If the city removes garbage or business trash placed in violation of this Code, the cost of removal in addition to the civil penalty imposed shall be assessed to the property owner or violator.

**Sec. 26-6. - Collection from residential premises.**

(a) *Generally.* Except for those residences that are exempted from curbside collection, garbage and household trash, as defined in subsection 26-1(4)f. and 26-1(4)g., shall be collected curbside. Such collections shall be limited to a maximum of three 96-gallon refuse receptacles or a total capacity of 288 gallons per collection. The city will provide one 96-gallon container free to each single-family household that is not exempt from the curbside collection program. Additional carts may be provided for a collection cost of \$40.00 per cart, per year, or any part thereof.

(b) *Excess household trash accumulation (curbside collection).* No additional bags may be placed outside the cart for collection. All garbage must be bagged using heavy-duty plastic bags and be completely contained within the cart, with the lid closed.

(c) Residents may place the container at the curb no earlier than 5:00 p.m. on the day before the resident's normally scheduled collection day. Carts should be placed out no later than 6:00 a.m. on the normal day of collection. All carts should be removed from the curb by 8:00 a.m. the day after collection, unless collected on a Friday. Friday collection carts must be removed by 8:00 a.m. Monday, unless the schedule is changed. Exceptions will be made during schedule changes due to emergencies or holidays.

(d) *Leaves.* Accumulations of loose leaves placed along and behind the curblane shall be collected by the city vacuum leaf loading equipment from the period November 1 through January 15 of each leaf collection season. During this period, leaves shall not be mixed with other waste material, shall not be placed in the travelway of the street, and may only be containerized as set out in subsection 26-3(f).

(e) *[Exemptions.]* Exemptions from the curbside collection requirements of this ordinance [Ordinance No. 4695] will be granted to households whose residents certify, in writing, using a city-approved form, that, due to physical impairment or other type of limitation, neither they nor anyone residing at their home can take their roll-out cart to the curb. It will be a violation of the city ordinance to falsely represent that there is no one in the household who can take the garbage to the curb. If it comes to the attention of the city that an individual who has requested an exemption from the curbside collection policy, has misrepresented the circumstances which make them eligible for the exemption, or if their circumstances have changed, and they are no longer eligible for the exemption, the city will revoke the exemption.

(f) *Sunken garbage and trash receptacles.* These receptacles will not be collected by the city any longer. Residents with exemptions from curbside collection may not use sunken garbage and trash receptacles under the exemption policy. Only containers compatible with city equipment may be used for collection.

(g) *Building materials.* Waste of this type originating from private property preliminary to, during or subsequent to the construction of new buildings, alterations or additions to existing buildings, of whatever type, or from demolition of existing structures, shall not be collected by the city. Such material shall be removed by the owner of the property or the contractor performing the work.

(h) *Bulky household waste (large appliances, furniture, etc.).* Trash of this type shall not be collected by the city, except during the annual city-wide bulky item collection.

(1) It shall be unlawful to place large bulky household trash items such as stoves, refrigerators, water heaters, building materials, mattresses, bed springs, furniture or any other collectable trash material improperly prepared for collection on public property.

(2) A civil penalty of not less than \$50.00 and not more than \$500.00 will be assessed to violators of this subsection by the assistant city manager/public works, and notification of such assessment shall be given to the violator within five business days after discovery of the violation by the city. The amount assessed will be dependent upon a number of factors, including but not limited to the type of trash discarded, the volume of waste discarded, violation history, the reason for the violation and civil penalties previously imposed. If the city removes the trash, the cost of removal, as set forth in subsection 26-5(d)(1) in addition to the civil penalty imposed shall be assessed to the violator.

(i) *Historic districts.* The provisions of this ordinance which mandate curbside collection shall not apply to historic districts.

(j) *Bulk container collection.* Except as provided in subsection 26-3(d), condominium, townhouse and cluster home developments in the following residential density categories shall have the option of using bulk containers or refuse receptacles:

- (1) Low density—Less than five units per acre.
- (2) Moderate density—Five to eight units per acre.

(k) *Yard trash mobile roll-out containers.* These containers, as defined in subsection 26-1(3)e., shall be placed at the curblane for collection. No more than three yard trash containers will be collected at each residence.

(1) No regularly scheduled collections shall be made by the city from vacant lots for any accumulations of garbage, trash, bulky items, junk, non-regulation brush or yard trash. Any accumulation of solid waste is the responsibility of the property owner as provided in this Code.

(l) *Recycling roll-out mobile containers.* These containers, as defined in 26-1(g), shall be placed at the curblane for collection.

**Sec. 26-6.1 - Appeal of revocation of exemption, civil penalties, and costs assessed.**

(a) Individuals who wish to appeal either a revocation of their exemption, or a civil penalty rendered under subsections 26-3(e), 26-5(d)(1), or 26-6(h)(2), shall inform the assistant city manager/public works, in writing, within seven days of the date of the revocation or the assessment notice. A notice shall be sent to the individual, stating the time and place for a hearing before the assistant city manager/public works. If the individual is dissatisfied with the decision of the assistant city manager/public works, that individual may file a further appeal to the public works committee of the city council, by notifying the assistant city manager/public works, in writing, within seven days of the date the assistant city manager's decision was made.

(b) Any costs and penalties assessed under sections 26-3, 26-5, and 26-6, and not paid within the prescribed time period, may be collected in a civil action pursuant to G.S. 160A-175(c).

#### **Sec. 26-7. - Retail and commercial premises.**

(a) *Generally.* Waste accumulated by operators, owners and proprietors of retail and commercial establishments shall be collected from refuse receptacles or mobile roll-out containers as specified in subsection 26-1(3). Such containers shall be placed on alleys, sidewalks or property adjoining the establishments for collection. Such collections shall be limited to three refuse receptacles, or one mobile roll-out container for a maximum capacity of 96 gallons per collection.

(b) *Removing material from containers.* It shall be unlawful for any person to remove wastepaper and garbage from containers placed in private alleys in the business section of the city, except that such materials may be removed or caused to be removed by the owner or by any designated employee of the public works department of the city or by any person holding a permit from the public works department of the city.

#### **Sec. 26-8. - Bulk containers.**

(a) *Use; maintenance.* Users of bulk containers shall keep such containers in a sanitary manner, shall keep the ground area around the containers clean and free of litter and shall place only garbage or refuse (crushable material) into bulk containers. Placement of materials such as wood, metal, tires, etc., in bulk containers is prohibited and shall result in discontinuance of service by the city.

(b) *Location and placement.* Bulk containers shall be located so as to provide easy ingress and egress by a container tender truck to the containers. The location of the container shall be free from any overhanging wires or other obstructions which have less than 35 feet of vertical clearance and 40 feet linear clearance of overhead obstruction in the dumping area. All screens or enclosures shall be open on one side for easy access and provide a three-foot clearance on all sides from the bulk container. Portable packing units shall not be serviced by the city.

(c) *Service levels and fees.* The city will offer the option to rent dumpsters to contracted customers receiving bulk container collection from city forces at a fee posted in the rate chart of subsection 26-8(c). The rental fee for the container will include minor repairs consistent with normal dumpster usage. There will be a \$60.00 delivery fee for up to three containers delivered at once. Service to each city owned dumpster must be provided by city forces.



Service levels provided and fees charged for collection and disposal of bulk containers shall be as follows:

Type of Service		Number of Containers	Number of Pickups Per Week	Fee*
(1)	Multifamily residential developments (excluding apartment and mobile home developments)	No more than 1 8-cubic yard container per 20 units	1	No charge
		1 4-cubic yard	2	\$1,320.00 annually
		1 4-cubic yard	3	\$1,980.00 annually
		1 4-cubic yard	4	\$2,640.00 annually
		1 4-cubic yard	5	\$3,300.00 annually
		1 6-cubic yard	2	\$1,560.00 annually
		1 6-cubic yard	3	\$2,340.00 annually
		1 6-cubic yard	4	\$3,120.00 annually
		1 6-cubic yard	5	\$3,900.00 annually
		1 8-cubic yard	2	\$1,800.00 annually
		1 8-cubic yard	3	\$2,700.00 annually
		1 8-cubic yard	4	\$3,600.00 annually
		1 8-cubic yard	5	\$4,500.00 annually
(2)	Apartments developments, mobile home developments, business, commercial and other non-residential establishments	1 4-cubic yard	1	*\$560.00 annually
		1 4-cubic yard	2	\$1,220.00 annually

		1 4-cubic yard	3	\$1,880.00 annually
		1 4-cubic yard	4	\$2,540.00 annually
		1 4-cubic yard	5	\$3,200.00 annually
		1 6-cubic yard	1	*\$680.00 annually
		1 6-cubic yard	2	\$1,460.00 annually
		1 6-cubic yard	3	\$2,240.00 annually
		1 6-cubic yard	4	\$3,020.00 annually
		1 6-cubic yard	5	\$3,800.00 annually
		1 8-cubic yard	1	*\$800.00 annually
		1 8-cubic yard	2	\$1,700.00 annually
		1 8-cubic yard	3	\$2,600.00 annually
		1 8-cubic yard	4	\$3,500.00 annually
		1 8-cubic yard	5	\$4,400.00 annually
	*Reflects a \$100.00 discount for the first container with one collection per week.			
(3)	Rental fee	4-, 6-, 8-cubic yard		\$14.00 monthly for each container
	There will be a \$60.00 delivery fee for up to three dumpsters at one delivery.			
(4)	Churches and non-profit organizations	1 4-cubic yard	1	\$560.00 annually
		1 4-cubic yard	2	\$1,320.00 annually
		1 4-cubic yard	3	\$1,980.00 annually

		1 4-cubic yard	4	\$2,640.00 annually
		1 4-cubic yard	5	\$3,300.00 annually
		1 6-cubic yard	1	\$780.00 annually
		1 6-cubic yard	2	\$1,560.00 annually
		1 6-cubic yard	3	\$2,340.00 annually
		1 6-cubic yard	4	\$3,120.00 annually
		1 6-cubic yard	5	\$3,900.00 annually
		1 8-cubic yard	1	\$900.00 annually
		1 8-cubic yard	2	\$1,800.00 annually
		1 8-cubic yard	3	\$2,700.00 annually
		1 8-cubic yard	4	\$3,600.00 annually
		1 8-cubic yard	5	\$4,500.00 annually

The preceding chart indicates basic collection service per week. Collections in addition to the maximum of five pick-ups per week are offered at an extra charge of \$30.00 per bulk container. Any unscheduled collections are \$30.00 per bulk container.

(d) *Capacity.* Bulk containers serving residential properties shall have a minimum capacity of six cubic yards, except that four-cubic-yard capacity containers presently being served as of the effective date of Ordinance No. 3772 shall continue to be served, but, if replaced, shall be replaced with one of a minimum capacity of six cubic yards.

(e) *Surfaces for placement of bulk containers; access drives.*

(1) All bulk containers presently being served by the city shall be positioned on paved surfaces within six months of the effective date of the ordinance from which this subsection is derived. Any replacement of an existing surface or new construction of a surface for the placement of bulk containers, following the effective date of the ordinance from which this subsection is derived, shall meet the following requirements:

a. All surfaces constructed for the placement of bulk containers shall be constructed of concrete with a thickness of at least eight inches; and

b. All surfaces constructed for the placement of bulk containers shall be at least 16 feet in length and at least 12 feet in width.

(2) The assistant city manager/public works or his designee may alter the requirements contained in subsections (e)(1)a and b of this section where conditions prohibit or impair the construction of paved or concrete surfaces which meet the requirements set out therein.

(3) All bulk containers served by the city shall have an all-weather access drive from the public street to the bulk container. Such access drive may be paved, but must, at a minimum, be well-graded and graveled.

(4) The violation of this subsection (e) is a misdemeanor. In addition, the violation of this subsection may result in the discontinuance of bulk container collection service by the city.

#### **Sec. 26-9. - Brush collection.**

(a) *Precollection requirements.* No tree trunks, branches, limbs or other shrubbery larger than six inches in diameter and longer than six feet shall be collected by the city. Tree and shrubbery limbs should have protruding branches trimmed and shall be neatly stacked and placed in an orderly manner at the curb side with cut ends pointing in the same direction. Unless subject branches or limbs are of such size not to be blown about and scattered by the elements, they shall be effectively tied so as to avoid unsightly litter conditions. Thorny vegetation should be placed near the curb in small neat piles.

(b) *Separate storage.* Brush and shrubbery trimmings must be stored separately at the curb from yard trash, household trash and loose leaves.

(c) *Collection by city.* Brush and shrubbery trimmings will be collected by the city when the work has been performed by the property owner or occupant or yard man. (For purposes of this section, a yard man means a person who works for hire in the upkeep of residential yards.) The city will collect brush free of charge when the quantity is one truck load (ten cubic yards) or less and when the material is placed near the curb. No brush shall be placed on the sidewalk or in the travelway of the street. When the quantity of brush exceeds one load, the resident must contract with the city or a private hauler for service. If the resident contracts with the city, the first load will be hauled free and subsequent loads or fractions thereof shall be removed for the fee established in subsection (e) of this section. The city reserves the right to decline service when, in the opinion of the city, there is more than one load of brush to be hauled.

(d) *Materials not collected by city.* Tree and shrubbery branches, limbs and trimmings cut by landscapers or tree service contractors or other commercial workmen or day laborers or

resulting from land being cleared by a contractor shall not be collected by the city. This applies to large acreage tracts or vacant lots being developed within the city as well as residential property.

(e) *Load fee.* Regulation brush in excess of one load (ten cubic yards) shall be picked up at the curb upon request for a fee of \$100.00 per load or fraction thereof. Such removal shall be performed by the department of public works upon notification from the revenue department that the fee has been paid. The sanitation division will then collect the brush on their regular route schedule. If the resident chooses not to contract with the city for removal of excess brush loads, the brush must be removed from the right of way within five days. This section does not include such waste as roofing material, soil, rock, concrete, bricks, lumber, tree stumps, etc.

#### **Sec. 26-10. - Prohibited practices.**

(a) *Leaves, grass clippings, debris.* It shall be unlawful and it is hereby declared a nuisance for any person to place, leave or allow to be placed or to permit to continue the accumulation of leaves, grass clippings, or any other debris from their premises on a public street, sidewalk, grass strip between a paved sidewalk and street or an area that pedestrians would be expected to use to walk upon parallel to a public street, except as provided in subsection 26-6(c). Said nuisances shall be abated in accordance with subsection 62-3(d).

(b) *Refrigerators and other airtight containers.* It shall be unlawful and is hereby declared to be a nuisance for any person to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than 1½ cubic feet of clear space which is airtight, without first removing the door or hinges from such icebox, refrigerator, container, device or equipment. This subsection shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally designed, or is being used for display purposes by any retail or wholesale merchant, or is created, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof. Said nuisances shall be abated in accordance with subsection 62-3(d).

(c) *Use of 55-gallon drums as receptacles.* Fifty-five-gallon drums are prohibited from use as receptacles for refuse collection by city personnel. It shall be the responsibility of the person in possession, charge or control of the premises where the containers are being used for such purpose to discontinue such use.

(d) *Dangerous trash items.* It shall be unlawful to place dangerous trash items and any waste materials of an injurious nature, such as broken glass, light bulbs, sharp pieces of metal, fluorescent tubes and television tubes, in garbage and trash receptacles unless they are securely wrapped and marked so as to prevent injury to the collection crews.

(e) *Garbage.* It shall be unlawful for anyone to place garbage that has not been drained of all free liquid, wrapped, bagged and enclosed in paper or plastic material in containers for collection.

(f) *Hazardous refuse.* It shall be unlawful to place hazardous refuse in any receptacle used for collection by the city.

(g) *Unauthorized accumulations.* It shall be unlawful for any person to scatter, cast, throw, place, sweep or deposit anywhere within the city any litter in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, body of water, sewer, parkway, lot, public property or private property. Any unauthorized accumulation of litter is hereby declared to be a public nuisance and is prohibited and shall be abated in accordance with subsection 62-3(d).

(h) *Creation of rat harborage.* It shall be unlawful, and is hereby declared to be a nuisance under section 62-2 for any person to place, leave, dump, or permit to accumulate any garbage, rubbish, trash, yard waste, lumber, junk, old appliances, old furniture, tires, barrels, etc., in any building or upon any premises in the city in such a manner that the material may afford food or harborage for rats. Such nuisances shall be abated in accordance with the provisions of subsection 62-3(d).

(i) *Failure to correct litter or rat harborage conditions.* Failure of the owner, occupant or proprietor to remove or correct litter and rat harborage conditions within ten days after appropriate notice from the public works department shall be a violation of this Code.

(j) *Storage of junk.* It shall be unlawful, and is hereby declared to be a nuisance as described in chapter 62, for any person to have on his premises materials that would create dangerous or littered conditions including but not limited to dilapidated furniture, appliances, machinery, equipment, building materials, automobile parts, tires, yard waste, litter or other items which are wholly or partially rusted, junked, dismantled or inoperative and which are not completely enclosed in a building or dwelling. Said nuisance shall be abated in accordance with the procedure set out in chapter 62. This subsection shall not apply to authorized junk dealers or establishments licensed to engage in the sale, repair, rebuilding, reconditioning or salvaging of equipment, provided such materials are completely enclosed within a solid or opaque fence no less than six feet in height.

(l) *Excess brush.* It shall be unlawful for any person to allow excess brush loads to remain on the right of way more than five days after notification from the sanitation division.

(m) *Civil penalty.* With the exception of subsections 26-10(c), (e), (f) and (k), a civil penalty will be assessed to the owner of any premises in violation of this section, by the assistant city manager/public works or his authorized representative if the violation is not corrected before the expiration of notice of violation and nuisance; and notification of such assessment shall be given to the owner by the city. The civil penalty shall be \$165.00 or ten percent of the cost of abatement, whichever is greater. If, in accordance with the procedures set out in chapter 62, the city abates the nuisance, the costs of abatement in addition to the civil penalty imposed shall be assessed to the property owner.

(n) It shall be unlawful to place non-recyclable items inside the recycling cart for collection. The city may remove carts and discontinue service to locations where notice of violation of the ordinance has been given three times within a 12-month period.

**Sec. 26-11. - Mixing refuse and garbage; ashes to be kept separate from other waste.**

For the purpose of collection by the public works department, refuse and garbage may be mixed together when placed in the covered receptacles as required by subsection 26-1(3). Ashes must not be mixed with anything else.

**Sec. 26-12. - Collection service not furnished for certain business and institutional uses.**

No collections of industrial waste will be made from manufacturing plants, factories, etc. No collections will be made from bottling works, hospitals, colleges or universities.

**Sec. 26-13. - Standards for vehicles and containers used in collection and transportation of waste.**

(a) *Maintenance.* Vehicles or containers used in the collection and transportation of garbage, or refuse containing garbage, shall be covered, leak proof, durable and of easily cleanable construction. These shall be cleaned as often as necessary to prevent a nuisance or insect breeding, and shall be maintained in good repair.

(b) *Securing of contents.* Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill therefrom, and shall be covered to prevent blowing of material. If spillage should occur, the material shall be picked up immediately by the individual transporting such solid waste and returned to the vehicle or container, and the area properly cleaned.

(c) *Violations.* Any person failing to abide by provisions outlined in subsections (a) and (b) of this section shall be guilty of a violation of this Code.

**Sec. 26-15. - Animal waste.**

(a) *Dead animals.* Small dead animals will be collected by the city during operating hours of the city landfill, provided the body is in a location accessible to the collector. Dead animals weighing in excess of 100 pounds shall be removed and disposed of by the owner, if ownership has been established.

(b) *Waste from meat processing plants.* Waste from cleaning or dressing of any flesh or fowl conducted by a commercial operation such as meat processing plants and other businesses of this nature will not be collected by the city.

(c) *Waste from fish markets and animal hospitals.* Waste from the cleaning and dressing of fish and dead animals meeting the provisions of subsection (a) will be collected by the city from fish markets or similar commercial operations and animal hospitals respectively. Such waste shall be placed in mobile roll-out receptacles and will be collected on a daily basis if necessary, except on Sundays. Such waste must be stored indoors and under refrigeration until collected.

(d) *Service level and fees.* Service levels provided and fees charged for collection and disposal of waste from fish markets and animal hospitals shall be as follows:

Type of Service	No. of Containers	No. of Pick-Ups per Week	Fee
1—96 gallon roll-out	1	1	\$850.00 annually
Additional collections	1	1	25.00/ collection

## **Article II. Solid Waste Collection Franchise.**

### **Sec. 26-41. - Definitions.**

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Person* means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency or other legal entity.

*Solid waste* means nonhazardous solid waste, that is, solid waste as defined in G.S. 130A-290, but not including hazardous waste or recyclable materials as therein defined which are in fact recycled.

(b) Where applicable and unless a different meaning is required by the context, the words included in this article and defined in G.S. 130A-290 or G.S. 130A-294 shall have the meaning stated in that statute.

### **Sec. 26-42. - Required; exceptions.**

It shall be unlawful for any person to engage in the commercial collection of solid waste within the city without first having been granted a franchise by the city council. The city council may elect to grant nonexclusive franchises to various persons who collect solid waste commercially (commercial collectors), to grant an exclusive franchise to a single commercial collector, or to be the sole collector and grant no franchises to any commercial collector. The franchise required by this section shall not be required of any commercial collector of solid waste within the city if such collector has an existing and valid contract with the utility commission regarding solid waste collection within the city.

### **Sec. 26-43. - Application; granting; term; renewal.**

(a) All applicants for a franchise to collect solid waste commercially within the city must file a written application with the city manager or his designee. The application shall contain such information as the city may reasonably require, to include but not be limited to the following:



(1) The name and address of the applicant and whether the applicant is a sole proprietorship, corporation, partnership or other legal entity, together with disclosure of the primary ownership interests if other than a sole proprietorship.

(2) A list of the equipment possessed, available or to be obtained by the applicant for use in providing services pursuant to the franchise.

(3) The number of employees the applicant expects to use in carrying out the services pursuant to the franchise.

(4) Experience of the applicant in solid waste collection.

(5) Balance sheet or equivalent financial statement prepared by a certified public accountant, or other person satisfactory to the city, as of the close of the applicant's last business year, showing the net worth of the business. To the extent permitted by law, the city will use reasonable steps to treat the data submitted in compliance with this requirement as confidential and not as public information.

(6) The applicant's plan for disposal of solid waste collected pursuant to the franchise.

(7) Schedule of fees the applicant plans to charge in providing services pursuant to the franchise.

(8) Information regarding lawsuits previously brought against the applicant or a parent corporation, subsidiary corporation or partner, and arising out of the provision of solid waste collection or disposal services.

(9) Liability insurance policies carried by the applicant.

(b) Following review and recommendation by appropriate city officials, and a determination by the city council that one or more of the applicants should receive a franchise, the city council shall approve the granting of the franchise or franchises. The term of any franchise shall be as stated by the city council in its approval, but in no event shall exceed a period of 30 years. Franchises granted shall not be renewable, but the holder of a franchise may apply for a new franchise to become effective upon the expiration of an existing franchise. Applicants for a franchise should anticipate that the period of time for the processing of an application, including clarification requests by the city, could take up to six months or more and should file the application accordingly.

#### **Sec. 26-44. - Revocation or denial.**

(a) *Grounds for revocation.* The city council may revoke any franchise granted under this article upon proof satisfactory to the city council of:

(1) Inability or failure of the franchisee to perform properly the duties covered by the franchise;

(2) Providing false or misleading information in the franchise application;

(3) Loss of the solid waste permit issued by the state;

(4) Noncompliance with any provision of this article, including but not limited to charging fees greater than those authorized in the franchise; or

(5) Any other actions or failures to act on the part of the franchisee which cause the city council to feel that revocation is necessary to protect the public health, safety or general welfare.

(b) *Hearing on denial.* An applicant for a franchise shall be notified of the time and place at which the city council will consider the application on first reading. If the vote on first reading is to deny the application, the applicant may make a written application to the city council within ten days following the first reading for a hearing with respect to the denial. The decision of the city council following the hearing shall be final.

(c) *Hearing on revocation.* If the city council determines that there appears to be grounds for revocation of a franchise, the city council shall so notify the franchisee. In such case the franchisee may, within ten days of receipt of the notice, make a written request for a hearing with respect to the revocation. The decision of the city council following such hearing shall be final.

#### **Sec. 26-45. - Service charges.**

(a) The franchisee shall be responsible for providing appropriate solid waste collection services to all persons within the franchise area that request such service and pay for the services at rates, fees and charges approved by the city council. It shall be unlawful for the franchisee to make charges greater or other than those approved by the city council.

(b) The franchisee shall be responsible for collecting the approved fees from those persons receiving services from the franchisee; provided, however, services may be discontinued if a customer becomes in arrears in fees due to the franchisee for two consecutive months, but the franchisee must resume services for the customer upon payment of the arrears plus an advance fee equal to one month's normal fees or charges for such customer. The franchisee may bill customers one month in advance of service.

#### **Sec. 26-46. - Collection and transportation standards.**

(a) *Standards for vehicles and containers.* Vehicles or solid waste containers used by the franchisee for the collection and transportation of garbage, or refuse containing garbage, shall be covered, leakproof, durable and of easily cleanable construction, and shall be cleaned as often as necessary but not less than twice a year to prevent a nuisance or insect breeding, and shall be maintained in good repair. The franchisee shall have adequate solid waste containers and vehicle cleaning facilities. The franchisee must close all solid waste container lids after the containers are

emptied, and must plug all drains in solid waste containers, where required by local and state regulations. Vehicles must display, in three-inch or greater letters, the name and address of the franchisee and the cubic yardage of the vehicle.

(b) *Securing of loads.* Vehicles or containers used for the collection and transportation of solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill therefrom, and shall be adequately secured and covered to prevent spillage. Should spillage occur, the material shall be recovered immediately by the solid waste franchisee and returned to the vehicle or container, and the area properly cleaned.

(c) *Compliance with applicable regulations.* All trucks and other equipment and methods of disposal shall conform with solid waste management standards, rules and regulations of the state, county and city.

(d) *Sufficient personnel and equipment required.* The franchisee must employ a sufficient number of persons to serve adequately the area assigned to him and must own or control sufficient equipment and machinery to perform the duties and services permitted by the franchise.

(e) *Annual report.* The franchisee must submit an annual report to the city council and utility commission. The report shall contain but not be limited to the following:

(1) The total number of residential customers and the number of sanitation-only customers added and dropped during the preceding 12 months, together with the total tonnage collected from such customers.

(2) The total number of industrial customers and the number of industrial customers added and dropped during the preceding 12 months, together with the total tonnage collected from such customers.

(3) The number of complaints filed with the franchisee, organized in categories, with a report as to their final disposition.

(4) Any new and replacement equipment.

(5) Any other information which the city may reasonably request.

#### **Sec. 26-47. - Liability insurance; transfer of franchise; amendment of franchise.**

(a) The applicant, upon being awarded a franchise to collect solid waste by the city council as provided in this article, shall secure and present to the city manager or his designee a good and sufficient liability insurance policy in an amount determined by the city council insuring payment for damages determined to be due as a result of injury or property damage arising out of the collection or transportation or disposal of solid waste by the franchisee or his agents. The liability policy shall contain a hold harmless clause indemnifying the city with respect to claims made against the franchisee or the city.

(b) No franchise granted under the provisions of this article may be sold, assigned, pledged or transferred, nor shall control thereof be changed by stock transfer or otherwise, or any rights thereunder leased, without written approval of the city council.

(c) Any franchise shall be subject to the provisions of this article as it may be amended from time to time. Any franchise transferred or assigned without the express written authority of the city council shall be void, and any collections thereunder shall be a violation of this article, and such unlawful transfer or assignment may be grounds for revocation of the franchise.

#### **Sec. 26-48. - Penalties.**

In addition to the specific remedies set forth in this article, any person who violates any provision of this article shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$500.00 or imprisonment for not more than 30 days. A separate and distinct violation shall be deemed to have occurred each day during which such violation continues. In addition, a violation may result in the suspension or revocation of a franchise.

### **Article III.-Solid Waste Disposal**

#### **Sec. 26-61. - Solid waste disposal policy.**

The solid waste disposal policy, prepared for the City of Winston-Salem, adopted by the city/county utility commission on July 8, 1996, as amended, is hereby declared to be the solid waste disposal policy of the City of Winston-Salem for enforcement purposes and is incorporated herein by reference.

A violation of any provision, or part thereof, of said solid waste disposal policy shall constitute a misdemeanor and shall subject the offender to a fine of not more than \$500.00 or imprisonment for not more than 30 days.

## **Chapter 30 – LAKES.**

### **Article I. In General.**

#### **Sec. 30-1. - Penalty.**

The following shall be deemed to be expressly incorporated by reference within each section of this chapter: A violation of this section, or any part thereof, shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 30-2. - Appointment and authority of lakes program supervisor.**

(a) The city recreation director may appoint one or more lakes program supervisors and may prescribe their duties. Each lakes program supervisor appointed shall serve where he will be most beneficial to the recreation department's objectives.

(b) The lakes program supervisor shall be the official custodian of the lake and the surrounding premises.

**Sec. 30-3. - Duties of lakes program supervisor.**

It shall be the duty of the lakes program supervisor to enforce all rules and regulations which are applicable to and adopted by the city recreation and parks commission and the city council, and to collect and properly account for all fees and charges as prescribed by the commission and approved by the council.

**Sec. 30-4. - Denial of admission to certain persons.**

The lakes program supervisor shall deny admission to the city lakes to any person known by him to have violated the rules and regulations of the city recreation and parks commission or to any person having intoxicating drink in his possession.

**Sec. 30-5. - Pollution of water.**

It shall be unlawful for any person to pollute in any manner the waters of any city-owned lake, or to use Salem Lake or the surrounding area in violation of any regulations of the office of sanitary engineering of the state department of human resources.

**Sec. 30-6. - Swimming or bathing; committing acts affecting purity of water.**

(a) It shall be unlawful for any person to bathe, swim or put his feet in any city lake, unless the city has designated a swimming or wading area.

(b) It shall be unlawful for any person to commit on any city lake or within 200 feet thereof any act that will affect the purity of the water therein.

**Sec. 30-7. - Use or possession of firearms or fireworks.**

It shall be unlawful for any person to fire a gun or pistol, firecracker or other fireworks from a boat or from the shore of any city lake, and any person who has in his possession any firearm or fireworks of any kind shall be denied admission to any city lake.

**Division 2- Fishing.**

**Sec. 30-51. - Rules and regulations.**

Fishing in Salem Lake is hereby permitted subject to the following rules and regulations:

(1) *Permit required.* No person shall fish in Salem Lake except by a proper permit issued to such person by the lakes program supervisor. Permits shall be issued by the lakes program supervisor at his office at the Salem Lake fishing station. The applicant shall be required to exhibit

the permit or license required by prevailing state laws governing fishing in inland waters (G.S. 113-143 et seq.) before receiving a permit from local authorities.

(2) *Transfer of permit.* No permit shall be recognized when presented by any person other than the person to whom the permit was issued.

(3) *Revocation of permit.* Every permit shall be issued subject to revocation or cancellation upon violation by the holder thereof of any of the rules or regulations governing fishing in Salem Lake.

(4) *Permit not to be issued to violators of regulations.* No permit shall be issued to any person who has knowingly violated the rules and regulations governing fishing in Salem Lake.

(5) *Duration of permit.* Salem Lake fishing permits shall be good only for the hours and date for which the permit was issued.

(6) *Surrender of permit.* All fishing permits shall be surrendered to the lakes program supervisor.

(7) *Fishing permitted only from boat or pier.* No fishing shall be permitted in Salem Lake except from a boat furnished or authorized by the city recreation and parks commission or from Salem Lake pier.

(8) *Seining or trapping prohibited.* Seining or trapping of fish shall be absolutely prohibited.

(9) *Fishing near pier.* No fishing shall be permitted within 100 feet of the pier.

(10) *Size and type of fish; manner of fishing.* The rules and regulations of the state wildlife resources commission, as from time to time amended, with respect to size and type of fish taken and with respect to the manner of fishing shall apply on all city lakes.

(11) *Selling fish prohibited.* No person shall sell, barter or exchange fish taken from Salem Lake.

(12) *Inspection of catch.* The lakes program supervisor shall inspect every catch of each person at the conclusion of a day's fishing, and shall enter in the lakes program supervisor's register the person's name and address and the number and kind of fish caught. No fish not meeting the requirements of subsection (10) of this section shall be taken up.

(13) *Bank fishing prohibited.* All fishing in Salem Lake shall be from a boat or from the pier and in no instance shall bank fishing be permitted.

(14) *Closed season.* There shall be a closed season each year at Salem Lake which shall conform to the closed season determined by the state wildlife resources commission or as ordered

by the city recreation and parks commission. During such closed season, no fishing of any kind shall be allowed in Salem Lake.

**Sec. 30-52. - Fees.**

The city recreation and parks commission shall recommend and the city council shall adopt by resolution the fishing fees at any city lake.

**Division 3. Boating.**

**Sec. 30-71. - Approval of boats required.**

It shall be unlawful for any person to place a boat on Salem Lake unless the boat has been approved and specifically authorized by the city recreation and parks commission.

**Sec. 30-72. - Prohibited area.**

It shall be unlawful for any person to allow a boat under his control within the area near the dam in Salem Lake marked and designated as a danger area by buoys and cable.

**Sec. 30-73. - Equipment and numbering.**

(a) All boats on Salem Lake, whether privately or municipally owned, shall be equipped with at least one Coast Guard approved life preserver for each occupant. Each boat shall be equipped with a pail to be used for sanitary purposes, and such pail shall not be used for fish.

(b) Each boat on Salem Lake shall be numbered for identification purposes with numerals not less than three inches high, and the register shall show the number of the boat used. Each boat on Salem Lake shall be numbered as required by the state wildlife resources commission.

(c) It shall be unlawful for any person to use a boat on Salem Lake unless the boat is so equipped and numbered.

**Sec. 30-74. - Locations for entering and leaving lake.**

No boat shall, whether privately or municipally owned, enter or leave Salem Lake except from the docks provided by the municipality.

**Sec. 30-75. - Manner of propulsion.**

Boats operated on Salem Lake shall be propelled only by means of oars, paddles or sails, manually operated, except boats with motors no more than 40 horsepower going to and from fishing grounds; except that the lakes program supervisor or members of the state wildlife resources commission may have motors over 40 horsepower.

**Sec. 30-76. - Number of occupants; age of occupants; children to wear life preservers.**

It shall be unlawful for more than four persons to occupy a boat on Salem Lake at the same time, and a boat shall not be rented to a person under 16 years of age. Persons under 12 years of age will not be permitted to enter a boat unless they wear a Coast Guard approved life preserver at all times and are accompanied by an adult. Persons under 16 years of age must be accompanied by an adult.

**Sec. 30-77. - Permits for private boats.**

(a) Application for a permit to dock a private fishing boat at the Salem Lake fishing station boat dock shall be made in writing to the city recreation and parks commission, together with the information relative to the make, type and capacity of such boat and any other data or information which may be required by the commission and the state board of health. Such application shall set forth the name of the owner or owners (not to exceed four in any event) of such boat. If approved and authorized by the city recreation and parks commission, the commission shall cause to be issued one permit to each owner (not to exceed four in any event) with fees in amounts determined by the commission.

(b) No private boat may be used on Salem Lake by any person not the holder of a valid permit therefor, unless such person is accompanied by the owner of such permit.

(c) All persons using privately owned fishing boats on Salem Lake must register at the lakes program supervisor's office, exhibit a boat permit for identification and secure a fishing permit before going on the lake each time.

(d) All private boats on Salem Lake shall be under the complete jurisdiction and control of the lakes program supervisor at all times.

(e) Every privately owned boat on Salem Lake authorized by the city recreation and parks commission shall be kept securely fastened to its respective place at the dock when not in use.

**Article III. Winston Lake.**

**Sec. 30-101. - Rules governing Salem Lake to apply; exceptions.**

Winston Lake shall be governed by the same rules applied to Salem Lake, except as follows:

(1) It shall be lawful for any person to picnic, clean or cook fish or other foods on the shore of Winston Lake.

(2) No city recreation department permit is required to fish on Winston Lake.

(3) No fishing shall be permitted in Winston Lake except from the banks.

**Chapter 34-Licenses and Business Regulations.**



**Article I. In General. Sec. 34-1. - Authority for enactment; applicability of state law; conflicts with state law.**

This chapter is enacted pursuant to the powers contained in the Charter and G.S. chs. 20, 66, 105 and 160A. If any of the provisions of this chapter conflict with the provisions of the General Statutes, the General Statutes shall control and that this chapter shall be construed accordingly. Unless the contrary intention is expressed in this chapter, it is intended in each instance that the maximum tax authorized by the General Statutes therefor shall be charged by the city. All words not specifically defined in this chapter are intended to be used in the sense in which they are used in the General Statutes.

**Sec. 34-2. - Construction of chapter.**

This chapter should be construed to require payment of the maximum tax permitted under its terms. In addition, the issuance of a license in accordance with this chapter does not excuse a licensee from compliance with any other applicable ordinance or statute. This chapter does not prevent the city council from imposing license taxes on additional businesses, from increasing or decreasing the amount of license tax or from regulating any business taxed. The term "person", as used in this chapter, includes any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm or other legal entity.

**Sec. 34-3. - Licenses to be subject to existing or future ordinances.**

All licenses are granted subject to the provisions of existing ordinances or those thereafter enacted.

**Sec. 34-4. - Penalty.**

The following shall be deemed to be expressly incorporated by reference within each section of this chapter: A violation of this section, or any part thereof, shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00.

**Sec. 34-5. - License tax levied; exemptions.**

(a) *Levy of tax.* An annual license tax is hereby levied on each business, specified herein, conducted within the city in the amounts established by state statutes and this Code.

(b) *Exemptions.* Generally, except as otherwise provided in this section or by state law, no person is exempt from the payment of a privilege license tax levied by this chapter.

(1) *Charitable organizations.* A person, who operates a business for a religious, educational, civic, patriotic, charitable or fraternal purpose, when the entire gross income of the business is used for such a purpose, is exempt from paying any privilege license tax levied by this chapter.

**Sec. 34-6. - License prerequisite to engaging in business; certification of insurance coverage.**

(a) It shall be unlawful for any person to engage in or carry on any business in the city for which there is required a license without first having obtained the license and, if applicable, having paid the license tax. The name of the business and the business license number shall be legibly displayed on all service vehicles being used in the business, or the license required by this chapter or a copy thereof shall be in the vehicle at all times.

(b) For the purpose of this section, the opening of a place of business, or offering to sell, followed by a single sale or the doing of any act or thing in furtherance of the business, shall be construed to be engaging in or carrying on such business.

**Sec. 34-7. - Duration of license.**

(a) All license taxes provided for and fixed in this chapter shall be for 12 months, unless otherwise specified.

(b) Licenses issued for beer or wine retailers and beer or wine wholesalers shall date from May 1 of each and every year and shall expire on April 30 of each year. All other licenses provided for in this chapter shall date from July 1 of each and every year and shall expire on June 30 of each year.

(c) If for any reason a licensee discontinues his business during the license year, he is not entitled to a refund.

**Sec. 34-8. - Posting or possession of license.**

(a) Licenses shall be kept posted where the business is carried on.

(b) It shall be unlawful for any person to engage in any business, trade or profession, or do the act for which a license is required in this chapter or the schedule of taxes as set out in section 34-9, without having such license posted conspicuously at the place where such business, trade or profession is carried on. If the business is being conducted off the business principal premises, the licensee shall have the license required by this chapter, or a copy thereof, in his actual possession or posted at the location where the business is being conducted.

**Sec. 34-10. - Duty of business operator to determine whether tax due.**

Each person has the duty to determine whether the business he conducts is taxed under this chapter and, if so, whether that tax has been paid for the current tax year.

**Sec. 34-11. - Authority of revenue collector to require sworn statements.**

The city revenue collector shall have the right to require a sworn statement of any person or officer of any corporation engaged in any of the businesses or callings covered by this chapter, in order to determine whether or not the tax is due, and, if so, in what amount.

**Sec. 34-12. - Investigations by revenue collector; duty of business operators to keep books and permit inspections.**

(a) *Investigations by revenue collector.* If the revenue collector has reason to believe that a person is conducting a business in the city in violation of this chapter, the revenue collector or his designee shall conduct an investigation to determine the person's tax liability.

(b) *Duty to keep books.* Each person who conducts a business taxed under this chapter shall keep all records and books necessary to compute the tax liability. If a person fails to keep books and records as required, the revenue collector shall make a determination of that person's tax liability from the information available.

(c) *Duty to permit inspection.* Each person who conducts business in the city shall permit the revenue collector or his designee to inspect the business premises during normal business hours to determine the nature of the business conducted there and to examine the books and records to determine the nature and amount of business transacted.

**Sec. 34-13. - Notice of tax deficiency.**

(a) *Issuance; contents.* If the revenue collector determines that a person has not paid the full amount of tax due under this chapter, either for the current license year or for a prior license year, the revenue collector shall give the person written notice of the deficiency in accordance with this chapter. The notice of deficiency shall specify the total amount of tax due, the section of this chapter upon which the tax is based, the amount of tax paid, any interest due, the balance owed, the manner and time period in which the person may respond to the notice of deficiency, and the consequences of failing to respond as specified.

(b) *Request for conference.* The person may, within ten days after the day on which notice is served, request a conference in writing. The request shall specify the person's objections to the notice of deficiency.

(c) *Effect of failure to request conference.* If the licensee fails to request a conference under this chapter, the deficiency becomes final and the revenue collector shall proceed to collect the deficiency.

(d) *Procedure when conference requested; record of conference.* If the licensee requests a conference, the revenue collector shall not proceed to collect the deficiency until hearing the licensee's objections and determining that the deficiency should become final. The revenue collector shall maintain a record of each conference held for three years in accordance with this chapter. The record shall contain the name of the licensee, the date of the conference, a brief statement of the issues discussed and the results of the discussion. After three years, the revenue collector shall dispose of the record in compliance with G.S. 121-5.

**Sec. 34-14. - Collection of tax deficiency.**

(a) Any person who commences or continues to conduct a business taxed under this chapter without payment of the tax shall be assessed a penalty equal to five percent of the amount prescribed for the license per month or fraction thereof until paid, not to exceed 25 percent of the amount so prescribed, but in any event shall not be less than \$5.00.

(b) The revenue collector may use any of the following methods to collect a deficiency:

- (1) Criminal prosecution in accordance with section 34-15(a);
- (2) Equitable relief in accordance with section 34-15(b); or
- (3) The remedies of levy, sale, attachment and garnishment in accordance with G.S. 160A-207.

(c) The following shall be added to the additional tax described in subsection (a) of this section for costs related to the use of collection remedies described in subsection (b)(3) of this section: \$50.00 for the processing of each levy, sale, attachment and garnishment, plus any actual attorney fees and court fees incurred in adjudicating these remedies.

#### **Sec. 34-15. - Enforcement of licensing and tax requirements.**

(a) *Criminal remedies.* Conducting business within this city without having paid the license tax imposed by this chapter or without a valid license issued in accordance with this chapter or without posting a license in compliance with this chapter is a misdemeanor, punishable as provided in G.S. 160A-175(b). Each day that a person conducts business in violation of this chapter is a separate offense. Payment of a fine imposed in criminal proceedings in accordance with this section does not relieve a person of the liability for taxes imposed under this chapter.

(b) *Equitable remedies.* In addition to the criminal remedies set forth in subsection (a) of this section and in compliance with G.S. 160A-175(d), the city may seek an injunction against any person who conducts a business in violation of this chapter.

#### **Sec. 34-17. - Fortunetellers.**

Any person receiving rewards or payment for pretending to tell or telling fortunes, practicing the art of palmistry, clairvoyance and other crafts of a similar kind, shall apply for in advance and procure from the revenue collector a license for the practicing of such arts or crafts. Such license shall be issued only upon condition that the licensee, in his application therefor, shall agree:

(1) To handle no money of any client or customer as an incident of the practice of such craft or art, except to receive the established fee for the practice of the art or craft;

(2) To post with the city a cash bond in the amount of \$1,000.00, conditioned upon the licensee's being law-abiding and refraining from engaging in any unlawful or fraudulent practice in conducting the business covered by the license, and further providing that any person damaged by an unlawful or fraudulent practice on the part of the licensee in conducting the licensed business shall be entitled to recover on the bond, which bond shall be held and kept in force for three years after the expiration of the license in connection with which it was given; and

(3) That, in the event of any unlawful or fraudulent act of the licensee in conducting the business covered by the license, the license may be revoked by the city council after giving the licensee an opportunity to be heard.

**Sec. 34-18. - Panhandlers.**

(a) *License required.*

(1) No person shall ask, beg or solicit alms as defined in subsection 38-31(d) without first registering and obtaining a panhandler license and accompanying identification badge issued by the city revenue department. A person who has registered and who has been issued a panhandler license and accompanying identification badge shall display the identification badge on his/her person such that it is clearly visible at all times while begging or soliciting alms, and shall keep the panhandler privilege license on his or her person at all times while begging or soliciting alms for personal gain and shall display the license to any law enforcement officer or city revenue collector immediately upon request. No person whose panhandler's license has been revoked shall beg or solicit alms for a period of two years following the date of the revocation. Any person who violates this subsection is guilty of a misdemeanor.

(2) The city revenue collector's office shall issue a panhandler license and accompanying identification badge, without fee, to any eligible person (a person shall be deemed eligible once they demonstrate, to the satisfaction of the revenue collector, their ability to satisfy the requirements for licensure as are spelled out in this chapter) who comes to the city revenue collector's office and presents a photo identification issued by NCDMV or the equivalent state agency in the applicant's state of residency and one other form of identification. The city revenue collector shall, within five business days of written request by a panhandler license holder and upon payment of a replacement fee of \$25.00, issue a replacement identification badge to any panhandler license holder who, by affidavit, notifies the city revenue office that his or her identification badge has been lost or stolen.

(3) A person is not eligible for a panhandler license or renewal of a panhandler license if within the two-year period prior to application for license or renewal:

a. The city revenue collector has received information from the chief of police or his designee that the person has two or more violations of this chapter or chapter 38, articles I, II or III of the City Code;

b. The city revenue collector has received information from the chief of police or his designee that the person has been convicted of two or more offenses under the law of any jurisdiction which involve either misdemeanor or felony assault communicating threats, or illegal use of weapons; or

c. The person otherwise does not qualify for a privilege license in accordance with this chapter.

(4) The licensee shall be provided with a copy of sections 38-31 and 32 of the City Code.

(5) Any person who makes any false or misleading statement while applying for a panhandler's license under this chapter is guilty of a misdemeanor. Upon receipt of information of such a violation, the city revenue collector shall decline to issue a license to the offending applicant or shall revoke the license of the offending licensee.

(6) If a person applies for or is issued a privilege license under this chapter and the city revenue collector receives information that the person has violated any provision of this chapter, the city revenue collector shall decline to issue or shall revoke, respectively, that person's privilege license for a period of two years."

(b) *License procedure.*

(1) Applications for panhandler licenses from individuals under this article shall be submitted to the office of the city revenue collector on forms provided by the office of the city revenue collector. The applicant shall submit an application, together with a criminal background history check conducted by the chief of police or his designee, which shall be reviewed by the chief of police or his designee to determine eligibility of the applicant. Thereafter, any panhandler privilege license issued shall be valid until the end of the fiscal year in which said license was issued or for such other period as may be specified on the license certificate or until information is discovered that causes the licensee, in the opinion of the city revenue collector, to become disqualified. In such instances of disqualification, any panhandler license having been issued shall be subject to revocation by the city revenue collector as set forth in subsection (b)(2) below.

(2) Upon receipt of information or reports of violation of this section, section 38-31 or 38-32 or any other applicable code provision, the city revenue collector may refuse to issue, refuse to renew or may revoke licenses as deemed necessary to safeguard the interest of the public and to carry out the purposes of this article, which are to promote public safety and convenience on the streets and sidewalks of the City of Winston-Salem. Within ten days of notification of such action, the applicant may request a conference with the city revenue collector in accordance with section 34-18.

(3) Any panhandler license issued under this article shall be non-transferable.

(c) *Procedures for conducting criminal history checks—Introduction and purpose.* This subsection (c) is adopted by the Winston-Salem City Council to provide procedures for conducting criminal history checks through SBI/DCI on individuals applying for licenses to engage in panhandling within the corporate limits of the City of Winston-Salem. This subsection (c) is adopted pursuant to the authority vested in the City of Winston-Salem in G.S. 160A-11 and 160A-12.

(1) *Persons subject to the subsection.* Persons subject to this subsection are those seeking a license to engage in panhandling within the corporate limits of the City of Winston-Salem. "Panhandling" is defined [as] asking, begging for

and/or soliciting alms for personal use. For purposes of this section, "ask, beg or solicit" includes, without limitation, use of the spoken, written or printed words or such other acts conducted in furtherance of the purpose of obtaining alms or contributions.

(2) *Purpose of the subsection.* The purpose of the subsection is to provide for the safety of the citizens of the City of Winston-Salem and the motoring public using the streets and highways within the City of Winston-Salem.

(3) Applicants for a panhandler license must provide with their application all identification information, name(s) and other appropriate identifiers necessary for the Winston-Salem Police Department to complete a criminal history check on the applicant.

(4) An applicant's criminal history check will be reviewed by the Winston-Salem Police Department for determination of the applicant's eligibility to receive a panhandler license. The Winston-Salem Police Department will notify the issuing agency, the City of Winston-Salem Revenue Department, of the applicant's eligibility or non-eligibility based on the criminal history check.

a. *Disqualifying offenses.* The following offenses, if appearing in an applicant's criminal history check (as confirmed according to subsection b. below) and committed within the most recent two-year period, will disqualify that applicant from receipt of a panhandler license:

1. Two or more violations of Winston-Salem City Code chapter 38, articles I, II or III; and/or
2. Convictions of two or more offenses under the law of any jurisdiction, which involve either misdemeanor or felony assault, communicating threats, or illegal use of weapons.

b. *Confirmation of disqualifying offenses.* Prior to disqualification of an applicant for a panhandler license due to one or more offenses on the applicant's criminal history check, the city revenue department will verify the existence of the offense and/or conviction by obtaining a certified public record of the offense/conviction.

c. *Access agreement.* No applicant's criminal history will be checked pursuant to this subsection unless and until an access agreement with the state bureau of investigation for use of the state's SBI/DCI database according to applicable regulations is in effect.

#### **Sec. 34-19. - Pawnbrokers.**

(a) Every person engaging or offering to engage in the business of lending money on the security of pledged goods and who may also purchase merchandise for resale from dealers and traders shall first obtain a license from the city. The requirements for licensure shall be as set forth in G.S. 66-390.

(b) *Definitions.* For the purposes of this section, the following shall mean:

*Computerized record of pawnbroker activity* means the computerized record refers to a copy of the information required in the daily record in a reasonably available, economical electronic storage medium designated by the chief of police (currently a high density floppy diskette, compact disc (CD), USB drive, or the pawnshop's FTP site) in some industry standard data format as designated by the chief of police.

*Daily record* means those written or typed pawnbroker records and pawn tickets or copies thereof which contain the information required to be provided by pawnbrokers to the chief of police on a daily basis by G.S. 66-391 and which may be required herein.

(c) *Records.* Every pawnbroker doing business in the city shall make available on each business day a computerized record of pawnbroker activity for that day. The computerized record (in addition to the daily record G.S. 66-391 requires) shall, at all times during business hours and all other reasonable times, be open for the examination and inspection of the chief of police, or any policeman or other lawful officer.

Every pawnbroker shall, by 5:00 p.m. or close of business, whichever is first, on each business day furnish to the chief of police at the public safety center the daily computerized record of pawnbroker activity covering the transactions for the preceding business day.

(d) *Inspection of stock.* Every pawnbroker shall have his goods so arranged in stock as to enable any lawful officer to readily inspect the same.

(e) *Photographic identification required.* It shall be unlawful for any pawnbroker to, directly or indirectly, knowingly buy or receive in pawn any article from a person, the pledgor, who has not provided photographic identification which would satisfy a reasonable pawnbroker of the pledgor's age and identity. The pledgor shall be required to record the type of identification upon which he relied to determine the age and identity of the pledgor. If the pledgor provides a driver's license as identification, the pawnbroker shall be required to record the state from which the driver's license was issued and the driver's license number in the daily record.

(f) *Bond required.* Every person licensed under this section shall, at the time of receiving the license, file with the revenue collector a bond as set forth in G.S. 66-399.

#### **Sec. 34-20. - Tattoo artists.**

Every person engaging or offering to engage in the business, art or practice of tattooing (making tattoo marks or designs on the skin) shall first obtain a license from the city.

This license shall be issued only upon the condition that the licensee post with the city a cash bond in the amount of \$1,000.00, conditioned upon the licensee's being law-abiding and refraining from engaging in any unlawful or fraudulent practice in conducting the business covered by the license, and further providing that any person damaged or injured by the negligent conduct of the licensee, causing infection and other complications to arise on the skin or about the person being tattooed,



shall be entitled to recover on the cash bond, which bond shall be held and kept in force for three years after the expiration of the license in connection with which it was given.

## **Article II.-City Produce Market.**

### **Sec. 34-21. - Authorized; rules and regulations.**

The city may operate a city produce market. The director of finance shall recommend to the city council rules and regulations governing the operation of the market.

## **Article III. Motor Vehicles.**

### **Sec. 34-22. - Tax.**

(a) *Definitions.* For purposes of this section:

(1) Motor vehicle means each and every vehicle designed to run upon the highways which is self-propelled or designed to be self-propelled, excluding, however, vehicles exempted from registration by G.S. 20-51; nonmotorized vehicles pulled by self-propelled vehicles such as trailers, campers, mobile homes and trailers and tractor-trailers; and vehicles listed in the inventory of car dealers.

(2) Resident motor vehicle means any motor vehicle which would, for the purposes of taxability under the provisions of the North Carolina Machinery Act, G.S. 105-271 et seq., have its situs within the city.

(b) *Tax imposed.* Each motor vehicle which is resident within the city on January 1, the required registration renewal date, or its first registration date, shall be subject to an annual tax of \$15.00. The tax shall be imposed for the current fiscal year.

(c) *Administration and enforcement.* The city may delegate to the county tax supervisor the authority to issue all or part of the tax bills for the tax imposed in this section, and may delegate to the county tax collector the authority to collect all or part of the tax imposed in this section. If so appointed, the tax supervisor, the tax collector, and the county board of equalization and review shall respectively have the powers of listing, assessing, discovery, collection, levy, attachment, garnishment, release and rebate authorized under the Machinery Act, G.S. 105-271 et seq.

## **Chapter 38- Miscellaneous Offenses and Provisions.**

### **Article I- In General.**

#### **Sec. 38-2. - Curfew and other restrictions authorized during state of emergency.**

The City Mayor is authorized to issue a public proclamation of a state of emergency during specified times of great public crisis, disaster, rioting, civil disturbance or catastrophe, etc. This proclamation may prohibit a number of activities during the state of emergency, including:

- (1) Possessing off one's own premises, buying, selling, giving away, or otherwise transferring or disposing of any explosives, firearms, ammunition or blasting caps, or any dangerous weapons of any kind;
- (2) Selling beer, wines or intoxicating beverages of any kind, or possessing or consuming beer, wines or intoxicating beverages off one's own premises;
- (3) Organizing or conducting any demonstration, parade, march, vigil or participation therein from taking place on any of the public ways or upon any public property;
- (4) Buying, selling, giving away or otherwise transferring gasoline, kerosene or any other similar petroleum products or any other combustible or inflammatory substance, except as expressly authorized by the provisions of the proclamation;
- (5) Being or travelling upon any street, alley or roadway or upon public property, unless such travel is necessary to obtain medical assistance; or
- (6) Participating or carrying on any business activity, or keeping open places of business or entertainment and any other place of public assembly.

Violation of the terms and conditions of a state of emergency is unlawful.

### **Sec. 38-3. Open air public meetings.**

No person or group of persons shall hold an open air public meeting upon a public street, alley, sidewalk or mall unless a permit therefor shall first be obtained from the city. For purposes of this section, the term "open air public meeting" is defined to include the delivery of a public address, lecture, sermon or discourse, or the conducting of a public musical or theatrical performance.

A permit is not required to hold an open air public meeting on other public property of the city, including the front steps or walk area closest to the front entrance of city hall, where such open air public meeting does not encroach or go upon any city street, alley, sidewalk or mall, provided public property is not damaged thereby, ingress and egress to public buildings and other public areas are not obstructed, and the public business is not impeded.

Pursuant to city code section 46-33, an application must be filed with the community development department and the same approved before any sound amplifying equipment, sound truck or other conveyance may be used in conjunction with an open air public meeting, even if a permit is not required to conduct the open air public meeting. Otherwise, the use of such sound amplifying equipment, sound truck or other conveyance is prohibited unless the sound amplifying equipment is being operated so that the sound from said equipment may be heard only through earphones.

**Sec. 38-4. - Hours of operation of drive-in theaters in residential districts.**

It shall be unlawful for any person in the city to exhibit or engage in the showing of motion pictures to the public between the hours of 1:30 a.m. and 8:00 a.m. at an outdoor or so-called "drive-in" theater operated wholly or partially as a nonconforming use in any district zoned residential by the city zoning ordinance; provided, however, during the period when standard time is advanced one hour pursuant to the Uniform Time Act of 1966 (popularly known as daylight saving time) it shall be unlawful to exhibit or show motion pictures to the public in such theaters between the hours of 2:30 a.m. and 8:00 a.m. The exhibition or showing of motion pictures in violation of this section is hereby declared to be a nuisance and is prohibited.

**Sec. 38-5. - Parades.**

Any parade upon the public ways used primarily for vehicular parking or moving traffic is prohibited unless conducted in accordance with the provisions of this section. For purposes of this section, a parade is any parade, march, procession, walk, run, moving congregation or ceremony or other similar activity consisting of persons, animals, vehicles or things, or any combination thereof. A funeral procession is not considered a parade.

No such parade shall be held or conducted unless a permit is first obtained from the community development department. All persons participating in any parade without such permit shall be guilty of a violation of this section.

It shall be unlawful for any person to conduct or participate in any parade for any purpose other than the purpose set out in the application.

It shall be unlawful for any person to conduct or participate in any parade or unreasonably hamper, obstruct or interfere with any parade so as to create a public nuisance, endanger the public peace, or constitute a substantial hazard to public safety.

All spectators, participants and persons associated or affiliated with a parade must comply with G.S. 14-277.2.

Signs or posters carried by participants shall be made of cardboard no thicker than one-fourth inch. Supports for such signs or posters shall be made of a nonmetallic material no wider than three and one-half inches and no thicker than three-fourths inch.

A special event permit, as set forth in section 74-284, shall be required for any parade during which one or more streets are closed to vehicular traffic.

An application must be filed with the community development department and the same approved before any sound amplifying equipment, sound truck or other conveyance may be used in conjunction with a parade. Otherwise, the use of such sound amplifying equipment, sound truck or other conveyance is prohibited unless the sound amplifying equipment is being operated so that the sound from said equipment may be heard only through earphones.

### **Sec. 38-5.1. - Picketing.**

No picketing larger than 25 persons shall be held or conducted and no person shall participate in the same unless notice of intent to picket has been given to the chief of police or designee, and a receipt of such notice has been issued. Notice of intent for more than 25 persons to picket shall be given in writing at least 24 hours prior to the picket and shall contain the following information: (1) The name, and address of the organization, group, person or persons sponsoring or participating in the picketing; (2) The location or locations in the city where the pickets propose to assemble and demonstrate; (3) The time and date on which the picketing is to occur; (4) The purpose and manner of the proposed picket; and (5) The name of the person and organization giving notice of intent to picket.

Pickets may carry written or printed placards or signs made of cardboard no thicker than one-fourth inch. Supports for such signs or posters shall be made of nonmetallic material no wider than three and one-half inches and no thicker than three-fourths inch.

Pickets shall be restricted to the use of the outermost half of the sidewalk or other public way nearest the street and shall not at any time nor in any way obstruct, interfere with, or block persons entering or exiting from vehicles; persons crossing streets or otherwise using the public way; the entrance or exit to any building or access to property abutting the street or sidewalk; or pedestrian or vehicular traffic.

It shall be unlawful for any person to conduct or participate in any picket or to unreasonably hamper, obstruct, or interfere with any picket so as to create a public nuisance or endanger the public peace or constitute a substantial hazard to public safety.

All spectators, participants and persons affiliated or associated with a picket must comply with G.S. 14-277.2.

### **Sec. 38-6. - Alcoholic beverages at city-owned or city-operated facilities—Consumption at park and recreation facilities generally.**

Unless otherwise provided in this Code, it shall be unlawful for any person to drink wine, beer or other alcoholic beverages, or to offer a drink to another person, whether accepted or not, anywhere on the premises (including streets, drives and parking areas used in connection therewith) of any city-owned or city-operated swimming pool, recreation center, tennis court, recreation area, playground or park.

### **Sec. 38-7. - Same—Sale by city at certain facilities; possession by persons entering facility.**

Admittance to any event at a city-owned facility by any person (attendee or sponsor) with alcoholic beverages in their possession shall be unlawful, except when authorized by a special concession or brown bagging permit issued by the state.

### **Sec. 38-9. - Consumption or possession of malt beverages and unfortified wine on property owned, occupied or controlled by the city.**

Subject to the specific provisions of this chapter to the contrary and to permission otherwise granted by the city council or granted by the city secretary under section 38-8 herein, it shall be unlawful: (1) For any person to consume malt beverages or unfortified wine on property owned, occupied or controlled by the city, or for any person who is not an occupant of a motor vehicle to consume malt beverages or unfortified wine on public streets; (2) For any person to possess open containers of malt beverages or unfortified wine on property owned, occupied or controlled by the city, or for any person who is not an occupant of a motor vehicle to possess open containers of malt beverages or unfortified wine on public streets; (3) For any person to possess malt beverages or unfortified wine on public streets, alleys or parking lots which are temporarily closed to regular traffic for special events unless such malt beverage or unfortified wine was obtained through the sale or service of the same permitted under section 38-8 herein.

It shall be unlawful for any person to discard or deposit any malt beverage or wine (fortified or unfortified) container in any public place, or upon any public street, or upon the private premises of another, without permission of the owner or person entitled to possession of such premises.

#### **Sec. 38-10. - Possession and discharge of firearms.**

It is unlawful for any person to fire or discharge a gun, rifle, pistol or other firearm within the city limits, including on or in any building, its appurtenant premises, including, but not limited to, a parking lot or park, or other city-owned or operated property, regardless of whether such city-owned or operated property is within or outside the corporate limits, or on or in any public school building or grounds within the city, except in case of self-defense or necessity. Except as otherwise provided herein, the city manager or his designee is authorized and directed to post, in conspicuous locations, on city-owned or operated property notices regarding this prohibition.

It shall be unlawful for any person to possess or open carry any handgun, gun, rifle, pistol or other firearm on or in any city-owned or operated motor vehicle, park, parking area, building, including the appurtenant premises, grounds or parking areas of those buildings regardless of whether such city-owned or operated property is within or outside the corporate limits. Except as otherwise provided herein, the city manager or his designee is authorized and directed to post, in conspicuous locations on city-owned or operated property, notices regarding this prohibition.

It shall be unlawful for any person to possess or carry a concealed handgun with or without a permit on, in or within any: (1) City-owned or operated buildings, and appurtenant premises within or outside of the city limits. The city manager or his designee is authorized and directed to post notices of this prohibition in conspicuous locations in city-owned and operated buildings and their appurtenant premises; (2) City recreational facilities, as defined.

This section shall not apply to a police or other law enforcement officer lawfully discharging his duty, or to a watchman or other person specifically authorized to carry firearms on such premises while acting lawfully and within the scope of his authority, nor shall it prohibit the lawful possession or carrying of firearms on the public streets.

#### **Sec. 38-11. - Sale and use of BB guns, pellet guns, air rifles, bows, crossbows and slingshots.**

It shall be unlawful for any person to fire or shoot a BB gun, pellet gun or air rifle, or bow, crossbow-like device, or to operate a slingshot, within the corporate limits of the city or on any property owned or operated by the city outside the corporate limits of the city, except: (1) Within a completely enclosed area located at or in a private residence and against a target so placed and arranged that the projectile cannot go outside the enclosed area; or (2) At an established target range which is, at the time of shooting, being operated under the supervision of the recreation or police department of the city. A violation of this subsection shall be a misdemeanor and shall be punishable as provided by law.

It shall be unlawful for any minor person under 18 years of age, unless accompanied by a parent, legal guardian or other adult person having custody of such child, to have any rifle or shotgun, or ammunition therefor, BB gun, pellet gun, air rifle or slingshot in his possession at any place within the city, except on his own premises, or on any property owned or operated by the city outside the corporate limits of the city. A violation of this subsection shall be a misdemeanor and shall be punishable as provided by law.

Any parent of a minor child or any person having the custody and control of a minor child, receiving knowledge that such child has committed an act of vandalism or malicious damage to the person or property of another by a BB gun, pellet gun, air rifle or slingshot, shall be required to report such act to the law enforcement agencies. Failure to do so shall be a misdemeanor punishable as provided by law.

Any person selling a rifle or shotgun, or ammunition therefor, a BB gun, pellet gun, air rifle or slingshot to a minor or to an adult for use by a minor shall register the name and address of the purchaser in a book kept for that purpose. In addition, before the sale is made, the seller shall obtain and file a certificate signed by a parent, the legal guardian or other adult person having custody of the minor purchaser or, if the purchase is being made by an adult person, then by the purchaser, with designated required content. The failure of the seller to comply with the requirements of this subsection or to retain and make the certificate available to any proper law enforcement agency, upon request, shall be a misdemeanor punishable as provided by law.

#### **Sec. 38-12. - Self-opening or switchblade knives.**

It shall be unlawful for any person to sell, offer for sale, keep, possess, use or lend any self-opening or switchblade knife - defined as a knife containing a blade which opens by the release of a spring or similar contrivance.

#### **Sec. 38-13. - Possession of dynamite.**

It shall be unlawful for any person to have dynamite in his possession within the corporate limits of the city without the appropriate license (not applicable to common carriers of merchandise or freight for hire).

#### **Sec. 38-14. - Throwing snowballs, rocks or other missiles.**

It shall be unlawful for any person to throw, or to cause to be thrown, any snowball, rock, piece of metal or other hard missile at any bus, taxicab or motor vehicle while such bus, taxicab or motor vehicle is being driven and operated upon, or while such bus, taxicab or motor vehicle is standing upon, any public street or highway in the city, or at any pedestrian upon a public street or sidewalk. It shall be a violation of this section for any snowball, rock or other missile to be thrown as described in this section at such motor vehicle or pedestrian, regardless of whether such motor vehicle or pedestrian is struck or not, if the intention of the thrower is to strike such vehicle or pedestrian and if such intention reasonably appears from the act of throwing.

**Sec. 38-15. - Use of city property for private purposes.**

It shall be unlawful for any person, whether he is an officer or an employee of the city or not, to use any automobile, truck, wagon, tool or other property owned by the city for his own private purpose, or for that of any person other than the city.

**Sec. 38-15.1. - Injuring or destroying public property; graffiti declared public nuisance; removal of graffiti from public and private property; sale of spray paint to minors and possession of spray paint by minors.**

It shall be unlawful for any person to willfully destroy, injure, carry away, break or deface any ornament, street sign, lamp, railing, fixture, gate, seat, bench, swing, fountain, tool, machinery; nor shall any person pull any flowers, or cut or injure in any way any tree, shrub, plant, vine or other property belonging to the city within or upon any of its streets or parks.

Any person who applies graffiti to any natural or manmade surface of any city-owned or private property without the permission of the owner or occupant shall be subject to prosecution in accordance with the statutes relating to malicious injury to property, G.S. 14-127, G.S. 14-160 or any other applicable statute.

It shall be unlawful for a minor to possess spray paint while in or upon: any public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by the city; or while in or within 50 feet of an underpass, bridge abutment, culvert, or similar types of infrastructure, under circumstances manifesting the intent to violate any provision of this section, unless otherwise authorized by the city. Circumstances manifesting the intent of a minor to violate this section are listed in the ordinance.

A violation of this section shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00. In addition to any other punishment imposed, the court may order the person convicted of a violation of any provision of this section to make restitution to the victim for the damage or loss suffered as a result of the offense. The court may determine the amount, terms, and conditions of restitution.

This section shall not be interpreted as prohibiting any person from engaging in activities protected by the First Amendment to the United States Constitution nor shall it be interpreted as authorizing a search in violation of the Fourteenth Amendment to the United States Constitution.

**Sec. 38-16. - Sale or use of motor vehicles bearing city insignia.**

It shall be unlawful for any person to sell, barter or trade a motor vehicle which bears the insignia of the city. It shall be unlawful for any person to operate a privately owned car which bears the insignia of the city within the corporate limits of the city.

**Sec. 38-17. - Injuring property of railroads or public utilities.**

It shall be unlawful for any person willfully to deface or injure any property belonging to any railroad, telegraph, telephone or electric light or power company in the city.

**Sec. 38-18. - Prohibited acts relating to use of public parks, recreation facilities and skate park.**

It shall be unlawful for any person to be on the premises of a public park or city-owned recreation facility after such park or recreation facility has been closed to the public, unless such person is an employee of the city acting within the scope of his duties, or unless such person has written permission from the city recreation department.

It shall be unlawful for any person to park a motor vehicle on the premises of any public park or city-owned recreation facility at a place not designated for parking of vehicles, and it shall be unlawful for any person to park or allow a motor vehicle to remain parked upon the premises of any public park or city-owned recreation facility, whether occupied or unoccupied, after such park or recreation facility has been closed to the public, without written permission from the recreation department.

No person shall ride or use a skateboard, in-line skates or freestyle bicycle at any city-owned or operated skate park unless that person is wearing a helmet, elbow pads and knee pads. A person who fails to wear the required helmet, elbow pads and kneepads shall be subject to a citation for violating city code section 38-18(d).

**Sec. 38-19. - Sleeping on public property or property of another.**

It shall be unlawful for any person to sleep in the streets, sidewalks or alleys, or on public grounds or private premises without the consent of the person in control.

**Sec. 38-20. - Loitering about or trespassing on school premises; disturbing students.**

It shall be unlawful for any person to loiter around any school, academy or college, or the pleasure grounds or premises thereof, in the city, without permission from the proper authorities of such school, academy or college. It shall be unlawful for any person to go upon the grounds of any school or enter any school building, after having been forbidden to do so by the principal of the school or other person placed in charge thereof. It shall be unlawful for any person at or near any school, academy or college in the city to engage by conversation or sign or otherwise attract the attention of any student thereof, to the disturbance of the discipline of such school, academy or college.



**Sec. 38-21. - Trespassing on city golf course.**

It shall be unlawful for any person to trespass upon a golf course owned or operated by the city or the recreation and parks commission. For the purposes of this section a person shall be deemed to be trespassing on the golf course if he goes upon the fairways, greens, tees or traps when he is not engaged in golfing activities as a player, caddy, maintenance worker, officer or agent of the city or recreation and parks commission, or is not otherwise engaged in legitimate pursuits relating to or associated with participation in the playing of golf, or operation or maintenance of the golf facilities.

**Sec. 38-22. - Falsely claiming to have authority to inspect property; right of entry.**

It shall be unlawful for any person, falsely claiming to have authority from any government or any governmental agency of the city, the county, the state, the United States or any other government, or agency thereof, to inspect properties within the corporate limits of the city to discover defects therein. It shall be unlawful for any person, falsely representing himself to be an inspector for the city or an agency thereof or any other government or governmental agency, to enter upon any premises within the city limits for the stated purpose of inspecting such premises for defects therein.

**Sec. 38-23. - Massage of persons of opposite sex.**

It shall be unlawful for any masseur or masseuse to treat or massage 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. 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 time.

The provisions of this section shall not apply to treatments given in the residence of a patient, in the office of a licensed physician, osteopath, registered physical therapist or chiropractor, or in a regularly established and licensed hospital, sanitarium, nursing home or medical clinic; nor shall this section apply to treatments given by one spouse to the other, or to treatments given by members of or persons eligible for membership in the American Massage Therapy Association or any other recognized professional massage therapy association with similar or equivalent professional membership standards as determined by the city manager's office. A person who applies manual or mechanical massage or similar treatment to the human trunk or limbs shall be deemed, within the terms of this section, a masseur or masseuse.

**Sec. 38-24. - Inside safety catch required for cold storage rooms and walk-in coolers.**

It shall be unlawful for any person to knowingly have or permit, on premises which he occupies as owner, lessee or manager, a cold storage room or walk-in cooler without an inside safety catch or device by which at least one door thereto may be opened from the inside.

**Sec. 38-25. - Removing or defacing political signs or posters; removal by candidate after election.**

During any political campaign, it shall be unlawful for any person to tear up, remove or deface any poster, placard or billboard of a candidate for public office, provided however that this section shall not apply to an owner of the premises where the poster, placard or billboard is located, or to the agents or representatives of such person, or to the removal of any poster, placard or billboard placed or erected contrary to law.

**Sec. 38-26. – Operation of cafes and restaurants in residential districts.**

The operation of any licensed cafe or restaurant in a residential district, as established in accordance with the zoning ordinance, which is a nonconforming use under the zoning ordinance, between the hours of 12:00 midnight and 6:00 a.m., on any day of the week, is hereby declared to be a nuisance and an injury to adjoining property owners and to the public, and operation during such hours is hereby prohibited.

It shall be unlawful for any person to blow an automobile horn at or near a drive-in restaurant, located as a nonconforming use in a residential area, to attract the attention of the person conducting such restaurant, for the purpose of obtaining service at the restaurant.

It shall be unlawful for any person to operate a disk jockey show located upon premises occupied by any restaurant or cafe as a nonconforming use in any area zoned residential under the zoning ordinance. The operation of any such disk jockey show at any time is hereby declared to be a nuisance and an injury to adjoining property owners and to the public, and the operation of such disk jockey show is hereby prohibited.

**Sec. 38-27. - Garage or yard sales.**

It shall be unlawful for residents of residential districts to conduct more than two garage/yard sales per year, neither one of which shall exceed seven days in length. Such sales are to be exclusively of residential household items and not items purchased for resale.

**Sec. 38-28. - Peddling in residential areas prohibited during certain hours.**

It shall be unlawful to peddle any article of merchandise (as defined) from any vehicle or on foot between the hours of 7:00 p.m. and 9:00 a.m. in residential districts within the corporate limits of the city; provided, however, that, during such periods that daylight savings time is in effect, these hours shall be from 8:00 p.m. to 9:00 a.m. Should the peddler attempt to make personal contact with a resident at his or her residence, without prior specific invitation by or appointment with the resident, then the peddler must comply with the code section(s) pertaining to door to door solicitation including the shorter time limitation for said activity.

**Sec. 38-29. - Loitering under circumstances manifesting the intent to engage in drug-related activity.**

It shall be unlawful for a person to remain or wander about in a public place under circumstances manifesting the intent to engage in a violation of the North Carolina Controlled Substances Act, G.S. 90-89 et seq. Circumstances which may be considered in determining a person's intent include, without limitation, the following: (1) Repeatedly beckoning to, stopping or attempting to stop passersby, or repeatedly attempting to engage passersby in conversation; (2) Repeatedly stopping or attempting to stop motor vehicles; (3) Repeatedly interfering with the free passage of other persons; (4) Such person repeatedly passing to or receiving from passersby, whether on foot or in a vehicle, money or objects; (5) Such person taking flight upon the approach or appearance of a police officer; or (6) Such person being at a location frequented by persons who use, possess or sell drugs.

This provision shall not be interpreted to prohibit any activity that is protected by the First Amendment to the United States Constitution.

A violation of this section shall constitute a class 3 misdemeanor and the offender shall be fined not more than \$500.00.

**Sec. 38-30. - Human urination or defecation on public or private property.**

It shall be unlawful for any person to urinate or defecate on any public place, sidewalk, street, alleyway or right-of-way, or in any public building, except in designated water closets or toilet facilities, or on any private property. Having the written permission of the owner or person in lawful possession of private property shall constitute an affirmative defense to the charge of urinating or defecating on private property.

**Sec. 38-31. - Begging or soliciting alms.**

It shall be lawful to beg or solicit alms except when performed in the manner set forth in designated subsections of this section. Those subsections provide that it is unlawful for any person to ask, beg or solicit, or exhibit oneself for the purpose of begging or soliciting: (1) By accosting another, or by forcing oneself upon the company of another; (2) Within 100 feet of an entrance or exit of any bank or financial institution or other establishment whose primary function is dispensing cash or within 100 feet of any automatic teller machine or other machine which dispenses money to the public; (3) At any outdoor dining area or outdoor merchandising area, provided such areas are in active use at the time; (4) At any transit stop or taxi stand or in a public transit vehicle; (5) At the entrance to or exit of any toilet facility open to the public, including any temporary use site (port-a-toilet); (6) In a parking lot or garage including entryways, stairwells, exits or pay box or pay stations connected therewith; (7) In hospital quiet zones, as defined in section 46-4; (8) At any valid mobile food cart vendor location as defined in section 74-272; (9) Within any areas adjacent to or near any public, private, or parochial schools and/or community college, college, or university school zone; (10) While the person being solicited is standing in line waiting to be admitted to a commercial establishment; (11) By touching the person being solicited or the motor vehicle occupied by the person being solicited without that person's consent; (12) By or with the use of profane or abusive language during the solicitation or following an unsuccessful solicitation and/or by or with the use of any gesture intended to cause a reasonable person to be fearful of the solicitor; (13) After dark, which shall mean one-half hour after sunset until one-half hour before sunrise, For

purposes of enforcement of this section, the terms "sunrise" and "sunset" shall be determined by and based on the times for those events published daily by the U.S. Naval Observatory Astronomical Applications Department; (14) While under the influence of alcohol or after having used any illegal substances defined in the North Carolina Controlled Substance Act; (15) By knowingly making any false or misleading representation (as defined) in the course of soliciting; (16) On a center median as defined in Code section 38-32; (17) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; (18) Without having on their person at all times that they are engaged in the acts of begging or soliciting of alms the panhandler privilege license required in subsection (c) herein; (19) By stepping into, standing, sitting or walking in any roadway; (20) 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; (21) By displaying a sign larger than two feet in any dimension; (22) 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; (23) 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 (24) While violating any litter or traffic safety laws.

A violation of this section, or any part thereof, shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 38-32. - Restriction of activity on median.**

Except as permitted herein, begging or soliciting alms on the center median is prohibited. The following acts are specifically prohibited while soliciting on center medians: (1) Offer to sell or sell any goods besides First Amendment protected goods. First Amendment protected goods include newspapers and magazines; (2) Step off of the center median and stand, sit, or walk in the roadway; (3) Deliver or receive any tangible item to or from any occupant of any vehicle in a lane that is not contiguous with the center median or the curb; (4) Deliver or receive any tangible item to or from any occupant, other than the driver or a person on the driver's side, of a vehicle that is on a roadway; (5) Fail to continuously display a solicitor identification card, as required by article II, while soliciting (must be displayed on request); (6) Fail to retain a copy of his or her notice of intent to solicit, as required by article II, and keep a copy on his or her person at all times while soliciting (must be displayed on request); (7) Display a sign larger than two feet in any dimension; (8) Stop or attempt to stop a vehicle that is approaching a traffic signal unless the traffic signal requires the vehicle to come to a complete stop; (9) Interfere with or impede of 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; (10) To engage or allow solicitation on center median by person under the age of 14; and (11) Violation of any litter or traffic safety laws.

A violation of this section or any part thereof, shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00.

#### **Sec. 38-34. - Door-to-door solicitation.**

No door-to-door commercial solicitation and no door-to-door noncommercial solicitation (as defined in the Section) shall be conducted in any of the following manners: (1) Attempting to sell, for present or future delivery, any goods, wares or merchandise, or any services to be performed immediately or in the future (for purposes of this section, hereinafter referred to collectively as "selling") by means of statements which are known, or should have been known, by the person making them to be false or misleading; (2) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, alley, sidewalk or other public right-of-way; (3) Selling in a way as creates a threat to the health, safety or welfare of any specific individual or the public; (4) Before 9:00 a.m. or after 7:00 p.m. or sunset, whichever occurs first; (5) Remaining on the property of another person after having been requested to leave; (6) By stating or implying that the holding of a license issued by the city constitutes an endorsement of the commercial solicitor's goods and/or services by the city; (7) Without displaying the identification badge required by this article, if applicable; (8) By use or presentation of a revoked, expired or otherwise invalid license and/or identification badge, if applicable; (9) Otherwise selling or conducting commercial solicitation in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

Any person engaging in door-to-door commercial solicitation under a license issued pursuant to this section shall conspicuously display his or her identification badge on the front of his/her person and on the outside of his/her clothing at all times. Whenever requested by any police or other law enforcement officer or by any customer or prospective customer, any commercial solicitor engaged in door-to-door commercial solicitation shall exhibit his/her copy of the license issued by the city.

It shall be unlawful for: (1) Any person to engage in door-to-door commercial solicitation without the license and identification badge as required by this section; (2) Any person to engage in door-to-door commercial solicitation in any manner which is prohibited under this section; and/or (3) Any person to employ any other person or allow any other person to act on their behalf for the purpose of door-to-door commercial solicitation without causing such employee to comply with this section.

## **Article II. Charitable Solicitations.**

### **Sec. 38-61. - Notice of intent to solicit; identification cards.**

Any person, professional fundraising counsel or professional solicitor, prior to engaging in charitable solicitation (as defined) in the city, shall first notify the city secretary of his or her intent to solicit and, if the charitable solicitation is not exempted by the terms of G.S. 131F-3, also provide the city secretary with a copy of the state annual solicitation license from the secretary of state. At the time of notification of intent to solicit, an identification card provided by the organization to individual solicitors shall be filed with the city secretary. The identification card shall display the solicitor's name, the name of the group he or she is associated with, if any, and a photograph of the solicitor. Each solicitor shall visibly display this identification card on his or her person at all times while soliciting and no charitable solicitations shall be undertaken except when the solicitor first identifies himself by presenting the identification card. Each solicitor shall also comply with the provisions of City Code sections 38-31 and 38-32.

Soliciting on state roads for charitable contributions is permitted provided the following requirements are met and the solicitor complies with G.S. 20-175(e) as well as any other applicable state or local law: (1) Soliciting shall be limited to the shoulder and center median only. Soliciting in the main travel portion of the road is prohibited; Compliance with City Code sections 38-31 and 38-32 and subsections (a) and (b) of section 38-61; (3) Procurement and proof of liability insurance in the amount of \$2,000,000.00 as specifically outlined in G.S. 20-175(e).

In the event the solicitation event or the solicitors shall create a nuisance, delay traffic and/or create threatening or hostile situations, any law enforcement officer with proper jurisdiction may order the solicitations to cease. Any individual failing to follow a law enforcement officer's lawful order to cease solicitation shall be guilty of a class 3 misdemeanor.

A violation of this section or any part thereof, shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00.

### **Article III-Obscenity.**

#### **Sec. 38-81. - Public display of sexually oriented material to minors.**

Every person who intentionally and knowingly places sexually oriented materials (as defined) on public display to minors, or who knowingly and intentionally fails to take prompt action to remove such a display or property in its possession after learning of its existence, shall be guilty of a misdemeanor.

#### **Sec. 38-82. - Masturbation in public.**

It shall be unlawful for any person to willfully masturbate in any public place, including, but not limited to, any public restroom facility, in the presence of any other person.

### **Article IV- Fair Housing.**

#### **Sec. 38-105. - Discriminatory practices prohibited.**

It is unlawful to commit or to attempt to commit directly or indirectly a discriminatory practice as defined in this article.

#### **Sec. 38-106. - Discrimination in real estate transactions.**

It is a discriminatory practice for an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesman, because of the race, color, religion, national origin, sex, handicap or familial status of a person or of a person residing with that person or of friends or associates of that person, to: (1) Refuse to engage in a real estate transaction with a person after the making of a bona fide offer; (2) Discriminate against a person in the terms, conditions or privileges of a real estate transaction or in the provision of services or facilities in connection therewith; (3) Refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person; (4) Refuse to negotiate for a real estate transaction with a person, or

otherwise make unavailable or deny a dwelling to any person; (5) Represent to a person that real property is not available for inspection, sale, rental or lease, when in fact it is so available, or to fail to bring a property listing to a person's attention, or to refuse to permit a person to inspect real property; (6) Print, circulate, post or mail, or cause to be so published, a statement, advertisement or sign, or to use a form of application for a real estate transaction or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification or difference with respect to race, color, religion, national origin, sex, handicap or familial status; (7) For profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding entry or prospective entry into the neighborhood of a person of a particular race, color, religion, sex, handicap, familial status or national origin. (8) Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this article; (9) Offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the provision of facilities or services in connection therewith; (10) Discriminate in the sale or rental, or otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of that buyer or renter, a person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or any person associated with that buyer or renter; (11) Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of that person; a person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or any person associated with that person.

Discrimination is particularly defined in subsection (b) of this Section and is also prohibited in additional contexts, including property owned or operated by the federal government, etc.

#### **Sec. 38-107. - Discrimination in financial practices.**

It is a discriminatory practice for a person to whom inquiry or application is made for financial assistance, or a representative of such person, to: (1) Use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicates, directly or indirectly, an intent to make a limitation, specification or difference as to race, color, religion, national origin, sex, handicap or familial status; (2) Discriminate against any person in making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing, rehabilitating or maintaining real property because of race, color, religion, national origin, sex, handicap or familial status; (3) Discriminate against a person because of race, color, religion, national origin, sex, handicap or familial status in the sale, brokerage or appraisal of real property.

#### **Sec. 38-108. - Discrimination in provision of brokerage services.**

It is a discriminatory practice to deny any person access, membership or participation in any real estate brokers' organization, multiple listing service, or other service, organization or facility relating to the business of engaging in real estate transactions, or to discriminate in the terms or

conditions of such access, membership or participation because of race, color, religion, national origin, sex, handicap or familial status.

**Sec. 38-109. - Other unlawful practices.**

It is an unlawful practice for any person against whom a complaint has been filed under this article to fail to preserve or to fail to make available to the commission or its duly authorized representative any known and existing evidence or possible sources of evidence with regard to that complaint.

Every provision in an oral agreement or a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy or lease thereof to individuals of a specified race, color, religion, national origin or sex, or because of handicap or familial status, is a discriminatory practice and is void.

Every condition, restriction or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race, color, religion, national origin, sex, handicap or familial status is a discriminatory practice and is void, except as permitted by the exemption of section 38-111(a)(5).

It is an unlawful practice to insert in a written instrument relating to real property a provision that is void under this section or to honor or attempt to honor such a provision in the chain of title.

It is an unlawful practice for a person, as a party to a conciliation agreement made under this article, to violate the terms of the agreement.

It is an unlawful practice for a person, or for two or more persons, to conspire to: (1) Retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by the article, or because he has made a charge, filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing under this article; (2) Aid, abet, incite, compel or coerce a person to engage in any of the acts or practices declared unlawful by this article; (3) Obstruct or prevent a person from complying with the provisions of this article or any order issued thereunder; (4) Resist, prevent, impede or interfere with the commission or any of its members or representatives in the lawful performance of a duty pursuant to the procedures prescribed in this article.

**Sec. 38-110. - Acting for another person no defense.**

It shall be no defense to violation of this article by a person that the violation was requested, sought or otherwise procured by another person.

## **Chapter 42 - Motor Vehicles and Traffic.**

### **Article 1. General.**



**Sec. 42-2. - Penalties.**

A violation of any section, or part thereof, that regulates the operation or parking of vehicles shall constitute an infraction and any such offender shall be required to pay a penalty of not more than \$50.00.

Except for section 42-176(h), no provisions of Articles IV, V and VI of this chapter are misdemeanor offenses.

**Sec. 42-5. - Applicability of chapter to public employees.**

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

**Sec. 42-6. - Applicability of chapter to persons propelling pushcarts, riding animals or driving animal-drawn vehicles.**

Every person propelling any push cart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their very nature can have no application.

**Sec. 42-9. - Obedience to police officers and firefighters.**

It shall be unlawful for any person to willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

**Sec. 42-10. - Boarding or alighting from vehicles.**

It shall be unlawful for any person to board or alight from any vehicle while such vehicle is in motion. It shall be unlawful for any person to open the door of a stopped or parked vehicle or alight from such vehicle without first ascertaining that such act may be done in safety.

**Sec. 42-11. - Clinging to moving vehicles.**

It shall be unlawful for any person riding upon any bicycle, motorcycle, coaster, sled, roller skates or toy vehicle to attach such bicycle, motorcycle, coaster, sled, roller skates or toy vehicle, or himself, to any moving vehicle upon any roadway.

**Sec. 42-12. - Riding on portion of vehicle not intended for carrying passengers.**

It shall be unlawful for any person to ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise.

**Sec. 42-15. - Authority of school crossing guards to direct traffic.**

School crossing guards employed by the city police department are hereby authorized to direct traffic, as needed, in the area of their assigned schools and in conformance with the traffic laws. It shall be unlawful for any person to fail to obey any hand signal, flag, stop sign or audible signal given by a school crossing guard in the performance of his duties.

**Article II-Signs, Signals and Markers.**

**Sec. 42-43. - Obedience to traffic control devices and signals.**

Every driver of a vehicle shall operate his vehicle in conformity with all applicable official traffic control devices and traffic control signals in accordance with the provisions of this chapter, unless otherwise directed by a police officer, subject to the exceptions contained in section 42-7.

**Sec. 42-44. - Unauthorized signs, signals and markers.**

It shall be unlawful for any person to place, maintain or display upon or in view of any street any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device, traffic control signal 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 an official traffic control device, traffic control signal or railroad sign or signal.

It shall be unlawful for any person to place or maintain, nor shall any public authority permit upon any street, any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to the streets of signs giving useful directional or warning information and of a type that cannot be mistaken for official signs.

Every sign, signal or marking prohibited by this section is hereby declared to be a public nuisance, and the chief of police or assistant city manager/public works is hereby empowered to remove the sign, signal or marking or cause it to be removed without notice.

**Sec. 42-45. - Traffic control signal legend—Generally.**

If an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable, except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

**Sec. 42-47. - Same—Flashing signals.**

This subsection defines the obedience required to flashing red and yellow signals and prohibits the failure to obey such signals. The subsection also mandates that no driver enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or

crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

**Sec. 42-51. - Turning markers.**

When authorized markers, buttons or signs are placed within an intersection indicating the course to be traveled by vehicles turning thereat, it shall be unlawful for any driver of a vehicle to disobey the directions of such markers, buttons or signs.

**Sec. 42-52. - Restricted turn signs; U-turns.**

Whenever authorized signs are erected indicating that no right turn, left turn or U-turn is permitted, it shall be unlawful for any driver of a vehicle to disobey the directions of any such sign. The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street unless such movement can be made in safety and without interfering with other traffic.

**Sec. 42-53. - Obedience to signals indicating approach of train.**

Except as provided in section 42-84, whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. Additionally, it is unlawful for any person to drive any vehicle through, around or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or is being opened or closed.

**Sec. 42-54. - Signal by driver on starting, stopping or turning.**

The driver of any vehicle upon a street, before starting, stopping or turning from a direct line, shall first see that such movement can be made in safety, and, if any pedestrian may be affected by such movement, shall give a clearly audible signal by sounding the horn, and, whenever the operation of any other vehicle may be affected by such movement, shall give a signal as required by G.S. 20-154, plainly visible to the driver of such other vehicle, of the intention to make such movement.

**Article III. Operation of Vehicles**

**Sec. 42-81. - Dimming headlights.**

Any person operating a motor vehicle, when meeting another vehicle, shall so control the lights of the vehicle operated by him that the headlight beams shall not project a glaring or dazzling light to persons in front of such headlamp, in accordance with the provisions of G.S. 20-131.

**Sec. 42-82. - Driving through procession.**

It shall be unlawful for any person to drive a vehicle between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are identified in the manner required in this chapter.

**Sec. 42-83. - Duties of drivers on approach of authorized emergency vehicle.**

Upon the approach of an authorized emergency vehicle giving warning signal by appropriate light and audible bell, siren or exhaust whistle, audible under normal conditions from a distance of 1,000 feet to the front of such vehicle, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway (or the nearest edge or curb of a one-way street), clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer or traffic officer. Except that Subsection (a) of this section shall not apply to vehicles travelling in the opposite direction of the vehicles enumerated in subsection (a) when travelling on a four-lane limited access highway with a median divider dividing the highway for vehicles travelling in opposite directions and shall not operate to relieve the driver of any authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street.

**Sec. 42-85. - Operation of motor vehicles in public parks and other publicly owned areas.**

It shall be unlawful to operate any motorcycle, motorbike, motor scooter, motorized go-cart or other motor vehicle in or on any public park, public recreation area, public school grounds or other publicly owned property within the corporate limits of the city or in or on any such property owned by the city outside the corporate limits of the city, except on the streets, parking areas or other public ways designed and intended for motor vehicular use; provided, however, that this prohibition shall not apply to: (1) Vehicles and equipment being used in connection with the maintenance of such public properties; (2) The operation of golf carts on publicly owned golf courses; or (3) Go-carts or other authorized vehicles being operated at specific locations under the jurisdiction of and designated by the city recreation and parks commission for such use, in accordance with rules and regulations governing the operation of such vehicles at such locations promulgated by the recreation and parks commission.

**Sec. 42-86. - Motor vehicle traffic prohibited on strollway; exceptions.**

All motor vehicle traffic is hereby prohibited on the Winston-Salem strollway (as defined), except for trolley service operated by the transit authority, emergency vehicle traffic necessary in the performance of the duties of the fire department, vehicles of the public works department and recreation department necessary for maintenance, vehicles of any legally authorized law enforcement agency, and vehicles of any established ambulance service. In addition, the traffic of delivery and service vehicles is permitted on the section of the strollway between Third and Fourth Streets.

**Sec. 42-87. - Duties of drivers emerging from private driveway.**

The driver of a vehicle emerging from a driveway or building shall stop such vehicle immediately prior to driving onto the sidewalk area extending across any driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

**Sec. 42-88. - Driving on sidewalk.**

It shall be unlawful for any person to drive a motor vehicle, moped, motorized scooter, mini motorcycle, all terrain vehicle, or similar motorized conveyance on any sidewalk except at a permanent or temporary drive. Persons may ride bicycles and mobility impairment transportation devices such as wheel chairs on the sidewalk provided that the bicycle or device is operated in a manner and at speeds which do not interfere with or endanger others use of the sidewalk.

**Sec. 42-89. - Entry upon and exit from limited access roadways.**

It shall be unlawful for any person to drive a vehicle onto or from any limited access roadway except at such entrances and exits as are established by public authority.

**Sec. 42-90. - Stopping at stop signs.**

When stop signs are erected as provided in this chapter at or near the entrance to any intersection, every driver of a vehicle shall stop such vehicle at such sign or at a clearly marked stop line before entering the intersection, except when directed to proceed by a police officer. After the driver of a vehicle has stopped in obedience to a stop sign at an intersection, he shall yield the right-of-way to all vehicles which are within the intersection or which are approaching so closely as to constitute an immediate hazard.

**Sec. 42-91. - Duty of driver to stop or yield before entering through street.**

Those streets and parts of streets designated as provided in section 42-3 or 42-48 as through streets shall require the drivers of all vehicles approaching such streets to stop or yield as required before entering such streets when signs are erected giving notice thereof.

**Sec. 42-93. - Same—Prohibited at certain locations.**

Right turns on a red traffic signal, even though otherwise permitted by state law and other provisions of this Code, are prohibited at such locations determined by appropriate traffic engineering studies and designated by the assistant city manager/public works. This section shall become effective after the posting of appropriate signs at the intersections involved giving notice that a right turn on red at such intersections is prohibited.

**Sec. 42-94. - Motorcycles generally.**

It shall be unlawful for any person to operate a motorcycle on the private property of another without the express prior permission to do so by the owner, occupant or person entitled to possession and control of the property, which permission shall not be presumed, but must be proved by any person charged with violating this subsection. It shall be unlawful for any person to operate a motorcycle in a manner so as to create loud, unnecessary or unusual noise which disturbs or interferes with the peace and quiet of other persons.

**Sec. 42-95. - Manner of riding on motorcycles.**

It shall be unlawful for any person operating a motorcycle to ride other than upon the permanent and regular seat attached thereto, or to carry any other person or permit any other person to ride upon such motorcycle other than upon a firmly attached seat to the rear or side of the operator, or on one seat designed for two persons.

**Sec. 42-96. - Truck routes.**

All trucks and trailers entering the city destined to any point outside of the city and not taking on or discharging any goods, wares or merchandise within the city limits shall travel exclusively on the truck routes designated as provided in section 42-3 and over such part of such truck routes as shall constitute the shortest and most direct route from the point of entrance into the city and departure from the city.

All trucks and trailers are prohibited from streets or parts of streets designated as provided in section 42-3, except trucks and trailers may travel on such parts of streets to reach or to return from a destination upon such street.

**Article IV-Stopping, Standing and Parking.**

**Sec. 42-176. - Immobilization or impoundment of vehicles having unpaid parking tickets.**

It shall be unlawful for any person to remove from a vehicle a wheel lock placed thereon Pursuant to this section or to remove from impoundment any vehicle placed therein pursuant to this section without all civil penalties and applicable charges having first been paid or an approved payment plan having been made.

**Chapter 46-Noise.**

**Article I-In General.**

**Sec. 46-2. -County noise ordinance adopted.**

Except where otherwise stated, the county noise ordinance, entitled "Loud and disturbing noise," and subsequent amendments thereto are incorporated in this chapter by reference and shall be applicable within the corporate limits of the city. Copies of the ordinance are on file and available in the county clerk's office.

**Sec. 46-4. - Streets adjacent to hospitals designated quiet zones.**

Each and every street adjacent to any hospital in the city is hereby designated a "quiet zone" in the block within which such hospital is or may be located, and it shall be unlawful for any person to make or cause to be made any unnecessary noise within such quiet zones where there are clearly visible signs maintained by the city designating such areas as quiet zones.

#### **Sec. 46-5. - Sounds impacting residential life.**

Except as provided in Sec. 46-6, it shall be unlawful to carry on the following activities in any residentially zoned area of the city or within 300 feet of any residence in the city: (1) The operation of a front-end loader for refuse collection between the hours of 10:00 p.m. and 6:00 a.m.; (2) The operation of garage machinery between the hours of 10:00 p.m. and 6:00 a.m.; and (3) The operation of lawn mowers and other gasoline-powered domestic tools out-of-doors between the hours of 10:00 p.m. and 6:00 a.m.

It shall be unlawful to dump or engage in recycling activities involving glass bottles or cans within 300 feet of any residence in the Growth Management Area 1 (as defined in the City's Zoning Ordinances), between the hours of 12:00 a.m. and 6:00 a.m.

#### **Sec. 46-7. - Noise; commercial establishments within an entertainment district.**

It shall be unlawful for a commercial establishment within an entertainment district to play, operate, or cause to be played or operated, any amplified or non-amplified musical instrument or sound reproduction device in a manner that causes a noise disturbance on any neighboring premises or public area. For the purposes of this section, a noise disturbance shall be presumed to exist where the sound or noise caused by or arising out of any activity described herein is plainly audible within any occupied structure not the source of the sound or noise or within any public area in excess of 300 feet measured from the perimeter of the entertainment district. Relevant terms are defined in the subsection.

The person responsible for and in charge of the commercial establishment or activities on the premises of such an establishment is responsible and liable for any violations of this article by any tenant, guest, invitee, permittee or licensee in the establishment or on the premises of such.

### **Article II-Sound Trucks and Sound Amplifying Equipment.**

#### **Sec. 46-32. - Commercial advertising.**

It shall be unlawful for any person to operate, or cause to be operated, any sound amplifying equipment, sound truck or other conveyance for commercial sound advertising purposes on any street, public square, playground or other recreational area or on any public alley in the city, without first obtaining a permit from the city, which permit may be granted by the community development department following the department's review and, where appropriate, the review of the city's recreation and parks director and other city personnel, of an application for a permit submitted, by the person proposing to use such equipment, sound truck or other conveyance ("applicant"), at least 48 hours in advance of the proposed use. The application must contain the same information required by section 46-33.

The permit may be granted, denied or revoked by the community development department. If the permit is granted, the use of such sound amplifying equipment, sound truck or other conveyance shall be subject to the same limitations set forth in section 46-33. The applicant shall keep a copy

of the permit with him when the sound amplifying equipment, sound truck or conveyance is in use and shall produce the same upon the request of a police officer. Relevant definitions are provided in the subsection.

**Sec. 46-34. - Drive-in theaters in residential districts.**

It shall be unlawful for any person to create or permit sounds for entertainment, between the hours of 8:00 p.m. and 8:00 a.m., at an outdoor or so-called drive-in theater operated wholly or partially as a nonconforming use in any district zoned residential by the city zoning ordinance, which are audible within such residential district more than 1,000 feet from the point of origin. Creating or permitting such sounds in violation of this section is hereby declared to be a nuisance and is prohibited.

**Sec. 46-35. - Mobile ice cream units.**

It shall be unlawful for any person selling or offering to sell ice cream products from local ice cream units on any of the streets of the city to use any amplified recorded sound upon the mobile ice cream units for the purpose of attracting customers, except in accordance with the following regulations: (1) The amplified sound so used shall not be audible for a distance in excess of 600 feet from the point of amplification while the motor vehicles carrying such equipment are moving; (2) The amplification equipment shall be turned off while the motor vehicle is stopped or parked for the purpose of vending products; (3) The amplification equipment shall not be used after 9:00 p.m.

It shall be the responsibility of the complainant, in the event of a violation of this section, to obtain the necessary warrant.

**Sec. 46-36. - Radios, tape players or similar devices operated in street or other public area.**

Notwithstanding anything to the contrary in the county noise ordinance, no person shall cause, allow or permit the operating or playing of any radio, tape player or similar device that reproduces or amplifies sound in such a manner as to create noise at 50 feet from the device or vehicle containing that device when the device or vehicle is being operated in or on a public right-of-way or public space. This section shall not apply to the exceptions granted by sections 46-33 or 46-35.

## **Chapter 50 - Personnel and Retirement.**

There are no provisions in Chapter 50 that provide for or impose a criminal remedy.

## **Chapter 54-Police Department.**

There are no provisions in Chapter 54 that provide for or impose a criminal remedy.

## **Chapter 58 - Railroads.**



**Sec. 58-1. - Penalty.**

The following shall be deemed to be expressly incorporated by reference within each section of this chapter: A violation of this section, or any part thereof, shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00.

**Sec. 58-2. - Sounding of warning device at street crossings required.**

It shall be unlawful for any person to run on or across any street or highway within the corporate limits of the city any railroad engine or locomotive without sounding the customary warning device attached thereto during the time the engine or locomotive is in motion.

**Sec. 58-3. - Unnecessary sounding of warning devices prohibited.**

It shall be unlawful for anyone to sound any customary warning device, except at street crossings to give warnings to persons or animals in peril, or in other cases of necessity.

**Sec. 58-4. - Stopping or leaving cars so as to obstruct streets.**

It shall be unlawful for any railroad company, or its agents or employees, to stop, place or leave standing, for a period exceeding five minutes at any one time, any engine or locomotive or car of any description across or along any street within the corporate limits of the city in such a manner as to prevent the free passage of pedestrians, cars or other vehicles along such streets.

**Sec. 58-5. - Operating train so as to obstruct streets.**

It shall be unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the train in such a manner as to prevent the use of any street for purposes of travel for a period of time longer than five minutes, except that this section shall not apply to trains or cars in motion, other than those switching.

**Sec. 58-6. - Using tracks, yards or other railroad property as public highway.**

It shall be unlawful for any person to use the tracks, yards or other real property of any railroad company within the city as a public highway.

**Sec. 58-7. - Jumping on or off or clinging to cars or engines.**

It shall be unlawful for any person to jump on or off, or to cling to or hang on, any railroad car or engine in the city, while such car or engine is in motion, such person not being a passenger or an employee or officer of the railroad company.

**Sec. 58-8. - Crossing grade crossings against warning signal.**

It shall be unlawful for any person to go upon or across any railroad at a public crossing at grade when warned or signaled by a watchman or guard of the railroad company stationed at such

crossing or by a police officer or by a mechanical signal, except when authorized by law or ordinance to do so.

**Sec. 58-9. - Automatic signal device, safety gate or flagman required at certain crossings.**

The operating railway company shall maintain automatic signal devices, safety gates or flagmen at the following streets and approaches to railroad crossings:

- (1) Martin Luther King, Jr. Drive east of Ivy Avenue.
- (2) 24th Street west of Liberty Street.
- (3) Third Street west of Patterson Avenue.
- (4) Fourth Street west of Patterson Avenue.
- (5) Sixth Street east of Main Street.
- (6) Seventh Street east of Main Street.
- (7) Patterson Avenue north of Indiana Avenue.
- (8) Indiana Avenue at Reynolds Park Road.
- (9) 25th Street west of Liberty Street.
- (10) Trade Street south of Northwest Boulevard.
- (11) Oakwood Drive south of Stratford Road.
- (12) Knollwood Street south of Stratford Road.
- (13) 27th Street west of Liberty Street.
- (14) Bethesda Road south of Stratford Road.
- (15) Polo Road west of Indiana Avenue.
- (16) Carver School Road south of Old Walkertown Road.
- (17) Hanes Mall Boulevard west of Stratford Road.
- (18) Westbrook Plaza Drive south of Stratford Road.
- (19) Kimwell Drive south of Stratford Road.
- (20) Shattalon Drive east of Bethania Station Road.
- (21) Miller Street north of Cloverdale Avenue.
- (22) Bethabara Park Boulevard east of Bethabara Road.
- (23) Chestnut Street south of Fifth Street.
- (24) Healy Drive south of Stratford Road.
- (25) North Point Boulevard west of Indiana Avenue.
- (26) Clemmons ville Road south of Stratford Road.
- (27) Ivy Avenue south of 21st Street.
- (28) 14th Street east of Main Street.

**Chapter 62 – Sanitation.**

**Sec. 62-1. - Penalty.**

[The following shall be deemed to be expressly incorporated by reference within each section of this chapter: Except for sections 62-2, 62-3, 62-5, 62-6, 62-7 and 62-8, a violation of this section, or any part thereof, shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00.]

**Sec. 62-4. - Operation of public motor vehicle garages and service stations.**

(b) *Prohibited acts and conditions.* The following acts and conditions are hereby found and declared to be a menace to the public health, safety and morals, contrary to and adversely affecting the general welfare, and a limitation on the use, enjoyment and value of surrounding property; and such acts and conditions are therefore hereby declared to be public nuisances and unlawful:

(1) It shall be unlawful for any person, including any person operating a nonconforming business in a residential area, to perform major repair work on a motor vehicle at any time on Sundays or between the hours of 9:00 p.m. and 6:00 a.m. on weekdays, in a residential area as presently or hereafter defined by the city zoning ordinance and the official zoning map of the city (districts zoned R-1, R-2, R-3, R-4, R-5 and R-6).

(2) It shall be unlawful to park, place, keep or allow to remain for more than 48 hours any wrecked, disassembled, junked or disabled motor vehicle, parts or subassemblies of motor vehicles, lumber, debris or materials giving off offensive odors on the premises of any public motor vehicle garage or service station located in or adjoining any residential district, or within 100 feet of any residential district, in such manner or at such location on the premises as to be visible from within such residential district, or to cause offensive odors or drainage therefrom to adversely affect the use or enjoyment of such residential property. The provisions of this subsection shall not be interpreted as prohibiting the storage of motor vehicles, parts of vehicles or the materials listed in this subsection, which do not cause offensive odors or drainage, on the premises of public motor vehicle garages and service stations, if such vehicles, parts or materials are completely enclosed by a nontransparent screen, wall or fence at least seven feet high.

(3) It shall be unlawful to place or allow to remain on service station premises any objects, such as but not limited to movable signs, merchandise display racks and containers, in such manner or in such locations as to create a traffic hazard by restricting access to or egress from such premises, or by impairing or limiting visibility for persons entering from a public street or for persons entering a public street from such premises.

**Sec. 62-9. - Causing litter by distribution of handbills or advertisements.**

No person shall distribute or cause to be distributed unsolicited handbills, advertisements or other similar type materials by indiscriminately placing or throwing the materials on any street, public property or private premises. Such handbills or advertisements, etc., shall be handed to persons, or may be placed upon private premises if placed behind the screen door or upon the porch or attached securely to the doorknob, in such manner as not to be easily blown about.

**Chapter 66 - Sewers and Sewage Disposal.**

**Sec. 66-1. - Sewerage system policy.**

(a) The sewer use resolution, prepared for the city, and adopted by the city/county utility commission on September 28, 1981, as amended, is hereby declared to be the sewerage system policy of the city for enforcement purposes, and is incorporated in this chapter by reference. A copy of such resolution is on file and available in the city council's office.

(b) A violation of any provision, or part thereof, of the sewer use resolution shall constitute a misdemeanor and shall subject the offender to a fine of not more than \$500.00 or imprisonment for not more than 30 days.

**Chapter 70 – Signs.**

**Article I. In General**

**Sec. 70-2. - Penalty.**

Except for subsection 70-17(a), the following shall be deemed to be expressly incorporated by reference within each section of this chapter: A violation of this section, or any part thereof, shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00.

**Sec. 70-4. - Permit required for placement or erection of sign.**

It shall be unlawful for any person to place or erect any structure to be used as a sign or advertisement of any kind upon the roof or outer wall of any building until the plans therefor have been submitted to the superintendent of inspections and a permit issued.

**Sec. 70-5. - Permit for removal of sign.**

It shall be unlawful for any person to remove any sign as defined in section 70-1 without a permit from or order of the superintendent of inspections, and no such permit shall be issued until he has approved the proposed manner of removing and disposing of the sign.

**Sec. 70-8. - Correction of violations.** If any sign defined in section 70-1 is erected or maintained in violation of any of the provisions of this chapter or the city zoning ordinance, the superintendent of inspections shall have the power to give the owner thereof notice of such violation by leaving a copy of such notice at the owner's place of business, or by affixing a copy of such notice to the sign.

- There are specific requirements regarding the following types of signs; regulations governing material, supports, location, etc.:

**Sec. 70-9. - Roof signs.**

**Sec. 70-10. - Wall signs generally.**

**Sec. 70-11. - Projecting signs generally**

**Sec. 70-12. - Electric and neon wall or projecting signs.**

**Sec. 70-13. - Ground signs.**

**Sec. 70-14. - Banners.**

**Sec. 70-15. - Billboards.**

**Sec. 70-16. - Additional construction requirements for wall, projecting and neon signs.**

**Sec. 70-19. - Permit for repair of sign.**

It shall be unlawful for any person to make repairs, other than the servicing of lawful electric or neon equipment, to any sign without a permit from the superintendent of inspections. No repairs shall be authorized by him if such repairs do not comply with the requirements of this chapter.

## **Article II-Licensed Sign Erectors.**

**Sec. 70-41. - Certain signs to be erected and removed only by licensed sign erector.**

It shall be unlawful for any person, except a bonded sign erector licensed as provided in this article, to erect any roof sign, or wall sign exceeding 12 square feet in surface area and 25 pounds in weight, or projecting sign exceeding eight square feet in surface area and 25 pounds in weight, or electric or neon sign.

**Sec. 70-43. - Application for license.**

Every person desiring to obtain a license under this article shall make application to the superintendent of inspections of the city upon such forms as shall be prescribed by him, giving such information as he shall require

**Sec. 70-44. - Bond; indemnification of city.**

Every applicant for a license under the provisions of this article shall, upon the issuance of a license, execute a bond in the penal sum of \$2,500.00 for not more than ten signs, and \$2,500.00 additional for signs in excess of ten, payable to the city, with a surety company authorized to do business in the state as surety on such bond.

**Sec. 70-50. - Name of licensee to appear on signs erected.**

Every licensee under this article shall have the name of such licensee plainly printed or painted upon all signs or other advertising devices erected or maintained by such licensee in such manner as to be plainly discernible from the street.

## **Article III. Registration of Signs.**

**Sec. 70-73. - Fee.**

All signs described in this article are required to be registered. A registration fee of \$30.00 for each sign shall be paid at the time it is erected. Any sign for which a building permit is required is exempt from this fee.

#### **Article IV. Church Directional Signs.**

##### **Sec. 70-101. - Exemption from chapter; placement in right-of-way.**

The requirements of this chapter shall not apply to approved types of directional signs indicating the locations of churches. Church directional signs may be erected within the street right-of-way only if certain requirements are followed (location, installation, number, etc.)

### **Chapter 74-Streets and Sidewalks.**

#### **Article I. In General.**

##### **Sec. 74-1. - Penalty.**

(a) Unless otherwise provided, the following shall be deemed to be expressly incorporated by reference within each section of this chapter: A violation of this, or any part thereof, shall constitute a class 3 misdemeanor and subject the offender to a fine of not more than \$500.00.

(b) The provisions of subsection (a) of this section shall not apply to articles XI and XIII of chapter 74 or to any section or part of chapter 74 that regulates the operation or parking of vehicles. Articles XI and XIII have separate enforcement provisions contained within each article. A violation of any section, or part thereof, that regulates the operation or parking of vehicles shall constitute an infraction and any such offender shall be required to pay a penalty of not more than \$50.00.

##### **Sec. 74-3. - Moving buildings—Permit required; application; fee.**

It shall be unlawful for any person to move or assist in moving any building through any street or public way or over any bridge or paved sidewalk in the city unless a written permit therefor shall have been issued by the assistant city manager/public works. Application for the permit shall be made at least three workdays prior to the date of move. A minimum fee of \$300.00 shall be charged for each permit issued pursuant to this section.

##### **Sec. 74-7. - Permit required for installation of telephone call boxes.**

It shall be unlawful for any person to install and maintain a telephone in a call box or otherwise on any sidewalk or street in the city without first obtaining a permit therefor from the assistant city manager/public works.

##### **Sec. 74-8. - Gas and oil pumps prohibited on sidewalks; repairing or servicing motor vehicles on sidewalk.**

Except as otherwise provided, it shall be unlawful for any person to erect or maintain any pump or other device for supplying gasoline or motor oils to any motor vehicle on any public sidewalk in the city, or for any person to obstruct any sidewalk in whole or in part by causing any motor vehicle to stand upon any sidewalk while being supplied with gasoline or oils or receiving repairs or other garage service, or for any garage or filling station owner or employee to supply gasoline or oils or make repairs or render other service to any automobile while it is located upon any part of any public sidewalk within the city.

**Sec. 74-9. - Removing sand, dirt or stone from street or sidewalk.**

It shall be unlawful for any person to remove any sand, dirt or stone from any street, road or sidewalk within the city without permission of the assistant city manager/public works.

**Sec. 74-10. - Removing or damaging bridges.**

It shall be unlawful for any person to remove or damage any bridge along a street or sidewalk in the city.

**Sec. 74-11. - Obstructing or placing refuse in gutters or driveways.**

It shall be unlawful for any person to put or place, or cause to be put or placed, any trash or garbage in any gutter or driveway in the city or to obstruct any gutter or driveway in any manner.

**Sec. 74-13. - Throwing refuse in street; discharging drainage from downspout or air conditioner onto sidewalk.**

(a) It shall be unlawful for any person to put or place, or cause to be put or placed, on any sidewalk or in any street, public way or other place in the city any house sweepings, paper, yard sweepings, leaves, garbage, shavings, trash or other rubbish, except in such places and in such manner as the city council shall prescribe or provide.

(b) It shall be unlawful for the owner of any building erected after August 18, 1958, or with the front thereafter altered or remodeled, located adjacent to a paved sidewalk, to empty water from any downspout on such building directly onto such sidewalk. The downspout water referred to shall be carried by a drain under the sidewalk and emptied into the gutter. The owner shall obtain a permit from the city for the construction of such drain at the owner's expense. This subsection shall not apply to existing downspouts in use as of August 18, 1958.

(c) It shall also be unlawful for the owner of any building maintaining air conditioning units on such building which overhang a sidewalk on which the building abuts, or for a tenant in such building owning an air conditioning unit, to permit water from such air conditioning unit to be discharged directly upon the sidewalk.

**Sec. 74-14. - Hauling rubbish, dirt or other loose material over streets.**

(a) It shall be unlawful to haul over the public streets of the city any rubbish, trash, bottles, cans, brush, wastepaper, dirt, sand, crushed stone or similar material in or upon any vehicle so constructed, equipped or loaded that the material being hauled, or any part thereof, falls, drops, sifts, spills or blows off such vehicle onto the public streets, other vehicles or private property.

(b) It shall be unlawful for any owner to permit anyone to use a vehicle of the owner in violation of subsection (a) of this section.

**Sec. 74-15. - Placing poisonous substances on public or private property.**

It shall be unlawful for any person to place or cause to be placed any strychnine, arsenic or other poisonous substance, mixture or article, not exclusively covered by state law, in or upon any sidewalk, street, public way or public place, or in any lot or building within the city, except upon his own premises.

**Sec. 74-16. - Painting or writing on streets or sidewalks.**

It shall be unlawful for any person to write, paint or place upon the paving or surface of any of the sidewalks or streets of the city any words, pictures or advertisements of any kind whatsoever, or for any person to cause such acts to be done, except for eleemosynary purposes, and then only with specific permission of the city council.

**Sec. 74-17. - Obstructing streets and sidewalks prohibited.**

(a) *Definitions.* As used in this section, the following terms shall have the following meanings:

*Obstruct* means to interfere with pedestrian or vehicular travel by any means, including but not limited to standing or lying on any sidewalk or walkway that is fit for pedestrian travel or placing any object or vehicles whatsoever on such walkway or sidewalk.

*Sidewalk* means any portion of the street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.

*Street* includes all land area for purposes of vehicular travel, improvements, including the improved road surface, sidewalks, curb and gutter, and the entire area lying within the right-of-way of every street, alley, highway, avenue or public square, bridge, via-duct, tunnel and causeway in the city, dedicated or devoted to public use.

(b) *Obstructing sidewalks or streets.* It shall be unlawful for any person to block or obstruct a public street, sidewalk, bridge, or walkway in such a manner as to:

- (1) Prevent or hinder the free passage of pedestrian or vehicular traffic thereon;
- (2) Prevent or hinder free ingress or egress to or from any public building or meeting place or any place of business;



(3) Prevent a pedestrian from traveling along the sidewalk without leaving the sidewalk and walking on adjacent property or onto the street.

(c) *Free speech.* This section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk, to make a speech or engage in any other First Amendment protected activities, provided that such person shall not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on or into the street.

(d) *Severability.* Severability is intended throughout and within the provisions of this section. If any section, subsection sentence, clause, paragraph or portion thereof is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of any of the remaining portions of this section.

(e) *Penalty.* A violation of this section shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00 for each offense.

**Sec. 74-19. - Removal of vegetation from sidewalks and street rights-of-way; abatement.**

(a) As used herein, the term "vegetation" shall mean grass, vines, hedges, shrubs, trees, plantings, limbs, weeds or obnoxious growth.

(b) The owner, tenant or occupant of any lot bordering on any street in the city where there is an abutting sidewalk shall keep all vegetation removed from such sidewalk and shall keep all vegetation bordering thereon properly trimmed so as not to require a pedestrian to take evasive action to avoid physical contact with the same or otherwise hinder the safe passage of pedestrians.

(c) The owner, tenant or occupant of any lot bordering on any street in the city, shall maintain that area of the street right-of-way between the edge of the traveled roadway or curblane and the adjacent property line in a reasonably safe condition and shall remove all vegetation from such area of the street right-of-way which could obstruct the view of such street or intersecting streets by motorists or require motorists to take evasive action to avoid physical contact with the same.

(d) A violation of this section shall be deemed a public nuisance inconsistent with and detrimental to public safety and shall be abated in accordance with the following procedure:

(1) The assistant city manager/public works or his designee shall cause to be sent to the owner, tenant or occupant of such lot, notice of the violation.

(2) The individual(s) receiving notice shall have ten days from the date of the notice to correct the deficiencies listed therein.

(3) If the individual(s) receiving notice does not correct such deficiencies, the assistant city manager/public works or his designee shall have authority to remove and correct them.

(4) The expense of such action shall be billed to the individual(s) receiving notice. If the bill is unpaid after 30 days and the owner has been noticed [notified] of the violation as provided in subsection (1) above, the amount of the bill shall become a lien upon the land or premises where the deficiencies arose. A lien established pursuant to this subsection shall have the same priority and be collected as unpaid ad valorem taxes. The expense of the action is also a lien on any other real property owned by the person in default within the city limits or within one mile of the city limits, except for the person's primary residence. The additional lien established pursuant to this subsection is inferior to all prior liens and shall be collected as a money judgment. This subsection, as it relates to the additional lien, shall not apply if the person in default can show that the nuisance was created solely by the actions of another.

**Sec. 74-20. - Use of skateboards, coasters and similar devices in central business district.**

Except as otherwise provided, it shall be unlawful for any person to coast on a sled, coaster express wagon or toy wagon or move or skate on any roller skates, skateboard or other similar device upon any public street, right-of-way, sidewalk, park or other public property located in the central business district of the city as shown on the official zoning map of the city adopted as part of the city zoning ordinance by the city council.

**Sec. 74-22. - Approval of plans required for construction in right-of-way.**

It shall be unlawful for any person to install any drainpipe or ventilation pipe or do any type of construction in the street right-of-way without first submitting the plans for such work to the assistant city manager/public works for his approval.

**Sec. 74-23. - Charging for use of street.**

It shall be unlawful for any person, with the exception of the city, to charge any other person for the use of any portion of any public street within the city limits.

**Sec. 74-25. - Playing games on street or sidewalk; throwing stones or other missiles.**

It shall be unlawful for any person to play any game on any sidewalk or in any street or public alley so as to cause a traffic problem, so as to endanger the safety of any person, or so as to create a nuisance to drivers, pedestrians, owners or occupiers of adjacent property, unless such sidewalk, street or alley shall have been designated as closed for a parade or special event approved pursuant to the applicable sections of chapters 38 and 74, and by the city recreation and parks commission, where required." Additionally, it shall be unlawful for any person on roller skates, inline skates, or a skateboard or while riding in or on any sled, coaster, toy vehicle or similar device to go upon any street or public alley so as to impinge upon the normal flow of vehicular or pedestrian traffic. Further, it shall be unlawful to throw stones, gravel, marbles, shot or any other object with a sling, shooter, blowgun, air gun or other device of like kind.

**Article III. Obstructions.**

**Sec. 74-92. - Porches, steps, fences and other structures.**

(a) *Prohibited generally.* It shall be unlawful for any person to build, erect, construct or place any porch, steps, fence, wall or other obstruction whatsoever in or on any of the streets, sidewalks or public alleys of the city. Each day any such obstruction is allowed to remain, beginning on the tenth day after notice was given by the chief of police or the assistant city manager/public works or his designee to remove the obstruction, shall constitute a separate offense.

(b) *Directional signs installed by Old Salem, Inc.* It shall be lawful for small directional signs to be installed and maintained on any of the streets, sidewalks or public alleys of the city by Old Salem, Inc., giving the public information as to the location of Old Salem. The installation and maintenance of these directional signs shall be subject to the following conditions:

(1) Old Salem, Inc., shall furnish and install these signs or markers, at its expense, at locations approved by the assistant city manager/public works.

(2) These signs shall be installed on metal standards or posts, and not attached to telephone or power poles. They shall be installed, insofar as possible, on the back side of the sidewalk, and in no case closer than to the back edge of the street curbing. The bottom of any sign shall be at least seven feet above the sidewalk.

(3) These signs shall be installed at locations which will not obscure the view of any street sign or traffic sign.

(4) Old Salem, Inc., shall be responsible for the installation, maintenance and upkeep of these signs, and shall protect and hold the city harmless against any cost, damage or expense arising from or growing out of the installation and maintenance of the signs.

(5) Any signs so installed shall be removed by Old Salem, Inc., at the request of the city should it be found necessary at any time for the city to use the space occupied by any sign or for any other necessary public purpose.

**Sec. 74-93. - Notification of city prior to erection of stone, brick or concrete wall abutting street.**

It shall be unlawful for any person to begin the construction of any stone, brick or concrete wall abutting on any public street within the city without having first given the assistant city manager/public works 24 hours' notice in writing of his intention to do so.

**Sec. 74-94. - Awnings.**

(a) *Permit required; conditions for issuance.* An encroachment permit is required for any awning which projects over any public street or sidewalk. The permit shall be issued by the assistant city manager/public works or his designee subject to the requirements or conditions stated in subsection (b) of this section and upon his determination that such awning does not or would not:

- (1) Be detrimental to the public health or safety; or
- (2) Impair the free flow of pedestrian or vehicular traffic.

(b) *Standards; correction of deficiencies.* By applying for and accepting the benefit of any such permit issued by erecting such awning, the permittee agrees that:

- (1) All such awnings shall comply with the state building code requirements.

- (2) All such awnings shall be maintained free of tears, holes or breakages.

In the event of a deficiency in maintenance, the permittee shall be so notified by the assistant city manager/public works or his designee in writing. Upon the permittee's failure within 30 days to correct any and all such deficiencies or to remove the awning, the assistant city manager/public works or his designee may remove the awning and may go upon the permittee's property and do any and all things necessary to accomplish its removal. The costs of such removal shall be paid to the city by the permittee within 30 days of its removal.

(c) *Compliance by contractors.* It shall be unlawful for any awning contractor or workman to erect any awning or shed which does not conform to the requirements of this section.

(d) *Compliance by owners and occupants.* It shall be unlawful for the owner or occupant of the building to which any awning is attached to erect or permit to remain any awning or shed which does not comply with the requirements of this section.

(e) *Continuing violations.* Each day such unlawful obstruction is allowed to remain, after notice by the assistant city manager/public works, the superintendent of inspections or the chief of police to remove the obstruction, shall be a separate and distinct offense.

#### **Sec. 74-95. - Placing or storing materials on street or sidewalk.**

(a) *Building materials, boxes, crates, etc.* It shall be unlawful for any person to place in any street or alley or upon any sidewalk any building material, boxes, casks, stone, barrels, crates or other obstruction, and each day any such obstruction is permitted to remain, after notice to remove, shall constitute a separate offense; provided that this subsection shall not apply to any builder who has a permit to place material on streets or sidewalks.

(b) *Wood and coal.* It shall be unlawful for the purchaser, seller or any person in charge of any coal, firewood or fuel to place or permit such fuel to remain in any street after dark. It shall be unlawful for any person to permit any such wood, coal or fuel to remain in any street, at any time, so as to obstruct free passage in the street.

(c) *Skids and planks for receiving goods.* Merchants or other persons who obstruct the sidewalks by placing skids or planks across the sidewalk for the purpose of receiving goods are required to remove such skids or planks as soon as the goods are loaded or unloaded, and any such person failing to promptly remove such skids or planks shall be guilty of violating this section.

**Sec. 74-96. - Sale or display of goods on sidewalk.**

Except as provided in Articles IX and X of this chapter, it shall be unlawful for any person to obstruct entirely or in part any right-of-way, street or sidewalk of the city by displaying, offering for sale, or selling, at auction or otherwise, any goods, wares, merchandise thereon.

**Sec. 74-97. - Cellar doors and other openings in sidewalk—Generally.**

(a) *Standards.* Every cellar door or cellar covering which shall be made or constructed in the pavement or sidewalk of any street in the city shall:

- (1) Be placed upon the same level as the surface of such pavement or sidewalk;
- (2) Be of approved and substantial materials;
- (3) Be securely fastened; and
- (4) Be properly guarded or barricaded when open.

(b) *Application for permit.* Before any opening shall be made in the sidewalk for a cellar door or covering, application shall first be made to the assistant city manager/public works, and the application shall set forth such information as to the location and plans for the construction thereof as the assistant city manager/public works shall require.

(c) *Approval required.* No cellar door or cellar covering and no opening therefor shall be made or constructed until the approval of the assistant city manager/public works has been obtained.

(d) *Maintenance.* Every cellar door, cellar covering, sidewalk light or sidewalk door constructed in the pavement or sidewalk of any street in the city shall be kept in good repair at all times.

**Sec. 74-98. - Same—Failure to comply with order to repair.**

Any person, whose duty it is to keep a cellar door, cellar covering, sidewalk light or sidewalk door in repair, as provided in section 74-97, who shall fail or refuse to do so after three days' notice by the assistant city manager/public works, or any person under his authority, shall be guilty of a violation of this Code.

**Sec. 74-99. - Obstructing private alleys.**

(a) *Prohibited.* Private alleys abutting separate lots belonging to separate owners and which may be used for the collection of garbage and for other purposes shall not be obstructed by either the abutting owner or by any other person, and such obstruction, either by a parked vehicle or otherwise, is hereby prohibited.

(b) *Exception.* The provisions of subsection (a) of this section shall not apply to private alleys or driveways completely under the control of and subject to the sole use of a single property owner.

(c) *Complaints; notice to remove obstruction.* Any person aggrieved by a violation of this section shall report his complaint to the police department, whereupon a representative of the police department shall notify the person violating subsection (a) of this section that a complaint has been made and notify such violator to obey and remove the obstruction within 12 hours. If the obstruction is not abated or removed within 12 hours from the time such notice is given, then the aggrieved person may obtain a criminal warrant, charging a violation of this section.

**Sec. 74-100. - Acts or conditions necessitating special cleaning or repair of street, sidewalk or storm drain—Prohibited.**

(a) Any act, neglect or omission, or any condition caused or allowed to continue, which creates or results in causing a condition in or upon any public street, sidewalk or storm drain which requires special cleaning or repair of such street, sidewalk or storm drain is hereby prohibited.

(b) Prohibited acts, neglects, omissions and conditions which result in requiring special cleaning or repair shall include but shall not be limited to:

(1) The hauling of dirt, debris or materials removed from the sites of construction or reconstruction of buildings or structures, or waste materials of any kind, in such manner that any portion of such dirt, debris or materials is spilled, lost, dropped or left upon the streets or sidewalks.

(2) The depositing or leaving upon the streets or sidewalks of mud, dirt or any other material as a result of the use of trucks, construction equipment or machinery, regardless of whether such materials are spilled, lost or dropped in transit or are deposited upon the surface of the street or public property by the tires or wheels of such trucks, construction equipment or machinery.

(3) The grading of lots, land or driveways at elevations higher than street or sidewalk level or any other acts, neglects or conditions created or allowed to exist upon such property which result in mud, dirt, soil, gravel, debris or other materials being washed onto city streets or sidewalks or into the city storm drainage system.

(c) Special cleaning or repair of streets, sidewalks and the storm drainage system shall be deemed to be required when their condition is such that the public health, safety, welfare or public use of the streets, sidewalks or storm drainage facilities is threatened, limited or impaired; the use and enjoyment of property abutting such streets or sidewalks is diminished or limited; or substantial damage is caused to the streets, sidewalks or drainage facilities or to such abutting property. The words "special cleaning or repair," as used in sections 74-100 through 74-102, shall include resurfacing, restoration of gravel and similar repairs made necessary by prohibited acts, neglects or conditions.

**Sec. 74-102. - Same—Penalty for violation of section 74-100 or 74-101; payment of costs.**

(a) Any person who violates section 74-100 or 74-101 shall be guilty of a misdemeanor.

(b) Any person whose act, neglect or omission, or who, by permitting a condition to continue, whether done or neglected directly or through an agent, servant or employee, causes additional expense to the city for necessary special street, sidewalk or storm drain cleaning or repair shall reimburse the city for its expense upon receipt of an itemized statement of expense submitted by the city, and upon failure to reimburse the city shall incur and be liable to the city for a civil penalty of \$200.00.

(c) The public works department shall send to any person responsible for additional expense to the city an itemized statement of the expense incurred and a request for reimbursement. The city attorney is authorized to bring suit in the name of the city to recover any such unpaid penalties.

**Article IV. Excavations.**

**Sec. 74-131. - Permit required.**

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 the assistant city manager/public works or some other officer of the city vested with authority to grant the permit.

**Sec. 74-135. - Failure to comply with permit; working under expired or revoked permit.**

It shall be unlawful for any person to neglect or refuse to comply with the provisions of the permit required by this article, or to make any excavation, do any work or continue the excavation or work after the expiration or revocation of the permit.

**Sec. 74-137. - Failure to comply with requirements of assistant city manager/public works.**

Any person refusing or failing to comply with the requirements of the assistant city manager/public works as provided in this article shall be guilty of a violation of this article. Where such failure or refusal is continued after notice from the assistant city manager/public works, every day's continuance shall constitute a separate and distinct offense.

**Sec. 74-138. - Failure to restore street surface.**

Upon failure to restore the street surface as provided for in section 74-136, the city, under the supervision of the assistant city manager/public works, may restore such street surfacing and charge therefor in accordance with the schedule of fees as set out in section 74-141.

**Sec. 74-139. - Guardrails and signal lights.**

It shall be unlawful for any person to make any excavation or do any work which may create or cause a dangerous condition in or on or near any street, alley, sidewalk or public place of the city, without placing and maintaining proper guardrails and signal lights, or other warnings, at, in or around the excavation or other work, sufficient to warn the public of such excavation or work, and to protect all persons using reasonable care from injuries on account of the excavation or other work.

**Sec. 74-140. - Dangerous excavations near street or sidewalk.**

It shall be unlawful for any person to make or cause to be made any excavations on any lot contiguous to any street or sidewalk, so negligently made or maintained that the excavation, by caving in or otherwise, may in any manner endanger or injure such street or sidewalk or the persons using the street or sidewalk.

**Sec. 74-141. - Street permit and restoration fees.**

Any person who desires a permit for any excavation in the paved or surfaced streets or public ways of the city shall be required to obtain a written permit from the assistant city manager/public works or some other authorized officer of the city and shall pay in advance, upon application for the permit, a minimum fee of \$300.00 for each excavation. The schedule of charges to be made by the city for restoring any paved street surface shall be the following:

- (1) City maintained street:
  - a. A minimum fee of \$300.00 or \$7.25 per square foot for an area 90 square feet or less, whichever is greater; or
  - b. \$4.75 per square foot for an area greater than 90 square feet.
- (2) State maintained street:
  - a. A minimum fee of \$300.00 or \$8.75 per square foot for an area 90 square feet or less, whichever is greater; or
  - b. \$8.25 per square foot for an area greater than 90 square feet.

**Sec. 74-142. - Sidewalk permit and restoration fees.**

Any person desiring to make any excavation in any brick or concrete paved sidewalk or driveway along the public streets, alleys or public property of the city shall be required to obtain a written permit from the assistant city manager/public works or his authorized representative. The permit fee, payable in advance for sidewalk, driveway, or curb and gutter excavations, shall be a minimum of \$400.00 for each excavation. Restoration of sidewalk, driveway pavement, or curb and gutter shall be made in full units or blocks as originally marked off. The schedule of charges to be made by the city in restoring any brick or concrete sidewalk, driveway pavement, or curb and gutter if the same is not restored in accordance with the provisions of sections 74-136 through 74-138, shall be as follows:



(1) A minimum fee of \$400.00 for concrete sidewalk repaired up to 25 square feet plus \$7.00 per square foot for an area exceeding 25 square feet.

(2) A minimum fee of \$400.00 for concrete driveway repaired up to 20 square feet plus \$8.00 per square foot for an area exceeding 20 square feet.

(3) A minimum fee of \$400.00 for brick sidewalk repaired up to 20 square feet plus \$8.00 per square foot for an area exceeding 20 square feet.

(4) A minimum fee of \$400.00 for concrete curb and gutter repaired up to ten lineal feet plus \$30.00 per lineal foot for an area exceeding ten lineal feet.

**Sec. 74-143. - Utility excavation permit required; fee.**

It shall be unlawful for any person to make any excavation, or do any other work in or on any street, alley, sidewalk, public way or public place in the city, for the purpose of any utility construction, unless a written permit therefor shall have first been obtained from the assistant city manager/public works or some other officer of the city vested with authority to grant the permit. The fee for the permit required by this section shall be \$340.00 per site of continuous installation of utility line. If construction is begun prior to obtaining the permit required by this section, the permit fee shall be \$680.00 per site.

**Sec. 74-144. - Failure to obtain or comply with utility excavation permit.**

Upon failure of the permittee to comply with all the terms and conditions of the utility excavation permit issued pursuant to section 74-143, or upon failure to secure the permit required by section 74-143, the city, under supervision of the assistant city manager/public works, may remove, relocate or otherwise correct the utility construction and charge the cost thereof to the permittee or party failing to secure the required permit.

**Article V. Paving Streets and Sidewalks.**

**Sec. 74-178. - Closing of streets under construction; use of closed streets prohibited.**

(a) For the protection of the public and for the protection of the construction work in the city, the assistant city manager/public works is authorized to close any public alley, sidewalk or street on which the city or any contractor is engaged in doing excavating, ditching, grading, paving, repairing or any other engineering or construction work, or any other public works functions, when, in his opinion, he deems it necessary for the protection of the public or for the protection of the construction work of the city. The necessity for the closing of such public alley, sidewalk or street, the portion thereof to be closed, and the time during which it shall remain closed are hereby placed in the discretion of the assistant city manager/public works.

(b) It shall be unlawful for any person other than approved workers to go upon or drive any vehicle over any part of a public alley, sidewalk or street which has been closed by order of

the assistant city manager/public works, when reasonable notice of such fact is given by sufficient warnings or barriers.

## **Article IX. Pushcart, Pedestrian and Mobile Vendors; Special Events.**

### **Sec. 74-274. - Vendor's permit required.**

It shall be unlawful to sell, or offer for sale, any food, beverage or merchandise on foot or from any pushcart or mobile food unit on any right-of-way, street, sidewalk or public park within the city without first obtaining a permit therefore, pursuant to the provisions contained in this article, from the community development department. All persons who sell or offer for sale any food, beverage or merchandise from any licensed pushcart or mobile food unit shall display a city-issued identification badge. In addition to complying with this article, the vendor shall also comply with all applicable time, manner and place restrictions set forth in chapters 34, 38, 46 and 74 of the city code.

### **Sec. 74-277. - Vending of food from mobile food units and pushcarts.**

(a) Vending of food and drink from licensed mobile food units is permitted throughout the city, with the following exceptions:

(1) No mobile food unit shall vend food or drink within the public right-of-way of the primary pushcart vending area as defined in section 74-272, except that mobile food units may vend within the boundaries of construction sites.

(2) No mobile food unit shall vend within any designated historic district as defined in the city zoning ordinance.

(b) Vending of foods, beverages and merchandise from pushcarts is permitted on any sidewalk in the primary pushcart vending area as defined in 74-272, and on that city property directly adjacent to the eastern boundary of that building known as the City Market, and at other locations throughout the city. Applications submitted for pushcarts outside the primary pushcart vending area must contain written permission from the adjacent property owner prior to consideration by the assistant city manager for public works. All pushcart locations, in or out of the primary pushcart vending area, must be approved by the assistant city manager for public works, per criteria defined in section 74-278; and shall be subject to the regulations contained in this article, as well as by applicable zoning regulations, except as otherwise provided in this Code. No pushcart shall vend in any area zoned "H" Historic District, or in that area on the south side of 1<sup>st</sup> Street between 4<sup>th</sup> and Broad Streets.

### **Sec. 74-278. - Prohibited conduct by vendors.**

(a) No vendor shall:

(1) Vend within 300 feet of any hospital, city park (except Winston Square Park and the Wayne A. Corpening Plaza, where no vending will be permitted within 50 feet of

the park or plaza), city lake or city recreational area, except with city approval, in connection with an approved event.

(2) Vend within 300 feet of any church, while such church is holding a religious service.

(3) Vend food within 50 feet of the entrance to any then-operating restaurant at the time the permit is issued.

(4) Vend on any street or sidewalk where vending is prohibited by zoning or otherwise.

(5) Vend between 9:00 p.m. and 7:00 a.m. of the following day in locations outside the primary pushcart vending area, and between the hours of 3:00 a.m. and 7:00 a.m. in that portion of the primary pushcart vending area zoned pedestrian business.

(6) Leave any pushcart or mobile food unit unattended.

(7) Store, park or leave any pushcart overnight on any street or sidewalk, or park any mobile food unit other than in a lawful parking place in conformance with city and state parking regulations.

(8) Sell food or beverages for immediate consumption unless he has available for public use his own or a public litter receptacle which is available for his patrons' use and no more than ten feet distant from his pushcart or mobile food unit.

(9) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made.

(10) Allow any items relating to the operation of the vending business to be placed anywhere other than in, on or under the pushcart or mobile food unit.

(11) Set up, maintain or permit the use of any table, crate, carton, rack or other device to increase the selling or display capacity of his pushcart or mobile food unit.

(12) Solicit or conduct business with persons in motor vehicles.

(13) Sell anything other than that which he is licensed to vend.

(14) Sound or permit the sounding of any device which produces noise, or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract the attention of the public, except for mobile ice cream units per section 46-35.

(15) Vend without the insurance coverage specified in section 74-275(7).

(b) No foot peddler or vendor selling from a pushcart on the sidewalk shall:

(1) Vend at any location where, following the installation of the pushcart, the remaining unobstructed width of the sidewalk is less than five feet.

(2) Vend within ten feet of an entranceway to any building.

(3) Vend within 50 feet of any driveway entrance to a police or fire station, or within ten feet of any other driveway or of any alley.

(4) Vend within ten feet of the crosswalk at any intersection.

(5) Vend within 20 feet of any bus stop sign.

(6) Vend within ten feet of any fire hydrant or fire escape.

(7) Allow the pushcart or any other item relating to the operation of the vending business to lean against or hang from any building or other structure lawfully placed on public property, without the owner's permission.

(8) Vend within 50 feet of another foot peddler or pushcart.

The regulations enumerated in this subsection shall not apply to pushcart vendors on that city property directly adjacent to the eastern boundary of that building known as the City Market.

(c) It shall be unlawful for any foot peddler to sell or for any person to maintain any pushcart upon any street or sidewalk which impedes, endangers or interferes with the travel upon or use of the street or sidewalk. If it becomes necessary for the regulation of traffic or the safety or convenience of pedestrians, any law enforcement officer of the city may direct vendors to temporarily remove to another location. No person may refuse to comply with a lawful order of a law enforcement officer when the order is given under the authority of this section.

(d) No vendor vending from a mobile food unit shall:

(1) Conduct his business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion or delay, or constitute a hazard to traffic, life or property or an obstruction to adequate access for fire, police or sanitation vehicles.

(2) Stop, stand or park his vehicle upon any street, or permit it to remain there, except on the roadway at the curb for the purpose of vending therefrom.

(3) Stop, stand or park his vehicle upon any street for the purpose of selling, or sell on any street, under any circumstances, during hours when parking, stopping or standing has been prohibited by signs or curb markings or is prohibited by statute or ordinance.

(4) Stop, stand or park his vehicle within 50 feet of any intersection, except that vehicles vending products likely to attract children as customers shall park curbside when stopping to make a sale, as close as possible to a pedestrian crosswalk without entering the intersection or otherwise interfering with the flow of traffic.

(5) Remain in any one block more than three hours during any 24-hour period.

**Sec. 74-279. - Size requirements for pushcarts.**

No pushcart shall exceed 36 inches in width or 72 inches in length. No pushcart shall exceed 60 inches in height. An exception to the size requirement may be approved by the assistant city manager for public works, if, in his or her professional opinion, a larger pushcart would not be drastically larger than the normal maximum dimensions, would not create a safety issue and would not reduce pedestrian access to a less than minimally acceptable amount. Any covering for a pushcart shall be limited to a single mast umbrella, attached to the pushcart. The umbrella shall be at least 78 inches in height at its lowest point, and shall not exceed eight feet in diameter when fully opened. Tent-like structures or canopies supported by multiple posts are specifically prohibited.

**Sec. 74-280. - Safety requirements for mobile food units.**

All mobile food units in or from which food is prepared or sold shall comply with the following requirements:

(1) All equipment installed in any part of the vehicle shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.

(2) All utensils shall be stored in a manner to prevent their being hurled about in the event of a sudden stop, collision or overturn. A safety knife holder shall be provided to avoid loose storage of knives.

(3) Compressors, auxiliary engines, generators, batteries, battery chargers, gas-fueled water heaters and similar equipment used in the storage, preparation or vending of food shall be installed so as to be accessible from outside the vehicle.

(4) All health rules and regulations in 10 N.C.A.C. chapter 10, subchapter 10A, as amended, and any other applicable statutory provision shall be complied with.

**Sec. 74-281. - Display of badges and permits by vendors.**

All permits and badges shall be displayed at all times during the operation of the vending business.

**Sec. 74-282. - Foot peddlers.**

Notwithstanding any other provision of this article, persons vending such items as balloons, pennants, tickets, newspapers or other items which, by their very nature, need no pushcart for storage and display, shall not be required to use a pushcart therefor. Such persons must, however, obtain a foot peddler's license pursuant to this article and must produce it for inspection upon request. A peddler selling on foot without a pushcart or vehicle may sell his goods in any location where a pushcart vendor with a permit pursuant to this article may sell goods. However, as is this case with pushcart vendors, pursuant to section 74-277(b), and in an effort to preserve the special historic and aesthetic interest and legacy of areas zoned "H" historic district, no foot peddler shall

vend in any area zoned "H" historic district, or in that area on the south side of 1st Street, between 4th and Broad Streets; nor shall any foot peddler sell tickets outside an area zoned "H" historic district, or that area on the south side of 1st Street, between 4th and Broad Streets, for any event or tour intended to take place within. Such foot peddler shall comply with all the pushcart vendor requirements of this article, including all permit application requirements, and shall pay a permit application fee of \$25.00, in lieu of the \$85.00 (\$75.00 plus \$10.00) prescribed by section 75-275, but shall not have to meet the requirements pertaining particularly to pushcarts, such as those pertaining to the size requirements for pushcarts. However, unlike the requirement for pushcart vendors and foot peddlers, generally, in section 74-277(b), applications submitted by foot peddlers to conduct tours outside the primary pushcart vending area need not contain written permission from adjacent property owners prior to consideration by the assistant city manager for public works. For purposes of this article, foot peddlers shall not include charitable or benevolent non-profit corporations dedicated to the preservation and restoration of areas zoned "H" historic district, such as Old Salem, Incorporated.

**Sec. 74-284. - Special events generally; permit.**

(a) *[Hours permitted; exceptions.]* No person may conduct or otherwise participate in any special event except between the hours of 8:00 a.m. and 9:00 p.m., except for events taking place in the central business district area only as defined by Legacy wherein the hours shall be from 8:00 a.m. until 12:00 midnight.

(b) *Application for permit.* Application for a permit for a special event shall be filed with the community development department on forms provided by the city and shall be accompanied by payment of a permit application fee in the amount set forth below, which amount is based upon the number of events permitted during a 12-month period:

Special event permit (one to two events)\\$50.00

Special event permit (series — three to five events)\100.00

Special event permit (series — over five events)\200.00

The above special event permit fee schedule shall apply to any event permit issued on or after July 1, 2014. All permits issued before said date shall remain valid unless otherwise suspended, withdrawn or revoked. Any proposed increase in the number of events authorized by a previously issued special event permit for an event series will require a new permit and a separate permit fee. For example, the applicant or permit holder already has a permit for a three to five event series. The applicant or permit holder now wants to increase the number of events within the same footprint of the previously approved special event permit from a three to five event series to a ten-event series. Provided the new application is approved, the fee for the additional special event permit will be \$100.00 instead of \$200.00 based upon the increased number of events.

(1) *Filing period.* An application for a special event permit shall be filed with the community development department not less than 30 days before the time when it is proposed to conduct the special event. The community development department shall be in charge of processing the application which process shall include soliciting input from the appropriate city personnel from other city departments including but not limited to the chief of police or his designee.

(2) *Contents.* The application for a special event permit shall set forth the following information:

- a. The name, address, email address and telephone number of the individual and organization applying for a permit.
- b. The name and addresses of persons who will be in direct charge of the special event and be present at the show.
- c. A description of the type of special event and the hours of operation.
- d. The names and portions of the streets to be closed for the purpose of displays and conducting the special event or the name and area of any city park or other public place in which the special event is to be conducted.
- e. An affidavit: (1) stating that every resident and business within the area of the special event was contacted; (2) identifying the specific manner in which contact was made; and (3) listing by name, address, and telephone number, if available, each resident and business contacted. For multi-tenant buildings, it is acceptable to provide information to the building manager or head of the tenant association, provided that person agrees to distribute the information to all tenants and signs an affidavit stating that said information has been distributed as required.
- f. Any additional information which the City of Winston-Salem shall find reasonable and necessary to a fair determination as to whether a permit should be issued.

(c) *Standards for issuance of permit.* The community development department shall issue a permit for a special event upon a finding that the application meets the requirements in this section, that the event will not unduly inconvenience or interfere with the orderly movement of traffic in the area involved, that property owners in the area are not unduly deprived of access to their property, that the event will not unduly interfere with normal business activity within the area of the street occupied by the event, that emergency vehicles will not be denied access to any person or property, and that adequate cleanup arrangements have been made. In addition, if the special event is to be located in a city park or other public place, the community development department shall be satisfied that adequate provisions and accommodations, including but not limited to scheduling accommodations, can be made for conducting such special event.

(d) *Denial or withdrawal of permit.* The community development department shall act upon the application for a special event permit promptly. If the permit is denied, the applicant shall be provided with a statement of the reasons therefore, which reasons shall be entered in writing on the application, and the permit application fee shall not be refunded. A permit issued under this section may be withdrawn or revoked, if not withdrawn, in the event of any violation of conditions or misstatement of fact in the application, or in instances where the health or safety of the citizens will be adversely affected. The applicant of any permit so revoked shall be notified in writing of the revocation and the basis therefore. The denial or revocation of a permit may be appealed by the applicant to the city manager within 48 hours of notification of the denial or revocation. The appeal must be filed with the community development department within the aforementioned time. A hearing before the city manager or his designee shall be scheduled within 48 hours after receipt of the appeal. Within 48 hours after the hearing, the city manager or his designee shall notify the applicant of his decision in writing. The city manager's decision shall be final. No fees shall be refunded for any permit that is withdrawn, denied or revoked.

(e) *Duration of permit.* Where a special event is to be conducted pursuant to a permit issued under this section, such special event may not extend for more than seven successive days without an intervening lapse period of at least one week.

(f) *Vendors.* No sale of arts, crafts, food or other tangible items shall be permitted within the street or sidewalk area during the special event except under the auspices and control of the entity receiving the permit. Such entity shall be fully responsible for compliance with rules, regulations and ordinances of the city with respect to the special event being conducted pursuant to a permit issued thereunder. No vendor's permit shall be required for any exhibitor or vendor participating in a special event permitted by this section, nor, in order to avoid the interruption of the special event, shall any vendor's permit issued pursuant to this article be valid in the area of such special event while it is in operation.

(g) *Criteria required.* A special event permit may be provided for an event series, provided the series meets each of the following criteria:

- (1) Each event in the series is conducted by the same entity.
- (2) Each event in the series occurs in the same location or locations as specified in the application for a permit for a special event.
- (3) The dates for each event in the series are predetermined and stated in the application for a special event permit, and such dates do not exceed 52 per year.
- (4) The traffic control plan for each location remains the same, unless amended with the approval of department of transportation.
- (5) The issuance of a special event permit for a series shall be valid for the duration of the series specified in the application for the permit, not to exceed 12 months.
- (6) If the event fails to take place on two or more consecutive dates specified in the application, for reasons other than those beyond the control of the permit holder, i.e. weather, national disaster, etc., then the permit shall be canceled effective on the last date the event was held. No permit fees will be refunded.

(h) *Animals prohibited; exceptions.* Notwithstanding any other provision of this Code to the contrary, no animal, except for appropriately restrained seeing eye dogs, shall be permitted on any street or sidewalk area closed for a special event pursuant to this article unless the animal is part of a bona fide exhibit being operated at the special event or parade.

(i) *Sound amplifying equipment prohibited; exceptions.* Pursuant to city code section 46-33, an application must be filed with the community development department and the same approved before any sound amplifying equipment or a sound truck or other conveyance may be used in conjunction with a special event. Otherwise, the use of such sound amplifying equipment, sound truck or other conveyance is prohibited unless the sound amplifying equipment is being operated so that the sound from said equipment may be heard only through earphones.

(j) *Inspection/release/indemnity.* The applicant, as a condition to receiving a special event permit, must sign an agreement that contains the following:



(1) A statement accepting "AS IS" the area where the special event is to be located;

(2) A statement releasing and discharging the city, its officers, agents and employees, from any and all claims, demands, expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage arising out of the special event, except those claims that were proximately caused by the negligence of the city or of a city employee acting within the scope of his employment with the city; and

(3) A statement in which the applicant agree to indemnify, defend and hold harmless the city, its officers, agents and employees from and against any and all claims, demands expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage to the extent proximately caused by the intentional, negligent or reckless acts or omissions of the applicant, and its agents, officers, employees or guests, in the performance of the special event.

(k) *Insurance.*

(1) If the special event is to take place in the central business district, as defined by legacy, the applicant shall secure commercial general liability insurance to protect the applicant against any and all claims, demands expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage to the extent proximately caused by the negligent acts or omissions of the applicant, and its agents, employees or guests, in the performance of the special event. The insurance shall also include coverage for liquor liability, explosion, collapse, and underground hazards, where applicable. This insurance shall provide bodily injury and limits of not less than \$1,000,000.00 for each occurrence and property damage limits of not less than \$1,000,000.00 for each occurrence. All insurance required under this subsection shall be written with a company licensed to do business in North Carolina. Such insurance shall name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date except upon 30 days advance written notice to the city. Certificates of insurance for all of the insurance coverages described herein shall be submitted with the application for the permit.

(2) If the special event is to take place outside of the central business district, as defined by legacy, the applicant shall secure the insurance required by subsection (1) if the applicant intends to provide any commercial services within the city's right-of-way. Commercial services shall be any paid for service, or service normally offered in return for payment, and shall include, but shall not be limited to, services such as caterers, live entertainment or inflatable bounce houses or rooms. The applicant may have the provider of the commercial services join on the application and include the commercial services provider's certificate of insurance to satisfy this requirement.

(3) If the applicant is the State of North Carolina, or an agency thereof such as, but not limited to, Winston-Salem State University or the North Carolina School of the Arts, the City will accept a certificate of coverage issued by the North Carolina Department

of Insurance pursuant to the North Carolina State Tort Claims Act, in lieu of the commercial general liability insurance required in subsection (1) above.

**Sec. 74-285. - Peddling of fresh farm products prohibited in primary pushcart vending area; exceptions.**

(a) It shall be unlawful for any person to peddle fruit, vegetables, eggs, meats, flowers or other farm products upon any of the streets of the city within the primary pushcart vending area as defined in section 74-272.

(b) This section shall not be construed to prevent the sale from pushcarts or mobile food units of individual items of fresh fruit for immediate consumption.

(c) This section shall not be construed to prohibit the sale or delivery of such products to stores or markets. In inclement weather such products may be peddled in the tobacco warehouses of the city when permission is given therefor by the proprietor of the warehouse.

**Sec. 74-286. - Sale of food or other merchandise in public parks, stadiums and recreation areas.**

Except in the case of an special event under a valid permit, it shall be unlawful for any person to sell or offer for sale any food, beverage or other merchandise of any description within the boundaries of any public park, stadium or recreational area, including city lakes, owned or operated by the city, whether within or without the corporate limits of the city, unless such person is acting within the scope of his employment as an employee of the city or is duly authorized to sell such merchandise at the place where it is being offered for sale under a valid subsisting contract or agreement between such person and the city or a commission or agency of the city.

**Article X. Sidewalk Cafes.**

**Sec. 74-291. - Definitions.**

The following definitions shall apply within this article:

*Pedestrian way* means an improved walk or passageway, not adjacent to any city street, intended for use by pedestrians.

*Restaurant* means an establishment engaged in the business of regularly selling food or beverages customarily, but not exclusively, to be consumed on the premises, including businesses that are commonly referred to as restaurants, cafeterias, cafes, lunch stands, grills, taverns, snack bars, fast food businesses, and other establishments, such as drug stores, which have a lunch counter or other section where food is sold. This definition does not include food vendors under article IX, chapter 74 of this Code. While the definition of beverages includes malt beverages, unfortified wine and other alcoholic beverages, this section does not permit the consumption of such beverages away from the premises of the establishment if such is otherwise prohibited by local or state law.

*Restaurant operator* means a person, firm, or corporation who owns or operates a restaurant and any associated sidewalk cafe.

*Sidewalk* means that portion of a public street between the curb line, or the lateral lines of a roadway if there is no curb, and the adjacent property line or street right-of-way line that is intended for the use of pedestrians.

*Sidewalk cafe* means that portion of the dining operation of a restaurant that extends into the sidewalk or pedestrian way pursuant to a permit authorized by this article.

**Sec. 74-292. - Sidewalk cafe; permit applications.**

(a) *General.* Notwithstanding any other provisions of this Code to the contrary, sidewalk cafes shall be permitted at such locations and subject to such regulations as are set forth in this article.

(b) *Permit required.* No restaurant may extend its dining operations into a sidewalk or pedestrian way without first obtaining a permit therefor in accordance with the requirements of this article.

(c) *Application.* Any restaurant operator desiring to operate a sidewalk cafe shall prepare and file an application with the community development department which shall contain all of the following information:

(1) The name, address and telephone number of the restaurant owned or operated.

(2) The name, address and telephone number of the restaurant operator. If a restaurant is operated by a person, firm, or corporation who is not the owner, the application shall be submitted by both, jointly.

(3) The types of food and beverages to be sold or served at the sidewalk cafe.

(4) The hours of operation of the restaurant and the proposed hours of operation of the sidewalk cafe.

(5) A site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk cafe and the section to be kept clear for pedestrian use, and depicting the proposed placement of tables, chairs, barricades and other furnishings within the sidewalk or pedestrian way.

(6) Evidence of insurance and a statement of indemnity as required by this article.

(7) A copy of all permits and licenses issued by the State of North Carolina, Forsyth County, or the city necessary for the operation of the restaurant business or for the construction or alteration thereof, or a copy of the application for such permit if no permit has been issued. No sidewalk cafe permit shall be approved until all other required permits and licenses have been obtained.

(8) A sworn statement describing any violation by the restaurant operator of any laws, regulations or ordinances relating to the possession, sale, consumption or

transportation of intoxicating beverages or controlled substances during the five years immediately preceding the date of the permit application.

(9) Such additional information as may be requested by the community development department to determine compliance with this article.

(10) A permit application fee of \$100.00.

(d) *Issuance of permit.* No permit for the operation of a sidewalk cafe may be issued unless the application is complete and the following requirements are met:

(1) The restaurant to which the sidewalk cafe is associated must be located within the central business or pedestrian business zoning districts.

(2) The sidewalk cafe must share the same management and same food preparation facilities as the restaurant to which it is associated. The sidewalk cafe must be operated under the same name as the restaurant and may not be open or operated at any time when the restaurant is not open for business. Sidewalk cafes may operate at any time between the hours of 6:00 a.m. and 1:00 a.m. Sunday through Wednesday, and 6:00 a.m. to 2:00 a.m. on North Carolina state holidays, Thursday, Friday and Saturday. At the end of each business day the restaurant operator shall clean and remove all refuse from the sidewalk cafe area.

(3) The operation of the sidewalk cafe must be clearly incidental to the associated restaurant business. The seating capacity of the sidewalk cafe may not constitute more than 50 percent of the interior seating capacity of the restaurant.

(4) The placement of tables, chairs, and other furnishings, as shown on the site plan must leave five feet of unobstructed space (in the case of a sidewalk, as measured from the street-side edge of the sidewalk, and in the case of a pedestrian way, as measured from the edge of the pedestrian way farthest from the sidewalk cafe) on the sidewalk or pedestrian way for the passage of pedestrians. Fire exits or lanes and wheelchair ramps must remain free of obstructions at all times.

(5) The restaurant seeking to operate a sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for such sidewalk cafe. The placement of tables, chairs, and other furnishings may not extend beyond the sidewalk or pedestrian way frontage of the associated restaurant unless permission of the abutter to do so has been granted to the restaurant operator in writing and filed with the community development department.

(6) In the event that any local, state or federal law or regulation requires the area designed for the sidewalk cafe be physically separated from the remaining sidewalk or pedestrian way by a barricade, then such barricade must be constructed of materials of a finished quality, including, but not limited to, wrought iron, planters, picket fences, or velvet ropes. No signs shall be placed on the barricades. Amplified or live music emanating from the restaurant operation or the sidewalk cafe shall not be able to be heard further than 50 feet from the barricades or the perimeter of the sidewalk cafe in the absence of a barricade.

(7) The tables, chairs, barricades, and other furnishings used in the sidewalk cafe shall be of a type that is easily removed from the public right-of-way. If the permit is revoked, table, chairs, barricades and other furnishings used in the operation of the sidewalk cafe must be removed within 24 hours notice from the city, and if not so removed,

the city shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The city shall also have the right to remove any and all such items immediately in emergency situations. The city shall not be responsible for damage to such barricades or furnishings under any circumstances.

(8) Except as elsewhere permitted, the operation or furnishing of the sidewalk cafe shall not involve any permanent alteration to or encroachment upon any sidewalk or pedestrian way. The restaurant operator of the sidewalk cafe shall be responsible for repairing any incidental damage to public improvements resulting from its operation.

(e) *Inspection/release/indemnity/insurance.* The restaurant owner, as a condition to receiving a sidewalk cafe permit, must sign an agreement that contains the following:

(1) A statement accepting the sidewalk cafe area "AS IS";

(2) A statement releasing and forever discharging the city, its officers, agents and employees, from any and all claims, demands, expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage arising out of the granting of a permit pursuant to this article, except those claims that were proximately caused by the negligence of the city or of a city employee acting within the scope of his employment with the city;

(3) A statement agreeing to indemnify, defend and hold harmless the city, its officers, agents and employees from and against any and all claims, demands expenses, costs and liabilities of any kind or nature to the extent proximately caused by the intentional, negligent or reckless acts or omissions of the restaurant operator, its agents, officers, employees or guests; and

(4) Evidence that the restaurant operator has secured commercial general liability insurance to protect the restaurant against any and all claims, demands expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage to the extent proximately caused by the negligent acts or omissions of the restaurant operator; its employees, officers or agents. The insurance shall also include coverage for liquor liability, explosion, collapse, and underground hazards, where applicable. This insurance shall provide bodily injury limits of not less than \$1,000,000.00 for each occurrence and property damage limits of not less than \$1,000,000.00 for each occurrence. All insurance required under this subsection shall be written with a company licensed to do business in North Carolina. Such insurance shall name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date except upon 30 days advance written notice to the city. Certificates of insurance for all of the insurance coverages described herein shall be submitted with the application and maintained for the duration of the side walk cafe permit, and any renewals thereof.

(f) *Malt beverages and unfortified wine.* The consumption of malt beverages, unfortified wine and other alcoholic beverages in compliance with all state and local laws and regulations shall be permitted in a sidewalk cafe, and this shall be an exception to the general prohibition of such consumption on street rights-of-way provided in sections 38-6 and 38-9 of the City Code.

(g) *Issuance of permit; denial.* The community development department shall examine the application and determine whether all of the requirements stated in this article for the issuance of a permit have been satisfied. If all such requirements have been satisfied, then the community development department shall issue the permit. If the permit is denied, the applicant shall be provided with the reasons therefor in writing, and the permit application fee shall not be refunded. Except as otherwise provided herein, the permit shall remain valid for one year unless revoked, rescinded, or withdrawn. If all of the information contained within the application, site plan and insurance agreement remains valid and there are no changes, the application and permit may be renewed for one additional year based upon the prior year's application provided the permit holder provides: (i) an updated insurance certificate; and (ii) copies of any additional permits that will need to be updated. A permit may be renewed in this manner a total of three times before the permit holder has to submit a new application. Permits renewed in this manner shall not be issued until the permit holder pays the requisite permit renewal fee of \$25.00 (per renewal).

(h) *Permit revocation.* The community development department may revoke a permit issued pursuant to this article if it is determined that the restaurant operator has:

- (1) Misrepresented or provided false information in the permit application.
- (2) Violated any provision of this article, Forsyth County Health Department regulations, or ABC regulations.
- (3) Violated any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances.
- (4) Operated the sidewalk cafe in such manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare, specifically including failure to keep the sidewalk cafe area clean and free of refuse at end of each business day.
- (5) Failed to maintain any health, business or other permit or license required by law for the operation of the restaurant associated with the sidewalk cafe.
- (6) Failed to comply with the insurance requirements of this section or any other conditions upon which the permit or any renewals thereto was issued.
- (7) Operated the sidewalk cafe in violation of any city, county or state law, ordinance or regulation. Before the revocation of a permit, the community development department shall notify the permit holder of its intent to revoke the permit and the reasons therefor. The permit holder shall have ten days from receipt of such notice to file an written appeal of the proposed revocation, along with a statement of the grounds for the appeal, with the assistant city manager for public works or his designee, who shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the assistant city manager for public works or his designee shall notify the permit holder in writing of his decision and the reasons therefor. The decision of the assistant city manager for public works shall be final.

After the hearing, the assistant city manager for public works or his designee shall notify the permit holder in writing of his decision and the reasons therefor.

(i) *Reservation of rights.* The city reserves the right to require any sidewalk cafe established pursuant to this article to cease part or all of its operation in order to allow for construction, maintenance or repair of any street, sidewalk, utility, or public building by the city,

its agents or employees, or by any other governmental entity or public utility; to allow for use of the street or sidewalk in connection with parades, civic festivals and other events of a temporary nature as permitted by the city; and to remedy a public nuisance or to protect the public health, safety, or welfare.

(j) *Term, transfer, renewal, etc.* Permits issued in accordance with the provisions of this article shall:

(1) Be issued for the period beginning July 1 or thereafter and expiring June 30th of the subsequent year. Any permit issued between January 1, 2014 and June 30, 2014 shall remain effective until June 30, 2015 provided the applicant pays an additional fee of \$65.00 by September 30, 2014. Otherwise, said applicant will have to pay the full \$100.00 permit fee to have the permit extended to June 30, 2015. If a permittee discontinues the restaurant operation or the sidewalk cafe, no refund of the permit fee shall be made.

(2) Be in addition to the annual privilege license required pursuant to chapter 34 of the City Code.

(3) Not be transferable or assignable.

## **Article XII. Street Performers.**

### **Sec. 74-400. - Street performances.**

(a) *Definitions.* As used in this section, the following terms shall have the following meanings:

(1) *City official* is any law enforcement officer or city employee designated to inspect for compliance or enforce the provisions of this section.

(2) *Perform or performance* is audible or visual entertainment such as, but not limited to, reciting or singing, acting, dancing, miming, pantomiming, playing a musical instrument or performing a theatrical or literary work.

(3) *Street performer* is an individual who performs on public property within the City of Winston-Salem. Street performers may also be referred to as buskers.

(b) *Intent and purpose.* The mayor and city council find and determine the following:

(1) Permitting regulated performances by street performers would enhance the character and culture of the City of Winston-Salem. Street performers are engaged in commerce as entertainers who receive gratuities in exchange for the artistic value of the performance.

(2) Street performers have a right to perform on public property, but unregulated street performances are also likely to cause adverse impacts to the community such as: gathering crowds attracted to the entertainment offered in public locations not appropriate for street performances because of insufficient room for crowds; blocked access to fire hydrants, sidewalks and public pathways; blocked ingress and egress of buildings; the risk of disrupting nearby motor vehicle traffic; interference with the operation of commercial activities; and disturbance of the quiet enjoyment of residents.

Street performances are distinguished from panhandling activities by the commercial nature of the performer's actions which provide the benefit of a live performance of artistic value in exchange for gratuities from citizens in appreciation of the performance. Therefore, the nature and character of a street performance differs from solicitation of alms and/or charitable contributions.

(3) For these reasons, it is the intent of the City Council of Winston-Salem to permit street performances in limited locations within the central business district subject to careful regulation in order to reduce or eliminate adverse impacts associated with unregulated or poorly regulated street performances. The purpose of this section is to create a means of regulation which ensures the ability of street performers to perform in public spaces and to promote harmony among street performers, local businesses, permitted special event sponsors, residents and visitors of Winston-Salem by balancing the interests of performing artists with those of citizens.

(c) *Permit required; procedure for issuance.*

(1) Every person engaged in conducting a street performance shall first submit an application for a street performer permit to the community development department. A completed application for a permit, and the permit itself, shall contain the applicant's name, residence address, telephone number, and signature. Upon submitting a complete application and payment of the annual fee of \$10.00, the person shall be issued a permit to conduct street performances as permitted herein. A permit shall be valid from the time of issuance until the next June 30. Thereafter the permit may be renewed on or before each June 30 upon the completion of a new application and payment of the standard permit fee. There shall be no pro-rated reduction of the annual fee based on the time of year when the permit is renewed. Any permit issued before June 30, 2015 shall be valid until June 30, 2016.

(2) Every street performer shall maintain possession of the permit issued hereunder during any street performance, and shall produce the same upon the request of any city official.

(d) *Locations where street performers are allowed.*

(1) Street performers may only perform at specified areas of public property within Winston-Salem which the director of community development or the director's designee determines to be reasonably suitable to conduct street performances without adverse impacts to the community as described in subsection (b)(2) above.

(2) The community development department shall produce and maintain a list of such areas of public property where street performers are permitted to conduct performances.

(3) The director of community development or the director's designee may solicit opinions from any party concerning the suitability of allowing street performances at any area of public property in Winston-Salem. In the event the director of community development refuses to allow street performances of any area, any party may petition the city council for the area's inclusion in the list of areas where street performances are permitted.



(e) *Cooperative performances; limit on number of street performers.* Any street performance may be performed cooperatively by no more than five total performers, provided that the performer or group of cooperating street performers stay at least 100 feet away from all other street performances. Each cooperative street performer within a single group is required to meet the permitting requirements of this section. The provisions of this subsection shall not relieve any performer in a cooperating street performance from complying with the regulations contained in subsection (f).

(f) *Regulations.* Street performers shall comply with the following regulations:

(1) Street performers shall not block, or cause the blocking of any sidewalk, passageway, street, crosswalk, or any ingress or egress to any building, structure, driveway or other passage. A minimum of five feet of unobstructed pathway on all sidewalks and crosswalks must be maintained at all times. Street performers may not block access to any public benches, fire hydrants, waste receptacles, or other public amenities.

(2) Street performers shall perform at least 100 feet away from other street performers.

(3) Street performers shall perform at least 50 feet away from any properly permitted sidewalk café, unless the sidewalk café permit holder or that person's designated representative shall have granted the street performer written permission to perform at a closer distance. A street performer is required to keep the writing granting such permission on the performer's person when performing within 50 feet of a sidewalk café.

(4) Within the central business (CB) zoning district, street performances are not permitted before 10:00 a.m. any day nor after 11:00 p.m. Sunday through Wednesday nor after 12:00 a.m. Thursday through Saturday.

(5) Within the entertainment (E) zoning district, street performances are not permitted before 10:00 a.m. any day nor after 2:00 a.m. the following morning. Therefore street performances are not permitted between 2:01 a.m. and 9:59 a.m.

(6) Street performers shall not commit any violation of chapter 46, articles I and II regulating noise.

(7) Amplification devices are prohibited during street performances.

(8) No street performer on public property shall connect to, or cause to be connected to, any source of electrical power or a water supply system as part of a street performance.

(9) Street performances are not permitted at any location not presently identified on the list kept by the community development department pursuant to subsection (d).

(10) No street performer shall claim a greater right to perform at any location over a street performer who arrives first at the same location.

(11) Street performers shall not remain at a fixed location for a total duration of more than four hours during any 24-hour period. When a street performer leaves a location, the street performer shall not return to that location for at least one hour.

(12) Street performers shall not conduct any street performances on property used for any residential purpose.

(13) Street performers shall not perform on private property without written permission of the property owner. Street performers are required to keep the writing granting such permission on their person during any performance on private property.

(14) Street performers may accept contributions of money or property at their performance in exchange for their artistic performance as allowed in this section, and may sell audio or video recordings of their own artistic works. Street performers shall not sell any other goods, wares, or works of art or conduct any other service on public property in connection with a street performance.

(15) Street performers shall not infringe upon or detract from the purpose of special events or vendor activities for which a city permit has been issued to another party. Street performers shall not perform at such permitted special events or vendor activities without the written permission of the special event permit holder. A special event permit holder may only grant permission to perform within the special event area to a street performer permit holder. Street performers are required to keep the writing granting such permission on their person during any performance at permitted events, gatherings or activities.

(16) During a street performance, no street performer shall use in any way fire, sharp instruments or objects, spray paint, aerosols, firearms (real or simulated), dangerous weapons or any form of harmful chemicals. No street performer shall use any animal as a part of a street performance. A street performer may be accompanied by a service or disability assistance animal.

(17) While conducting a street performance, a street performer shall not use language or gestures, or display any matter which:

- a. Is obscene as prohibited by G.S. 14-190.1; or
- b. Constitutes abusive language provoking violent retaliation as prohibited by G.S. 14-288.4(a)(2).

(18) Street performers may display one sign no larger than 18 inches by 18 inches advertising the sale of their own artistic work and asking for compensation in exchange for their live performance. Said sign may be placed on a prop or sandwich board-type stand in a location no closer than three feet from any curb and not in any location which impedes any foot traffic, parking or persons entering or exiting any motor vehicle. Street performers shall remove such signs from any location at the conclusion of their performance. No sign, handbill, flyer or other advertisement shall be left at any location after the conclusion of a performance.

(19) Street performers shall not be under the influence of alcoholic beverages or other controlled or intoxicating substances while performing.

(20) Street performers shall be liable for any damage or injury resulting from a performance.

(21) Street performers shall promptly comply with the directions of any city official to cease or relocate street performances when the city official determines that such action is necessary for public safety or to comply with the provisions of this section.

(g) *Non-transferability.* A permit issued hereunder shall not be transferable to any other person or group for the purpose of conducting a street performance as defined herein.

(h) *Suspension or revocation.* A permit may be suspended or revoked if a performer is found to have knowingly provided false information on the application or has violated the provisions of this section. Within ten calendar days after a permit is suspended or revoked, a street performer may request a hearing before the director of community and business development who will decide whether the suspension or revocation was warranted. The director's decision may be appealed to the city manager or the city manager's designee.

(i) *Penalty.* Where a person is found to be in violation of this section, the person shall first be given a verbal notice and explanation of the ordinance from which this section is derived and violation. Issuance of the verbal notice shall be documented in the police department's field contact system. Any future violation of this section or any part hereof, shall constitute a class 3 misdemeanor and shall subject the offender to a fine as indicated below:

(1) *Second offense.* For the second violation the offender shall be fined \$50.00.

(2) *Third offense.* For a third violation, where the offender has previously been convicted of violating this section or any part hereof, the offender shall be fined \$100.00.

(3) *Fourth and subsequent offenses.* For a fourth or subsequent violation, where the offender has at least twice been convicted of violating this section or any part hereof, the offender shall be fined \$150.00.

(j) *Severability.* Severability is intended throughout and within the provisions of this section. If any section, subsection, sentence, clause, paragraph or portion thereof is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of any of the remaining portions of this section.

## **Chapter 75-Stormwater Management.**

There are no provisions in Chapter 54 that provide for or impose a criminal remedy.

## **Chapter 78-Vehicles for Hire.**

### **Article I. In General.**

#### **Sec. 78-2. - Violations of chapter; civil penalties and misdemeanor offenses.**

(a) It shall be unlawful for any person to engage in the vehicle for hire business within the corporate limits of the city, or to transport passengers in a vehicle for hire, within the corporate limits of the city, unless such person complies with the provisions of this chapter. A violation of any provisions of this chapter, save and except sections 78-3, 78-41, 78-49, 78-82, 78-111, 78-113, 78-114, 78-142, 78-171, 78-173, 78-175, 78-176, 78-177, 78-178, 78-182, 78-188, 78-201, 78-202, 78-203, 78-204, 78-205, 78-206, 78-207, 78-208, 78-231, 78-232, 78-233 and 78-234, shall subject the offender to a civil penalty, however, no such violation shall constitute a misdemeanor or infraction, under G.S. 14-4, unless the specific section so states. The following

subsections (1) through (5) shall be deemed to be expressly incorporated by reference within each section of this chapter, save and except those sections referenced in the preceding sentence:

(1) A violation of this section, or any part thereof, shall subject the offender to a civil penalty of \$75.00. Any subsequent violation which follows within 12 months of a previous violation shall be assessed a civil penalty of \$150.00.

(2) The assessment of a civil penalty may be initiated by the taxicab inspector, by the giving of a written notice of the violation, along with a statement that a civil penalty shall be imposed. The notice shall inform the recipient that s/he may appeal the civil penalty within ten days of the date of the notice, to the city manager, by filing a written request with the taxicab inspector. If an appeal is made, a hearing shall be held before the city manager, within ten days of the request for appeal, which hearing shall affirm, reduce, or reverse the imposition of the penalty. The decision of the city manager shall be final.

(3) If *no* appeal is made, a civil penalty must be paid within 30 days of the date of the notice of violation. If an appeal *is* made, and the civil penalty is affirmed or reduced, but not reversed, then the civil penalty must be paid within 30 days of the date of the city manager's decision. The amount of the penalty shall be paid to the revenue division of the city. If the penalty is not paid within the allotted time, the city may initiate a civil action to collect the unpaid penalty, in the nature of a debt.

(4) Owners shall be responsible for their drivers' and sub-owners' actions and compliance with this chapter. Any violations of this chapter by a driver or sub-owner, which are non-criminal in nature, shall be imputed to the owner, whose responsibility it shall be to obtain compliance herewith.

(5) No certificate or driver's permit shall be issued or renewed, unless and until all civil and criminal penalties assessed against the applicant, or any sub-owner, driver, or employee of the applicant, under this chapter, have been paid in full.

### **Sec. 78-3. - Insurance.**

A violation of the requirement in this section to maintain in full force and effect the applicable insurance policy, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00 and/or possible revocation of certificates.

(1) No person shall operate or cause to be operated any taxicab without first furnishing proof of commercial insurance, as required by G.S. 20-280 or any superseding statute, with minimum limits of \$100,000.00 per person, \$300,000.00 per accident for bodily injury, and \$50,000.00 per accident for property damage. No person shall operate or cause to be operated any limousine over the streets of the city without first furnishing proof of commercial insurance, as required by G.S. 20-280 or any superseding statute, with minimum limits of \$1,500,000.00. If a taxicab or limousine is owned by a person who operates under the certificate of another, the holder of the certificate shall be named as an additional insured on the insurance policy.

(2) No vehicle for hire shall be operated within the city, unless an insurance policy with an insurance company authorized to do business in North Carolina, is in full force and effect, and an original, signed certificate of insurance, evidencing such policy has been filed with the risk administrator, or his or her designee, and unless the vehicle is registered and a registration card

identifying the vehicle by motor serial number is carried in the vehicle, which certificate must be displayed upon demand by any police officer.

(3) Each taxicab owner or sub-owner must provide to the risk administrator, or his or her designee, every six months, proof of insurance coverage in full force and effect, in compliance with the minimum limits set forth in subsection (2), above, for every vehicle operated under his or her certificate. Within 15 business days of receiving information concerning an upcoming insurance cancellation, reduction in coverage, or other material change in any insurance policy issued for any vehicle operated pursuant to his or her certificate, the owner or sub-owner shall provide written notice of said change to the risk administrator, or his or her designee. If the owner or sub-owner does not file proof of another insurance policy before a cancellation becomes effective, use of all vehicles for hire covered by the expired policy shall cease, and the owner's or sub-owner's certificate of public convenience and necessity, and other rights under this chapter, shall be automatically suspended, and subject to the revocation procedure set forth in section 78-50.

(4) The requirements of this Code relating to the filing of an insurance policy with the risk administrator or his or her designee, shall be deemed to be met upon the filing of a certificate of insurance, issued by an authorized agent of an insurance company authorized to do business in North Carolina, showing that a policy of insurance meeting the requirements of this section, and G.S. 20-280, as amended, has been issued to the owner or sub-owner, and is in full force and effect.

## **Article II. Certificate of Public Convenience and Necessity.**

### **Sec. 78-41. - Certificate required; eligibility; fees.**

(a) It shall be unlawful for any person, other than a person with whom the city has a contract for the operation of sight-seeing vehicles, to operate, or cause to be operated, any vehicle for hire within the city, and to pick up passengers therewith, unless a certificate of public convenience and necessity for the operation of such vehicle has been issued and is in effect. A violation of this subsection shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.

(b) The minimum number of taxicabs for which a certificate of public convenience and necessity shall be granted shall be two. The minimum number of limousines for which a certificate of public convenience and necessity shall be granted shall be one.

(c) The holder of a certificate shall maintain in operation at least 50 percent of the vehicles authorized by his or her certificate, but, in no case, shall the owner operate fewer than the minimum number of vehicles required by subsection (b), above. The holder shall have three months from the date that his or her certificates were issued to bring into operation the 50 percent required. Thereafter, the holder shall report at least quarterly to the city council the average number of vehicles actually in operation during the preceding quarter. The holder shall determine the average by adding the number of vehicles operated each day of the preceding quarter and dividing the sum by the number of days in the quarter.

The city council may amend a certificate to reduce the number of authorized vehicles by the average number not in actual operation during the preceding quarter, and may either eliminate the unused allotment or transfer it to another certificate holder. Allotments of vehicles among certificate holders may be transferred only by the city council, and it shall be unlawful for any holder of a certificate to sell, assign, or otherwise transfer allotments under a certificate.

(d) There shall be separate certificates for the various classes of vehicle for hire. If a vehicle for hire meets the criteria for classification as a taxicab, then the vehicle must be authorized to operate under a certificate of public convenience and necessity for taxicabs. If the vehicle meets the criteria for classification as a limousine, then the vehicle must be authorized to operate under a certificate for limousines. An owner may not operate both taxicabs and limousines under the same certificate. The owner shall be responsible for obtaining the appropriate certificate, insurance, and license plates for the type of vehicle operated.

(e) Owners shall file with the taxicab inspector their hours of operation. Owners or their designees shall, thereafter, be available during hours of operation. Owners' designees shall be people with managerial authority, who may act on behalf of the business.

(f) The owner's business shall possess equipment, as required by section 78-113, personnel, and other resources adequate to operate the business.

(g) Upon issuance to the owner of the certificate of public convenience and necessity, the owner shall be responsible for compliance with all standards and requirements of this chapter.

(h) Each application for a certificate of public convenience and necessity shall be accompanied by payment to the city of a non-refundable application fee of \$100.00.

(i) Each owner or holder of a certificate of public convenience and necessity shall, upon the issuance thereof and yearly thereafter, pay to the city a vehicle and records inspection fee of \$35.00 per vehicle, for each vehicle authorized under the certificate, regardless of whether the vehicle is in operation. The city shall send the owner an invoice for the amount of the fee, and the fee must be paid within 90 days of the date of the invoice.

(j) The city council may suspend or revoke the certificates, pursuant to section 78-50, of any owner who violates a provision of this section.

#### **Sec. 78-49. - Expiration; renewal; transfer.**

(a) All certificates of public convenience and necessity shall expire on December 31 of the third calendar year after such certificate is granted. By August 31, preceding the December 31 expiration, the department of transportation shall notify the owner, in writing, of the upcoming expiration.

(b) An owner may apply to renew a certificate by filing an application with the department of transportation. Applications shall be available online and in the department of

transportation. An application to renew a certificate issued hereunder must be complete, and must be accompanied by a \$100.00, non-refundable application fee.

(c) If requested, the owner must furnish the records and reports identified in article III, and any other proof requested to show that his or her business has complied with all the requirements of this chapter, including the requirements to maintain records and reports, conduct inspections, and perform maintenance under article V. Additionally, the owner applying for a renewal must comply with all licensing and zoning requirements, furnish proof of insurance, as required under section 78-3, and certify that the he or she had inspection stickers on all vehicles operating under his or her certificates during most, if not all, of the previous year. For taxicabs, the owner must also provide the motor vehicles form for operations.

(d) An owner may be ineligible to have his or her certificate renewed, for any of the grounds outlined in section 78-50.

(e) If an owner applies to the department of transportation for renewal of his or her certificate, prior to its expiration, the city council shall renew such certificate, without public hearing, in the absence of any evidence to indicate that the holder of the certificate is not in compliance with the requirements of this chapter.

(f) Effective on the last business day of October 2010, the holder of a certificate must be the individual, corporation, limited liability company, partnership, or other legal entity that has a controlling interest in, or managerial authority over, the business which operates under the certificate, or in whose name the business is registered on the North Carolina Secretary of State's website. This subsection shall not be construed to affect sub-owners who own vehicles which operate under a certificate, but who do not own a controlling interest in, or have managerial authority over, the business of the owner, and who are not registered owners or principals of the business.

(g) A certificate of public convenience and necessity shall not be transferable without prior approval of the city council. The transfer to, or acquisition by, any person not named in the application for a certificate, of any financial interest, such as majority control or a controlling interest, in the vehicle for hire business of the holder, shall constitute a transfer of the certificate, and shall be grounds for revocation of the certificate by the city council, unless such transfer or acquisition of interest shall have first been approved by the city council.

The term "transfer to, or acquisition by, any person of any financial interest", as used in this section, shall not include such financial interest as a lending institution or seller may acquire, as a result of loans made, or credit extended, to the owner, in connection with the purchase of vehicles or other equipment. City council approved transfers may take place at any time during the calendar year, and the filing deadlines indicated in section 78-42 shall not apply. In all other respects, such requests for transfer will be treated, procedurally, as new applications for certificates, as specified in sections 78-41, 78-42, and 78-43, except that the denial of an application for transfer will result in the certificate's remaining with the existing holder of record. An unauthorized transfer of a certificate shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00, and/or possible revocation of certificates.

**Sec. 78-50. - Suspension or revocation.**

(a) *Grounds.* A certificate of public convenience and necessity may be suspended or revoked by the city council for the following causes:

- (1) Failure to operate the number of vehicles required within the time limits specified in subsections 78-41(b) and (c) and 78-46(c).
  - (2) Failure to maintain vehicles in good order and repair, including obtaining annual inspections thereof, as documented in an inspection log maintained by the owner.
  - (3) Failure to maintain insurance as required by this chapter.
  - (4) Failure to pay inspection and business license fees due to the city for the operation of vehicles for hire, within 90 days of the date of the first invoice.
  - (5) Failure to report any traffic accident involving a vehicle for hire.
  - (6) Unauthorized transfer of a certificate, as such is defined in subsection 78-49(g).
  - (7) Failure to furnish an annual financial statement, pursuant to section 78-85.
  - (8) Failure to register, or cause to be registered, with the department of motor vehicles, in the correct and true vehicle owner's name, any vehicle covered by the owner's certificate. This requirement shall apply to all vehicles, whether owned by an owner or sub-owner.
  - (9) (a) Driving, or permitting a driver to drive, a vehicle for hire, who has been convicted of a felony, in violation of any federal or state statute, within the five years immediately preceding the driver's most recent application for a driver's permit or renewal thereof, or who has been subsequently convicted of a felony following the driver's receipt of his or her current driver's permit.
- (b) Driving, or permitting a driver to drive, a vehicle for hire, who has been convicted of a class B misdemeanor relating to:

- a. possession, use, sale, or distribution of alcoholic beverages or narcotic or barbiturate drugs,
- b. sexual assault or indecent exposure,
- c. illegal possession, use, or threatened use of a firearm,
- d. actual or attempted infliction of serious injury, or
- e. prostitution,

within the year immediately preceding the driver's most recent application for a driver's permit or renewal thereof, or who has been subsequently convicted of such a misdemeanor following the driver's receipt of his or her current driver's permit.

For purposes of this chapter, "conviction" shall include receipt of a "prayer for judgment continued" and entry of an Alford or no-contest plea. For purposes of this chapter, "class B misdemeanors" shall include those offenses listed in the most recent edition of the North Carolina Department of Justice's Class B Misdemeanor Manual. "Class B misdemeanors" shall also include any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North Carolina, either civil or



military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of more than six months, but not more than two years. Specifically excluded from this grouping of "class B misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as being misdemeanors under the laws of other jurisdictions, with the following exceptions: offenses of driving while impaired if the maximum allowable punishment is for a term of more than six months, but not more than two years, driving with a license that is permanently revoked or permanently suspended, and those traffic offenses occurring in other jurisdictions which are specifically listed in the Class B Misdemeanor Manual.

(10) Driving, or permitting a driver to drive, a vehicle for hire, who habitually violates traffic laws or ordinances. For purposes of this section, habitual violation shall include:

- a. Five or more traffic charges that result in convictions, as defined in subsection (9), above, or reductions to infractions, such as "improper equipment", during the three-year period immediately preceding the driver's most recent application for a driver's permit, or renewal thereof.
- b. Five or more convictions for traffic safety infractions during the three-year period immediately preceding the driver's most recent application for a driver's permit or renewal thereof.
- c. Five or more convictions for traffic offenses or infractions, combined, during the three-year period immediately preceding the driver's most recent application for a driver's permit, or renewal thereof.

(11) Permitting any driver convicted of any of the crimes or offenses listed in subsections (a)(9)(a), (a)(9)(b), or (10) of this section to drive a vehicle for hire, unless the driver has been issued a provisional driver's permit, under subsection 78-181(b), or the driver's conviction has been reviewed by the city attorney's office, and its consent given for that driver to drive a vehicle for hire. Factors to be considered shall include: (a) the circumstances of the crime or offense and (b) the conduct of the driver in the intervening time since the date of conviction or release from incarceration, including whether the driver has accrued any outstanding charges in the interim. A violation of this subsection shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.

(12) Permitting any driver who has not furnished proof of a valid North Carolina driver's license, or whose license has been suspended or revoked, to drive a vehicle for hire.

(13) False or misleading statements on the application for the certificate, including any representation by the applicant that they own a controlling interest in, or have managerial authority over, the business which operates under the certificate, if, in fact, they do not, or any statement by the applicant that the business is registered in the applicant's name if, in fact, it is not.

(14) Owner's failure to pay, or secure the payment of, parking tickets incurred by any vehicle for hire registered in the owner's name and operating under the owner's certificate, within one year from the date the tickets are issued.

(15) Failure to notify the taxicab inspector of the employment or dismissal of any driver or dispatcher, within seven business days, as specified in section 78-187, and the reason for the dismissal of any driver, if that reason would have prevented the driver from renewing his or her driver's permit.

(16) Failure to provide motor vehicle forms for operation for taxicabs.

(17) A sub-standard quality of service, which shall be determined by the volume and veracity of complaints, pursuant to a thorough investigation by the taxicab inspector.

(18) Failure to comply with any other provisions of this chapter or any other law or ordinance regulating the operation of vehicles for hire within the city.

(b) *Procedure.* No certificate shall be suspended or revoked until the owner has had at least ten days' notice by personal service or by certified mail of the time and place for a hearing thereon, and the grounds for suspension or revocation, provided that if the city council determines, in its discretion, that circumstances affecting the public health or safety warrant an immediate suspension, before the requisite notice can be given, then such a suspension shall take effect upon decision of the city council and shall persist until a hearing can be held, for which the requisite notice shall be given. A hearing, pursuant to an immediate suspension, shall take place within 90 days of the suspension, and notice shall be given by publication of a notice of public hearing, in a newspaper of general circulation, in the city, which notice shall be published at least once, not fewer than ten days prior to the hearing. After the hearing, the city council shall have the power to suspend, continue the suspension of, or revoke a certificate, or to forebear suspending or revoking a certificate, upon condition that the certificate holder comply with certain measures, within any time fixed by the city council.

### **Article III. Records and Reports.**

#### **Sec. 78-82. - Daily manifests.**

The owner shall require every driver to maintain a daily manifest upon which shall be recorded for every trip, the place of origin and destination of each, the amount of fare charged, the number of passengers, and the time of pick-up and drop-off. Each trip shall be recorded immediately after completion. Manifests shall indicate the time a driver's shift starts and ends, and shall be returned to the owner at the conclusion of the driver's daily tour of duty/shift on forms previously approved by the taxicab inspector. The owner shall retain and preserve all driver' manifests in a safe place for a period of at least 90 days, and shall make such manifests available for inspection by the taxicab inspector. The preceding requirements shall not apply to limousines or to owners and drivers using a computerized dispatch system which logs, records, and retains all of the foregoing information, provided that, in the case of an owner which uses a computerized dispatch system, all the information required to be recorded in a daily manifest shall be retrievable from the system, and shall be made available for inspection by the taxicab inspector for a period of at least 90 days following each trip. A violation of this section by either driver or owner shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00 and/or possible revocation of the driver's permit or owner's certificate, whichever is applicable.

## **Article IV Vehicle Specifications and Equipment.**

### **Sec. 78-113. - Identification of taxicabs.**

(a) All taxicab companies shall adopt a color scheme for painting their taxicabs, distinct from that of any other taxicab company operating in the city. The color of paint selected to paint letters and numbers shall be in sharp contrast to the background.

(b) Color schemes of taxicab companies shall be submitted to the taxicab inspector.

(c) All taxicabs of a particular company shall be given the same color scheme and markings before being placed into service.

(d) The name of the taxicab company and the taxicab number shall be painted with permanent paint, or affixed with non-magnetic decals, on both sides of the vehicle, and the taxicab number shall also be painted on, or affixed to, the rear of the vehicle. Letters and numbers shall be clearly visible from a reasonable distance.

(e) This section shall not apply to limousines.

(f) Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.

### **Sec. 78-114. - Addition and removal of vehicles.**

No vehicle shall be placed into service, without prior written notification to the taxicab inspector. An owner may remove a vehicle from service at any time, but shall promptly notify the taxicab inspector thereof. Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.

## **Article V. Inspection and Maintenance of Equipment.**

### **Sec. 78-142. - Certificate of inspection by certified safety inspector; city-issued decal.**

(a) Each owner shall cause every vehicle for hire under his or her certificate, to be inspected by a certified safety inspector at least once per year. Any repair required to be made prior to the issuance of a state-issued certificate of inspection shall be performed, and every vehicle for hire shall at all times display a current certificate indicating that the vehicle has passed state inspection. Any violation of this subsection (a) shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.

(b) Each vehicle shall also be inspected by the taxicab inspector to ensure compliance with this chapter. Any vehicle found to be out of compliance shall not be driven until such time as the vehicle is brought into compliance and proof of compliance or repair is provided to the taxicab inspector. Once a vehicle is determined to be compliant, it shall be issued a color-coded non-magnetic decal displaying the current year of inspection. Both the owner and the police department

shall be notified of the color for the current year's decal at the beginning of the annual inspection period. A vehicle not displaying the current year's color-coded decal shall not be driven nor caused or permitted to be driven, until it has received the appropriate decal. Driving a vehicle, or causing or permitting a vehicle to be driven, before it receives the current year's color-coded city-issued decal shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00. Thirty days before the end of the annual inspection period, the police department and all owners shall be notified in writing that inspections will end on the specified date.

(c) The taxicab inspector shall remove the city-issued decal and meter lock of any vehicle that fails an annual or interim inspection, either state or city, and cannot be repaired on the company's lot. Once the necessary repairs have been made, and a \$15.00 administrative fee has been paid, the taxicab inspector shall replace the meter lock and decal. Only the taxicab inspector or his or her designee shall be authorized to do so. Replacing a meter lock, without the taxicab inspector's permission, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00. All repairs shall be made within two weeks of the date of inspection.

#### **Sec. 78-143. - Repair of unsafe vehicles.**

Any vehicle determined by the taxicab inspector or owner, at any time, to be unsafe, shall be taken out of service until such time as all the necessary repairs or alterations have been made, and no owner shall operate, or cause or permit to be operated, any such vehicle, until all such repairs and alterations have been completed. A violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.

### **Article VI. Operation.**

#### **Sec. 78-171. - Vehicle registration and licensing.**

It shall be unlawful for any person to operate a motor vehicle as a taxicab or limousine until such vehicle has been registered in accordance with all the requirements of the state (G.S. 20-50 et seq.), and all proper licenses have been obtained therefor. No owner or sub-owner shall operate any personal vehicle with a taxicab or limousine tag affixed unless the vehicle complies with all requirements of this chapter. Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.

#### **Sec. 78-173. - Parking in fire limits.**

It shall be unlawful for any person to park any vehicle for hire, for any length of time, upon any of the streets of the city, within the fire limits, as now established or hereafter established, except when loading or unloading; provided that nothing contained in this section shall prevent any such vehicle from occupying any taxicab or limousine parking zone lawfully assigned to such vehicle, or from parking as may be necessary pending temporary repairs or removal of the vehicle from the streets. Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.

**Sec. 78-175. - Hiring with intent not to pay.**

Any person who engages, uses, employs, or hires any vehicle for hire, and who fails or refuses to pay for the vehicle for hire, with intent to cheat and defraud the owner, sub-owner, or driver, shall be guilty of a class 3 misdemeanor and shall be subject to a fine of up to \$500.00.

**Sec. 78-176. - Minors to wear seat belt; exception.**

All passengers under 16 years of age shall be secured by a seat belt whenever the vehicle for hire is in motion. This section shall not apply to horse-drawn vehicles. Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.

**Sec. 78-177. - Driver's permit required.**

No person shall drive a taxicab within the city without first having obtained a taxicab driver's permit from the taxicab inspector, as authorized by G.S. 160A-304, which is herein incorporated by reference. The taxicab driver's permit shall not be transferable from person to person. However, if a driver leaves one owner's employ and wishes to begin working for another, the driver may request to substitute the name of his or her new employer on the permit, pursuant to subsection 78-182(d), below, which permit shall be valid only until expiration of the one-year term, at which point the driver must apply for a renewal. Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.

**Sec. 78-178. - Initial application for a driver's permit; renewal of a driver's permit.**

(a) Each applicant for an initial taxicab driver's permit or renewal thereof shall file an application with the taxicab inspector, on forms provided by the taxicab inspector. The application shall contain the following information:

- (1) The applicant's full name and address;
- (2) A copy of the applicant's North Carolina driver's license;
- (3) Any physical ailments which would prevent a driver from safely operating a vehicle for hire. This shall include, but is not limited to, vision and hearing problems, conditions which could cause a driver to experience a seizure or black-out while driving, any condition which could cause a driver to fall asleep at the wheel, substance abuse, or other physical impairment which, if left untreated, prevents the safe operation of a vehicle for hire. In order to qualify for a driver's permit, the applicant must provide a statement from a licensed physician indicating that the applicant is being treated for any such condition and can safely operate a vehicle;
- (4) The applicant's birthdate and physical description, such as is required on a state driver's license, including height, eye, and hair color; and
- (5) A state-wide criminal background check, as per the requirement in 78-179;
- (6) A sworn statement averring that the information submitted in the application is neither false nor misleading. Submission of any false or misleading information shall be grounds for denial of the driver's permit.

(b) The taxicab inspector shall interview each applicant for an initial driver's permit, and may contact the applicant's previous employers. If the applicant provides a satisfactory state-wide background check, and satisfies all other requirements for a driver's permit, in this article, including those listed in section 78-180, below, the taxicab inspector shall issue the applicant a one-year driver's permit, pursuant to section 78-181, below, beginning on the date when the taxicab inspector is able to verify that the applicant has met all requirements for the issuance of a driver's permit.

(c) A driver wishing to renew his or her driver's permit must notify the taxicab inspector at least 30 days prior to the expiration of the permit. A driver operating a vehicle for hire within the city while his or her permit is expired shall be guilty of a class 3 misdemeanor and shall be subject to a fine of up to \$500.00.

**Sec. 78-182. - Issuance and display of a driver's permit.**

(a) If an applicant meets all of the requirements of this article, the taxicab inspector shall issue to the applicant, a driver's permit, valid for one year, which shall contain the following information:

- (1) The applicant's photograph and name;
  - (2) The expiration date of the permit;
  - (3) The name of the company and the certificate holder which employ the driver;
- and
- (4) The name and phone number of the taxicab inspector for passengers to call who wish to lodge a complaint.

(b) A copy of the driver's permit must be prominently displayed, at all times, as required by section 78-182.

(c) A driver may only drive vehicles for the company and certificate holder whose names appear on the driver's permit. Once the driver ceases to drive for that company and certificate holder, the driver shall surrender his or her permit to the taxicab inspector, within 48 hours.

(d) If the driver wishes to drive for another company and certificate holder, he or she must obtain the written permission of both the taxicab inspector and the new certificate holder. The driver will submit to the taxicab inspector a written request to substitute the new holder's and company's names on the existing permit, and written authorization from the new holder to do so, within five business days of the surrender of the permit. The taxicab inspector shall contact the new holder to request written confirmation of the authorization. If the taxicab inspector decides to grant the driver's request, the permit shall be good for the remaining unexpired portion of the one-year term. If the taxicab inspector denies the driver's request, or the driver does not submit a request to substitute a new holder's or company's name on his or her permit, within five business days of its surrender, the permit shall automatically expire on the sixth business day.

(e) As in subsection 78-178(c), no person shall drive a vehicle for hire within the city, while his or her driver's permit is expired.

(f) Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.

**Sec. 78-188. - Limitation on hours of driving.**

It shall be unlawful for a taxicab driver to continue on duty for more than 12 hours, consecutive or not, in any 24-hour period. Any violation of this section shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.

**Article VII. Solicitation, Acceptance and Discharge of Passengers.**

**Sec. 78-201. - Solicitation of passengers by taxicab drivers; driver to remain in vehicle or in close proximity thereto.**

It shall be unlawful for any taxicab driver to solicit passengers, except when seated in the driver's compartment of the taxicab, or while standing in close proximity to the vehicle, and immediately adjacent to the curb. The driver of a taxicab shall not leave a vehicle for hire unattended when such vehicle is in the right-of-way of a public street; provided, however, that nothing contained herein shall be held to prohibit a driver from alighting to the street or sidewalk for the purpose of assisting passengers into, or out of the vehicle, or to and from the door of a building, or for purposes of loading or unloading baggage.

**Sec. 78-202. - Soliciting patronage in a loud or annoying manner.**

It shall be unlawful for a driver to solicit patronage in a loud or annoying manner, or to accost, obstruct the movement of, or pursue, any person, for the purpose of soliciting patronage.

**Sec. 78-203. - Manner of receiving and discharging passengers.**

It shall be unlawful for any driver of a taxicab to receive or discharge passengers in the roadway; instead, such driver shall pull up as near as practicable to the sidewalk, or, in the absence of a sidewalk, as near to the side of the road as possible, and there receive or discharge passengers.

**Sec. 78-204. - Solicitation of passengers at bus stops.**

Drivers of taxicabs shall not be permitted to solicit at bus stops.

**Sec. 78-205. - Acceptance of additional passengers—Generally.**

Whenever a vehicle for hire is already occupied by a passenger, the driver shall not permit any other person to occupy or ride in the taxicab without the consent of the original passenger.

**Sec. 78-206. - Same—Passengers under 16 years of age.**

If an unaccompanied child under 16 years of age is the original passenger in a taxicab, no other passengers shall, thereafter, be permitted to enter and occupy the taxicab simultaneously with the child, except for members of that child's family and police officers engaged in the performance of their official duties; provided that if the child is accompanied by a family member over the age of 18, then other individuals may occupy the taxicab, with the consent of that family member.

**Sec. 78-207. - Maximum number of passengers.**

It shall be unlawful for any taxicab or limousine driver to permit more persons to be carried in a vehicle for hire, than the seating capacity of the vehicle allows.

**Sec. 78-208. - Refusal to carry passenger.**

It shall be unlawful for any taxicab driver to refuse or neglect to convey any orderly, fare-paying person, upon request, unless previously engaged, or unable or forbidden by the provisions of this chapter to do so. It shall be unlawful for any owner to employ a taxicab driver about whom the taxicab inspector has given the owner written notice that the driver has repeatedly, and in violation of this section, refused to convey orderly, fare-paying persons.

**Sec. 78-209. - Violation of article.**

Any violation of this article shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.

**Article VIII. Taximeter and Rates.**

**Sec. 78-231. - Specifications for, and operation of, taximeters.**

Every taxicab shall have affixed thereto, a taximeter of a size and design approved by the city council. Only vehicles designated as taxicabs shall be allowed to have taximeters installed. Vehicles which lack the proper license plates or insurance to operate legally as taxicabs, shall not be permitted to have taximeters installed. Taximeters shall conform to the following specifications:

(1) A taximeter is a mechanical or electrical instrument or device which calculates the amount of a fare, on the basis of distance traveled, waiting time, or both. The fare must be indicated on the face of the taximeter, by means of legible figures, electrically lighted.

(2) The taximeter must register, upon visual counters, the following items:

- a. The amount of fare charged per mile from 6:00 a.m. to midnight;
- b. The amount of fare charged per mile from midnight to 6:00 a.m., and the amount of any surcharge for a trip taken during that time;
- c. The total number of miles traveled per trip, until the trip is completed, and the total number of miles traveled for all trips;
- d. The number of paid miles traveled; and
- e. The number of trips.



(3) Each taximeter must be furnished with a tamper-proof switch and system of electrical distribution, such that when the taximeter is switched to a non-earning position, the light on the roof of the taxicab shall be lit, thereby indicating that the taxicab is empty and available for use, and when the taximeter is switched to an earning position, the light on the roof of the taxicab shall turn off, indicating that the taxicab is in use/in service, and, instead, the fare indicator on the taximeter will light up, so that passengers can monitor the fare.

(4) Each taximeter must be connected directly to the taxicab transmission (instead of merely connecting with the speedometer driving shaft), using a flexible shaft and housing, so connected and sealed as to be tamper-proof.

(5) It shall be unlawful for any person to operate a taxicab equipped with a taximeter which registers an error of over five percent, to the prejudice of any passenger. In general, no taxicab may be operated until the taximeter attached thereto shall have been inspected and found to be accurate.

(6) It shall be unlawful for any driver of a taxicab equipped with a taximeter, to display any signal or switch affixed to such taximeter in such a position as to denote that such vehicle is not employed when it is, or in such a position as to denote that a higher rate of fare is in effect than that to which the driver is legally entitled under the provisions of this article. It shall be the duty of the driver to call passengers' attention to the amount of fare registered, and the taximeter switch shall not be switched to the "non-earning" position until after the fare has been paid. If the passenger requests, the driver shall give to the passenger, his or her name, permit number, taxicab number, and the name of the owner and company for whom he or she works, which information may also be found on the driver's permit.

(7) It shall be unlawful for any person to drive, or cause to be driven, a taxicab equipped with a taximeter that has not been duly inspected, approved, and sealed with the city-issued meter lock, logo, and serial number.

(8) It shall be unlawful for anyone to cut the city-approved meter lock, without prior notification to, and written approval of, the taxicab inspector. The taxicab shall not be placed back in service until the taxicab inspector has once again inspected and sealed the meter.

(9) It shall be unlawful for any person to move a taximeter from one taxicab to another, unless the taximeter is re-tested, approved, and sealed by the taxicab inspector or his or her designee, before use.

(10) It shall be unlawful for any person to change the size of the wheels or tires of a taxicab, so as to cause the five-percent tolerance to be exceeded by the gears operating the taximeter.

**Sec. 78-232. - Method of determining fare for taxicabs.**

(a) No other or different fare shall be charged to a passenger, for a trip, other than that which is accurately registered on the face of the taximeter, except that an hourly rate may be used by mutual agreement of the passenger and driver. No other rates or methods of measuring the distance or time, or computing the fare shall be allowed, except as provided in this article.

(b) Any driver who fails to activate a taximeter may not collect fare for that trip, except by mutual agreement with the passenger.

**Sec. 78-233. - Taxicab rates.**

(a) *Regular rates.* Within the corporate limits of the city, and up to one mile beyond, as determined by the taximeter, drivers and owners may charge rates of fare not to exceed the following:

- (1) Pickup/drop fee: \$3.60.
- (2) For each one-seventh of a mile: \$0.30.
- (3) For each hour of wait time: \$18.00.
- (4) A surcharge of \$0.10 for each one-half mile, or part thereof, traveled to or from points outside the corporate limits of the city and within one mile thereof.
- (5) A surcharge of up to \$0.50 per trip between the hours of 12:00 midnight and 6:00 a.m.

(b) *[Increased rates.]* When the commercial price of fuel, as calculated by an approved local average, increases by more than 30 percent in a 30-day period, the city manager or his or her designee is authorized to increase the maximum rates in subsection 78-233(a) by up to 30 percent, provided that the members of the city council shall be notified of the increase before or at the next regular meeting of the city council.

(c) *Additional passengers.* The rates set out in subsection (a) of this section shall apply to trips involving one to five passengers having the same origin and destination. However, the provisions of this section shall not be construed to prohibit a person who engages a taxicab from requesting that the driver stop at one or more points along the way to pick up additional passengers. The same rates of fare shall remain in effect.

(d) *Engaging wait time program on the taxicab meter:*

(1) Subject to the limitation set out in paragraph (2), below, the driver may engage the wait time program on the taxicab's meter during any period of wait time which occurs during the course of a trip, provided that the passenger agrees to be charged the additional fee for wait time. If the passenger refuses, the driver may terminate the trip and advise the passenger to call for another taxicab when the passenger is prepared to leave. The passenger will still be required to pay the non-wait time rate for any completed portion of the trip.

(2) If the driver arrives to pick up a passenger, and more than ten minutes have elapsed since the driver's arrival, the driver may engage the wait time program on the taxicab's meter, provided that the passenger has agreed to pay the wait time fee. If the

passenger does not agree, the taxicab driver shall not be required to wait, without compensation, and may leave after notifying the passenger.

(3) The driver may not engage the wait time program on the taxicab's meter during the loading or unloading of a passenger.

(4) The wait time program may only be engaged during periods of wait time.

#### **Sec. 78-234. - Most direct route to be taken.**

A driver shall travel the nearest, quickest, most direct, and/or least circuitous route to a passenger's destination, unless the passenger otherwise requests.

#### **Sec. 78-235. - Violation of article.**

Any violation of this article shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00.

### **Article XI. Golf Carts.**

#### **Sec. 78-311. - Operation of golf carts on city streets—Purpose—Applicability of article II regarding certificate of public convenience and necessity.**

(a) *Purpose.* The purpose of this article is to: (i) establish a golf cart ordinance which permits the use of golf carts on certain city streets as vehicles for hire only and to limit the use of golf carts to the central business district ("CBD") as defined by City Code 86-2 and the central industrial district as defined by legacy; and (ii) to promote the health, safety and welfare of passengers riding in and persons operating a golf cart(s) as a vehicle for hire. Except as provided herein, golf carts are prohibited on city streets unless the exemption in section 78-321 applies.

(b) *Procedures.* Before any person shall operate a golf cart pursuant to this article, the person shall apply ("applicant") for a certificate of public convenience and necessity according to the procedures and rules for taxicabs and limousines as set out in article II of this chapter. Unless otherwise provided, the applicant shall be subject to: (i) all provisions in article II of this chapter regarding the granting, denial, expiration, renewal, suspension and revocation of certificates of public convenience and necessity; and (ii) sections 78-82, 78-143, 78-172, 78-173, 78-174, 78-175, 74-186 and 78-208. The insurance requirements of this article shall apply rather than the provisions set forth 78-3. Where there is a conflict, the provisions of article XI shall control.

(c) *Criminal background check.* The provisions in article VI requiring a driver's permit and the provisions related thereto shall not apply. However, as part of the application and renewal process, the golf cart owner shall provide to the taxi inspector with each application and renewal thereof a state-wide criminal record check for each driver. Said criminal record check must be updated annually and maintained on file by the golf cart owner. The same prohibited conduct set forth in Article II applies except the review period is five years preceding the application for a certificate of public convenience and necessity or renewal thereof.

#### **Sec. 78-312. - Definitions.**

For the purpose of this article, the following words and phrases shall have the following meanings:

(1) *Golf cart.* A gas-powered or electric vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 mph.

(2) *Driver's license.* A valid license issued to operate a motor vehicle issued by North Carolina or any other state.

(3) *Financial responsibility.* Liability insurance coverage on a golf cart in an amount not less than required by North Carolina law for motor vehicles operated on public highway in the State of North Carolina.

(4) *Operator.* A person over 16 years of age and holding a current and valid driver's license, who may operate a golf cart in the city pursuant to the requirements of this article.

**Sec. 78-313. - Rules and regulations.**

(a) Golf carts may only be driven on public streets, roads or highways within the central business and central industrial districts of the city.

(b) Golf carts must be equipped with two operating headlights (one on each side of the front of the golf cart) and two operating tail lights with brake lights (one on each side of the rear of the cart) which are visible from a distance of 500 feet, rear vision mirror and a rear triangle reflector of the same type required by North Carolina law, four operating directional turn blinkers (two each side of the front and rear of the cart), and seat belts for all passengers. Additionally, all golf carts shall be free of dents, creases, blemishes, ripples, rust, holes, and other defects or damage which impairs their safety, serviceability, or appearance. Such defects include, but are not limited to: (a) body defects one inch at the deepest point of depression, regardless of width, length, or diameter; and (b) exterior paint which is not uniform in color, does not completely cover the vehicle, or is not in compliance with any manufacturer's standards.

(c) Golf cart drivers must have a current and valid driver's license in their name and have it on their person while operating the cart.

(d) Golf cart drivers will stay to the far right of the traveled portion of the road and yield the right-of-way to vehicles, including horse-drawn carriages and site-seeing vehicles and pedestrians.

(e) All applicable state and municipal laws shall be adhered to, including applicable prohibitions on the possession and use of alcoholic beverages and illegal drugs or any substance which impairs judgment. All laws regarding open containers shall apply to golf carts operated on city streets.

(f) The number of occupants in a golf cart shall be limited to the number of persons for whom individual seating and seat belts are installed and provided in the golf cart and the operator and all occupants shall be seated in the golf cart while in operation. No part of the body of the operator or occupant shall extend outside the perimeter of the golf cart while the golf cart is in motion and no passengers shall be carried on the part of the golf cart designed to carry golf bags.

(g) The operator of the golf cart shall comply with all traffic laws, rules and regulations adopted or enacted by the State of North Carolina and the City of Winston-Salem which governs the operation of motor vehicles. All seat belts shall be buckled in accordance with the State of North Carolina laws and regulations pertaining to motor vehicles.

(h) Golf carts shall not be operated on sidewalks, pedestrian walkways, greenways, or within city parks, except by official law enforcement officers or city personnel engaged in the performance of their duties.

(i) Golf carts shall not be operated on private property, without the permission and consent of the property owner. As long as the operator of the golf cart has obtained the permission and consent of the property owner, the golf cart operator may pick up passengers from and discharge passengers onto private property.

(j) No golf cart may be operated on any city street with a posted speed limit of greater than 35 mph, provided, however, that golf carts may cross over roads that have a posted speed limit of greater than 35 mph as per G.S. 160A-300.6.

(k) Children must be properly seated and belted while the golf cart is in motion and may not be transported in a negligent or intentionally reckless manner.

(l) It shall be unlawful for any operator to receive or discharge passengers in the roadway; instead, such operator shall pull up as near as practicable to the sidewalk, or, in the absence of a sidewalk, as near to the side of the road as possible, and there receive or discharge passengers.

(m) *Hours of operation.* No operator or owner of a golf cart or golf cart business may operate a golf cart upon the public streets of the city between the hours of 6:00 a.m. and 10:00 a.m. and 4:00 p.m. and 6:00 p.m. on any day from Monday through Friday, except New Year's Day, Easter Monday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas.

(n) *Special event permit.* Notwithstanding subsection (m) of this section, any owner may make application to the community development department for a special event permit to allow his/its golf cart business to operate during the hours prohibited in subsection (m). Such application shall be in writing and shall specify the day(s) and hour(s) requested for the special event and the route to be taken. The director of community development or his designee shall grant a special event permit only on finding that the convenience of the public in the use of the city's streets would not be unduly disturbed by the operation of golf carts during such special event.

(o) *Disqualified vehicles.* All-terrain vehicles, four-wheel utility vehicles, go-karts, and other similar utility vehicles, which are not manufactured for operation on a golf course, and/or a

golf cart that has been modified so that it no longer meets the definition of golf cart may not be registered as a golf cart under this article, nor shall such vehicles be operated on public roads, streets and highways within the city, unless such vehicles are registered and permitted under the motor vehicle laws of North Carolina. An exception can be authorized during special events and presentations for which the appropriate permit(s) has been obtained from the city. The taxicab inspector shall have reasonable discretion to determine what constitutes a disqualified vehicle and to authorize exceptions for special events and presentations.

#### **Sec. 78-314. - Inspection and fees.**

All golf carts covered by this article shall be subject to an annual inspection. For the purpose of this article, the inspection by the taxicab inspector or his/her designee, will cover the following safety requirements and every golf cart operating on city streets must have the following safety equipment:

(1) A permit/sticker that has been issued to operator/owner of the golf cart by the taxicab inspector.

(2) All carts must meet the requirements or minimum standards for safety equipment as set forth herein.

(3) To obtain a permit/sticker each owner must present proof of ownership, and current liability insurance with minimum limits of \$100,000.00 per person, \$300,000.00 per accident for bodily injury, and \$50,000.00 per accident for property damage and sign a waiver of liability and indemnification agreement, releasing the city, its employees, and affiliates from any and all liability that may arise as a result of operating a golf cart inside the city and agreeing to indemnify the city for the same. A current waiver of liability and indemnification agreement must be on file with the city's risk management office, and must be renewed annually.

(4) Permits/stickers will be issued annually, and are valid from July 1 to June 30 of each year. The required permit/sticker application must be submitted to the taxicab inspector at least 14 days before permit/sticker expiration date. A permit/sticker must be attached to the driver's side of each golf cart at all times. Such stickers will identify the golf cart as registered and are non-transferable to other golf carts or golf cart owners. The following fees shall apply:

a. Inspection by taxicab inspector (includes permit/sticker)	\$15.00 annually, per golf cart
b. Re-inspection by taxicab inspector (if a cart fails the initial inspection)	\$10.00 per golf cart
c. Replacement permit/sticker	\$20.00 per golf cart

(5) Lost or stolen permits/stickers are the responsibility of the owner. A police report must be filed in the event a permit/sticker is lost or stolen. The taxicab inspector will have the discretion in determining whether a permit/sticker may be re-issued in this instance. If no record can be found of a previous application, or the issuance of a permit/sticker, the taxicab inspector

may direct the applicant to reapply, and also re-submit any and all fees necessary, before a replacement permit/sticker is issued.

(6) Any person who operates a golf cart in the city and fails to obtain and properly display a city permit/sticker will be subject to any and all consequences pertinent to a violation of applicable state laws, in addition to those consequences, penalties, and/or fines pertinent to a violation of this article.

(7) Golf cart owners must complete an approved application/registration form, waiver of liability and indemnification agreement and provide proof of current liability insurance required by this article prior to the golf cart being inspected. The completed forms and proof of insurance will be maintained by the taxicab inspector and the risk manager, where required. Owners must maintain proof of insurance throughout the registration period.

(8) The taxicab inspector retains the right to revoke or refuse to issue and/or revoke any permit/sticker for any golf cart, at any time, for any reason that he/she feels is appropriate to ensure the safety and well-being of the citizens of Winston-Salem (i.e., inspection failure, failure to maintain insurance, ordinance violations and driver's license status revoked or suspended).

**Sec. 78-315. - Charge for services.**

Permitted golf carts may operate as vehicles for hire. The operator may charge for such services provided the amount charged does not exceed \$3.00 per rider. Tips or donations are permitted.

**Sec. 78-317. - Signage on golf carts.**

The legal name of the golf cart business and telephone number shall be conspicuously displayed in 12-inch letters on the golf cart at all times and in a manner that does not impair the operator's vision. Additional signage may be included on the golf cart provided: (i) the signage does not impair the operator's or passenger's vision; (ii) the signage does not impair the safety and serviceability of the golf cart; (iii) the letters of said signage do not exceed 12 inches in height and width; (iv) the signage does not appear on the front or rear windshields of the golf cart or on the support systems for the roof of the golf cart; and (v) the total number of exterior signs does not exceed eight panels on the golf cart.

**Sec. 78-318. - Penalty.**

With the exception of section 78-316, a violation of this article or any part thereof shall constitute a class 3 misdemeanor and shall subject the offender to a fine of not more than \$500.00. A violation of section 78-316 shall subject the offender to a civil penalty as provided for in section 78-2.

**Sec. 78-319. - Severability.**

If any section, subsection, sentence or term of this chapter or any application thereof to any person or circumstance is adjudged to be unconstitutional or invalid, such adjudication shall not affect the

validity of any remaining portion of the ordinance codified herein, or its application to any other person or circumstance.

**Sec. 78-320. - Enforcement.**

It shall be the policy of the police department to issue a written warning, North Carolina State Uniform Citation, or a Winston-Salem Ordinance Citation against any person the officer has probable cause to believe has violated this article, whether the offending person is a juvenile or any other person.

**Sec. 78-321. - Exemptions.**

The general prohibition against golf carts on city streets shall not apply to golf-carts of the local golf courses when the golf carts are driven directly across the street from the golf course to access another part of the golf course.

**Article XIII. Trolley Pubs.**

**Sec. 78-355. - Insurance.**

A violation of the requirement in this section to maintain in full force and effect the applicable insurance policy, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of up to \$500.00 and/or possible revocation of certificates.

(1) No person shall operate or cause to be operated any trolley pub within the city limits, without first furnishing proof of commercial insurance, with minimum limits of \$1,500,000.00 in automobile liability, \$1,000,000.00 in commercial general liability, and \$1,000,000.00 in liquor liability, and a \$5,000,000.00 umbrella policy. The City of Winston-Salem shall be named an additional insured on the insurance policy.

(2) No trolley pub shall be operated within the city, unless an insurance policy with an insurance company authorized to do business in North Carolina is in full force and effect, and an original, signed certificate of insurance, evidencing such policy has been filed with the city's risk manager, and unless the trolley pub is properly registered, and a registration card identifying the trolley pub by motor serial number is carried in the trolley pub, which certificate must be displayed upon demand by any police officer.

(3) Each trolley pub certificate holder must provide to the city's risk manager, every six months, proof of insurance coverage in full force and effect, in compliance with the minimum limits set forth in subsection (1), above, for every trolley pub operated under his, her, or its certificate. Within 15 business days of receiving information concerning an upcoming insurance cancellation, reduction in coverage, or other material change in any insurance policy issued for any trolley pub operated pursuant to his, her, or its certificate, the certificate holder shall provide written notice of said change to the city's risk manager. If the certificate holder does not file proof of another insurance policy before a cancellation becomes effective, use of all trolley pubs covered by the expired policy shall cease, and the certificate holder's certificate of public convenience and



necessity, and other rights under this article, shall be automatically suspended, and subject to the revocation procedure set forth in section 78-50.

(4) The requirements of this section relating to the filing of an insurance policy with the city's risk manager, shall be deemed to be met upon the filing of a certificate of insurance, issued by an authorized agent of an insurance company authorized to do business in North Carolina, showing that a policy of insurance, meeting the requirements of this section, has been issued to the certificate holder and is in full force and effect.

### **Chapter 79-Small Wireless Facilities.**

There are no provisions in Chapter 79 that provide for or impose a criminal remedy.

### **Chapter 82-Water.**

#### **Sec. 82-1. - Water system policy.**

(a) The water system policy adopted by the city/county utility commission on June 12, 1978, as amended, is hereby declared to be the water system policy of the city for enforcement purposes and is incorporated in this chapter by reference. Copies of the water system policy are on file and available in the city council's office.

(b) A violation of any provision, or part thereof, of the water system policy shall constitute a misdemeanor and shall subject the offender to a fine of not more than \$500.00 or imprisonment for not more than 30 days.

### **Chapter 86-Zoning and Development.**

There are no provisions in Chapter 86 that provide for or impose a criminal remedy. Sec. 82-1. - Water system policy.

(a) The water system policy adopted by the city/county utility commission on June 12, 1978, as amended, is hereby declared to be the water system policy of the city for enforcement purposes and is incorporated in this chapter by reference. Copies of the water system policy are on file and available in the city council's office.

(b) A violation of any provision, or part thereof, of the water system policy shall constitute a misdemeanor and shall subject the offender to a fine of not more than \$500.00 or imprisonment for not more than 30 days.

### **Water and Sewer Policy.**

#### **Part A - Water Policy.**

**Sec. 17. - Opening fire hydrants for private use; permit to contractors, procedure; penalty.**

(a) *Private use of water from fire hydrant prohibited; certain contractors exempt with permit; procedure for obtaining.* It shall be a policy of the commission to deny permission to use public fire hydrants for construction purposes or any other use than by the fire department, public works department, or public safety officers. However, realizing that modern construction and demolition practices require the availability of high volumes of water, the director will grant permission for the use of fire hydrants consistent with such practices when it has been satisfied that there is not another high volume water source available to the contractor without his incurring unreasonably high costs. In order for a contractor to receive a permit to use water from a public fire hydrant for the aforesaid purposes, he will be required to:

(1) Make application for such permit at least one (1) day prior to the time he will need the public fire hydrant, and state in his application the location of the hydrant he intends to use. If a private hydrant shall be used, written authorization from the owner of the private hydrant is required to complete an application allowing the city to connect to same.

(2) Deposit cash or check in the amount of five hundred dollars (\$500.00) for each hydrant meter to be used, and two hundred fifty dollars (\$250.00) for each public fire hydrant with the utilities division business office. The total deposit will be five hundred dollars (\$500.00) for the cost of a two-inch meter and two hundred fifty dollars (\$250.00) for the public fire hydrant. All other deposits for 5/8 -inch meters will remain at the current rate of two hundred fifty dollars (\$250.00). Said deposit shall cover any damage to the hydrant meter and/or public fire hydrant during the period of time required by the applicant. Deposit for the public hydrant shall be waived if a private is used.

(3) State the number of days the applicant will use the hydrant and/or hydrant meter. Hydrant meters shall be rented for up to six (6) months from the date of application. Due to the high demand for meters it is imperative that customers return them in a timely manner. Therefore, failure to return hydrant meters within the approved six-month period will result in a penalty being charged. All overdue meters will be assessed a fifty dollars (\$50.00) per meter per month charge.

(4) At the end of the period of hydrant and/or hydrant meter usage, the hydrant meter shall be picked up by utilities division staff. The applicant shall be charged for actual consumption of water based upon the applicable rate of the water line servicing the permitted hydrant. A minimum water consumption fee of fifty dollars (\$50.00) will be charged on all hydrant permits, to be collected in advance. Total water consumption charges will be deducted from the deposit held by the utilities division business office. The remaining deposit, if any, will be refunded to the applicant, less damages to the public hydrant and/or the hydrant meter.

(b) *City to furnish identification for permitted hydrants and tank trucks.* The city will provide the applicant with suitable permit identification which will enable police and fire officers to identify applicants who have obtained proper permits.

(1) Identification for hydrant permits shall always be onsite where the affected hydrant is in use.

(2) Identification signs for tank trucks shall be affixed to the rear of each permitted tanker unit.

(c) *City employee to attach connection daily; size and manner of making connection; hours and charges.* The city will dispatch an employee of the utilities division to each public hydrant each morning by 8:30 a.m. to attach a connection to the public fire hydrant, such connection being a short section of two-inch pipe including a two-inch gate valve which will be attached to one of the two and one-half (2½) inch hose nozzles and will be equipped on the outlet end with a male two and one-half (2½) inch fire hose connection with the Winston-Salem standard hose thread. The employee of the utilities division will attach this connection to the fire hydrant, open the hydrant using the operating nut of the hydrant thereby enabling the contractor to use the two-inch gate valve for opening and closing the hydrant connection at his discretion without disturbing or using the hydrant operating nut for such purposes. In cases where the hydrant shall be used for one (1) day, the utilities division will remove said connection from the fire hydrant between 4:30 and 6:00 p.m. that afternoon in order that unauthorized persons may not discharge water from the hydrant during the late afternoon or evening hours, and such removal will enable the employee of the utilities division to report each public fire hydrant available for service for fire protection purposes to the fire department. Should the applicant wish to have the usage period increased from 8:30 a.m. to 6:00 p.m. to a longer period of time, or to have the use of any public fire hydrant on holidays, an additional charge of twenty-five dollars (\$25.00) will be made to the applicant to help cover the expenses incurred by the city in paying overtime wages to employees of the city beyond the regular hours of 8:30 a.m. to 6:00 p.m. The applicant assumes responsibility for securing and maintaining the hydrant meter. Special maintenance of hydrant and hydrant meter is required during cold weather to prevent freezing; said maintenance is the responsibility of the applicant.

(d) *Perpetual or continuing use permit; procedure for obtaining.* When an applicant can clearly show that his business requires that he be permitted to withdraw water from various hydrants on a perpetual or continuing basis, he may be granted a permit to do so under the following procedure:

(1) An application must be made to the utilities division business office for a permit. Said application must stipulate the number of tank trucks the applicant proposes to use and describe each unit.

(2) For each unit the applicant shall make a cash deposit in an amount equal to the current cost of an appropriate water meter, which meter is to be mounted on the described tanker unit. The applicant shall also make a consumption deposit for each unit of fifty dollars (\$50.00).

(3) Tanker units with mounted meters must be made available to the staff of the utilities division once bimonthly per calendar year at the utilities division construction and maintenance area for meter reading and maintenance. Failure to adhere to this reading and maintenance schedule will result in a penalty of fifty dollars (\$50.00) per permitted tanker

unit per occurrence to be added to the balance due. The applicant shall comply with Section 53 regarding cross connections, backflow and back-siphonage control.

(4) A regular water account will be established for each tanker unit and the applicant will be sent a base charge bill based on the size meter issued to the applicant, which shall be computed according to Section 31(a)(I) rate schedule. Billing adjustments for actual consumption beyond the minimum rate schedule will be made after the tanker unit meter is read by the utilities division's construction and maintenance staff.

(5) The cash deposit will not be refunded until the meter has been delivered to the utilities division and is found to be in good operating condition. If the meter is not returned in good operating condition, the cost of repair or replacement shall be deducted from the cash deposit. Also, all outstanding water charges must be paid prior to refund of the cash deposit, and any balance due shall be deducted from the cash deposit.

(6) The applicant will assure the utilities division that his employees have been adequately trained in the operation of fire hydrants and that they will at all times be supplied with proper hydrant wrenches and tools required to prevent damage to the fire hydrant operating nut and hose nozzles; also, hydrant hose connection shall be in accordance with current specifications of the city. Any proven damage to a fire hydrant attributable to the act of an applicant's employees or equipment will be repaired by the city and billed to the applicant at actual cost plus thirty (30) percent. Any balance owed for such repairs shall be paid prior to the refund of the cash deposit, or in the alternative, shall be deducted from the cash deposit before refunding the balance of same.

(e) *Penalty for violation of section.* Any person using a public fire hydrant without having first complied with this section shall be guilty of a misdemeanor, and, in addition to any penalties provided for herein, subject to fine and imprisonment as provided by law. In addition to the criminal penalty specified herein, any person withdrawing water from a public fire hydrant, without first obtaining the proper permit, shall be subject to a fee of one hundred dollars (\$100.00) per day, per hydrant, per tank truck, said fee to be in the nature of a civil penalty under the provisions of General Statutes, Section 160A-175(c).

#### **Sec. 88. - Criminal fines.**

Upon a fourth violation of this article, a criminal warrant shall be issued for the arrest [of] the offending customer. Any violations of the provisions of this article shall constitute a class 3 misdemeanor, punishable, upon conviction, by a term of imprisonment of up to twenty (20) days, and by a fine of up to five hundred dollars (\$500.00), as provided by N.C.G.S. § 14-4. In addition, violation of the article may be enjoined, as provided in N.C.G.S. § 160A-175. The issuance of a criminal warrant shall not prevent the imposition of further civil penalties.

### **Part B. Sewage Policy**

#### **Article XI. Enforcement**

G. Fines and penalties assessed under this resolution and not paid within the prescribed period of time may be collected in a civil action pursuant to N.C.G.S. 160 A175(c). In addition, the city may seek criminal prosecution for a violation of this resolution, which shall constitute a

misdemeanor as provided for in N.C.G.S. 160 A176 (c). In addition to the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporters' fees, and other expenses of litigation by appropriate suit at law against the person found to have been in violation.

## **UNIFIED DEVELOPMENT ORDINANCES**

### **CHAPTER B – ZONING ORDINANCE.**

#### **Article I. Purpose and Authority.**

**1-5.1 COMPLIANCE WITH PROVISIONS** - No building, premises, or structure shall be used, constructed, erected, modified, altered, converted, occupied, placed, maintained, removed or moved, and no land use shall be commenced, maintained, or modified except in compliance with the provisions, restrictions, and procedures set forth herein.

#### **Article II. Zoning Districts, Official Zoning Maps and Uses**

**2-1.1 ZONING DISTRICTS ESTABLISHED** - (A) Jurisdiction - All the area within the zoning jurisdiction of the adopting jurisdiction is hereby divided into zoning districts within which the use of land and water areas, the location, height, bulk and use of structures, the provision of parking and loading areas, and other development requirements are regulated as herein provided.

- The requirements are set forth for the zoning districts as follows:

##### **2-1.2 RESIDENTIAL ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS**

##### **2-1.3 COMMERCIAL ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS**

##### **2-1.4 INDUSTRIAL ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS**

##### **2-1.5 INSTITUTIONAL AND MIXED USE ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS**

##### **2-1.6 OVERLAY AND SPECIAL PURPOSE ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS**

##### **2-3.2 COMPLIANCE**

Land may be used and buildings may be erected, altered, enlarged or used only for one or more of the uses permitted in the applicable zone as indicated in Table B.2.6 subject to the dimensional and other requirements of this Ordinance.

##### **2-3.4 YARD AND LOT COMPLIANCE**

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth in Section B.3-1, except as otherwise provided in this Ordinance.

**2-5 - USE CONDITIONS** – Sets forth conditions/requirements for specific uses enumerated in the zoning ordinance.

**2-6 - ACCESSORY USES** – Only allowed if certain requirements are met.

**2-7 - TEMPORARY USES** - Must obtain a permit and only allowed in certain instances.

### **Article III. Other Development Standards.**

#### **3-1 - DIMENSIONAL REQUIREMENTS.**

##### **3-1.1 GENERAL REQUIREMENTS.**

(A) **Applicability** - In all zoning districts, every use of a building, structure, or piece of land hereafter erected, modified, enlarged, or increased in capacity shall comply with the dimensional requirements as set forth in this section.

(C) **Dimensional Requirements** - The dimensional requirements which specify minimum lot area, minimum lot width, minimum setbacks, maximum impervious surface cover, maximum height, and minimum contiguous area, where applicable, are set forth in Table B.3.1, Table B.3.2, Table B.3.3, and Table B.3.4. Dimensional and other requirements of zoning districts are set forth in Section B.2-1.

##### **3-1.2 SUPPLEMENTARY DIMENSIONAL REQUIREMENTS.**

The following supplementary dimensional requirements shall apply to all buildings and structures not subject to the general dimensional requirements of Section B.3-1.1.

#### **3-2 - SIGN REGULATIONS.**

##### **3-2.1 SIGN REGULATIONS (W) - (C) General Requirements (2) Required Permits and Approvals.**

(a) **Zoning Permit.** A zoning permit shall be secured from the Zoning Officer prior to the construction, reconstruction, erection, enlargement, relocation, structural alteration, repair or removal to a sign, except as otherwise provided for in Section B.3-2.1(E) of this Ordinance.

(D) **Prohibited Signs or Objects.** The following signs or uses of signs are prohibited, unless otherwise provided for in this Ordinance

#### **3-3 - PARKING, STACKING, AND LOADING AREAS.**

**3-3.1 GENERAL REQUIREMENTS. (A) Parking, Stacking, and Loading Areas Required.** In all districts except the CB and CI Districts, every use of a building, structure, or piece of land hereafter erected, modified, enlarged, or increased in capacity, shall provide off-street parking, stacking, and loading in compliance with this section, unless otherwise provided in this Ordinance.

**3-3.3 DESIGN STANDARDS FOR PARKING AREAS. (A) General Requirements** - All parking areas shall meet design standards:

**3-4 - LANDSCAPING AND TREE PRESERVATION STANDARDS (W)**

**3-4.1 GENERAL REQUIREMENTS (W). (B) Applicability of Landscaping Standards** - Unless otherwise provided in this section, an occupancy permit shall not be issued until all required planting and landscaping materials are installed.

**3-4.2.1 TREE PRESERVATION AND PLANTING (W).** Standards enumerated herein.

**3-5 - BUFFERYARD STANDARDS.**

**3-5.1 GENERAL REQUIREMENTS. (B) Applicability.** Every use, change of use, construction of a new structure, or expansion of a structure or land hereafter established shall meet the bufferyard requirements of this section, with some exceptions.

**3-6 - COMMON RECREATION AREAS.**

**3-6.1 APPLICABILITY.**

All multifamily developments containing forty (40) or more units, and all manufactured home developments, shall provide on-site common recreation area as required in this section. Elderly housing, life care communities, and other developments occupied exclusively by persons who are at least fifty-five (55) years old or disabled are exempt from the requirements of this section.

**3-8 - SUPPLEMENTARY STANDARDS FOR RESIDENTIAL DEVELOPMENT IN GMA 2 (W)** – Standards are enumerated herein.

**3-10 - WATER SUPPLY AND SEWAGE DISPOSAL.**

**3-10.1 APPROVAL.**

Wherever the water supply and sewage disposal facilities of the City of Winston-Salem or of Forsyth County or of a sanitary district are not available, application for a zoning permit or a special use permit shall not be deemed acceptable unless the proposed methods of water supply and sewage disposal have been specifically approved in writing by an authorized officer of the appropriate agency indicated in Section B.3-10.3. Written approval shall be provided along with three (3) schematic drawings showing the proposed development and the proposed water and sewerage connections or facilities. One copy shall be retained by the Public Health Department, one copy by the Director of Inspections, and one by the applicant. No excavation or construction for any building or use of land shall be commenced until such approval is noted on the plan of proposed development and a zoning permit is issued.

**3-11 - OTHER STANDARDS.**



### **3-11.1 LIGHTING.**

Where a bufferyard is required pursuant to Section B.3-5, outdoor lighting shall be so shielded and oriented as to cast no direct light onto adjacent property.

### **3-11.2 NOISE**

All air handling machinery, dumpsters, compressors or water coolers for nonresidential uses shall be set back a minimum distance of fifty (50) feet from any property line adjacent to residential uses or residentially zoned land.

### **3-11.4 KEEPING OF HORSES, MULES, DONKEYS, GOATS, SHEEP, OR CATTLE (W)**

Any shelter, housing, or fencing for horses, mules, donkeys, goats, sheep, or cattle shall be located a minimum of fifty (50) feet from the property line of any adjoining lots or parcels of land, unless a special use permit has been obtained from the Board of Adjustment in accordance with Section B.6-1.4.

**3-12 - LARGE SCALE RETAIL DEVELOPMENTS (W)** – Standards set forth herein.

**3-13 - STREET STANDARDS GOVERNING VEHICLE AND PEDESTRIAN CIRCULATION** - Standards set forth herein.

**3-14 - SUPPLEMENTARY STANDARDS FOR NONRESIDENTIAL DEVELOPMENT IN GMA 2 (W)** - Standards set forth herein.

## **Article IV. Historic/Historic Overlay Districts**

**4-6.1 H DISTRICT REGULATIONS** - Permitted uses and dimensional requirements

**4-7 - CERTIFICATE OF APPROPRIATENESS** – Required for certain local historic landmark, historic district and historic overlay district work.

**Article V. Nonconforming Situations** - Nonconforming uses, lots, and structures are addressed, outlining when nonconforming status is lost and what type of changes/additions to nonconformities are prohibited.

## **Article VI. Administration and Amendments**

**6-1.2 DIRECTOR OF INSPECTIONS. (A) Issue Permits - Issue the following documents:**

**(1) Zoning Permit (a) When Required.** A zoning permit shall be obtained from the Director of Inspections prior to the following:

- (i) Building or Structure. .... The construction, reconstruction, erection, enlargement, relocation, or structural alteration of any building or structure or part thereof, including any principal use permitted in Table B.2.6, Section B.2-6, Section B.3-2, or any other use or improvement which requires a permit.
- (ii) Change of Use. .... Any change of use of any building or land.
- (iii) Changes in Classification of Uses from Previous Zoning Ordinances. .... Except when the provisions for nonconforming situations in Section B.5 apply, whenever a use that was classified under a previous zoning ordinance is increased in intensity or expanded, the Director of Inspections shall classify the entire zoning lot to the most similar current use in Table B.2.6.

**(2) Certificate of Occupancy.** A certificate of occupancy shall be issued by the Director of Inspections upon approval of any building or other structure, or approval of other preparations for site occupancy, if the requirements of this Ordinance and other applicable laws or codes are complied with. Occupancy of such building or site prior to the issuance of the certificate of occupancy is a violation subject to the provisions of Section B.9.

## **Article VII. Site Plan Requirements.**

### **7-2.2 SITE PLAN APPROVAL REQUIRED FOR PERMIT**

No building permit shall be issued on a lot until the site plan requirements of this Article are met.

## **Article IX. Enforcement.**

### **9-1 - VIOLATIONS AND PENALTIES (W).**

#### **9-1.1 CRIMINAL PENALTIES (W).**

Any person, firm, or corporation violating any provisions of this Ordinance shall be guilty of a Class 3 misdemeanor. Upon conviction thereof, such violator shall be subjected to a fine not to exceed five hundred dollars (\$500.00) or imprisoned not more than thirty (30) days except that no such violation shall be punishable until the expiration of five (5) days after notice shall have been issued by the Director of Inspections and served upon such violator. Each and every day beyond the initial five (5) day notice period during which such violation continues shall be deemed a separate offense.

## **CHAPTER C – ENVIRONMENTAL ORDINANCE.**

### **Article I. Purpose and Authority.**

#### **1-5 - COMPLIANCE**

##### **1-5.1 COMPLIANCE WITH PROVISIONS.**

No building, premises, or structure shall be used, constructed, erected, modified, altered, converted, occupied, placed, maintained, removed or moved, and no land use shall be commenced,

maintained, or modified except in compliance with the provisions, restrictions, and procedures set forth herein.

## **Article II. Floodway and Floodway Fringe Regulations.**

### **2-1.7 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.**

A floodplain development permit shall be required in conformance with the provisions of this Chapter prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of Section C.2-1.6.

### **2-1.8 COMPLIANCE.**

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this Ordinance and other applicable regulations.

**2-2.6 CORRECTIVE PROCEDURES. (A) Violations to be Corrected.** When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

### **2-3 - STANDARDS FOR FLOOD DAMAGE REDUCTION – Standards enumerated herein.**

## **Article III. Salem Lake Watershed Protection**

**3-1.5 APPLICABILITY AND COMPLIANCE. (A) Compliance with Provisions; Exemptions.** No subdivision of land shall be approved nor erosion control, building, or other development permit issued for any development or land disturbing activities in the Salem Lake Watershed unless certified to be in conformance with the provisions of this Article by the Stormwater Director or his/her designee, with exemptions enumerated.

**3-2.2 PERMITS. (A) Watershed Protection Permits. (1) Permit Required.** Except where a single family residence is constructed on a lot deeded or platted prior to the effective date of this Article or on a lot approved in conformance with this Article, no building or built-upon area shall be erected or expanded, nor shall any building or zoning permit be issued, until a watershed protection permit has been issued by the Stormwater Director or his/her designee. No watershed protection permit shall be issued except in conformity with the provisions of this Article.

### **3-4 - PROHIBITED USES AND ACTIVITIES.**

**3-4.1 TABLE OF RESTRICTED OR PROHIBITED USES AND ACTIVITIES –** Restricted or prohibited uses and activities in the Lake Buffer Area, the Reservoir Protection Area, or the Balance of the Watershed are enumerated herein.

### **3-5 - DEVELOPMENT OPTIONS.**

### **3-5.1 DEVELOPMENT OPTIONS.**

All subdivisions of land and development in the Salem Lake Watershed shall meet either the low density option, the stormwater quality management option, the special intense development allocation provisions, or the paired-parcel averaged-density provision in combination with the low density or storm water quality management option of this Article.

### **3-6 - STORMWATER QUALITY MANAGEMENT PERMIT REQUIREMENTS.**

**3-6.2 STORMWATER CONTROL STRUCTURE STANDARDS-** Standards enumerated herein.

**3-6.3 POSTING OF FINANCIAL SECURITY AND ASSURANCE OF ONGOING MAINTENANCE –** Requirement set forth.

### **3-7 - STREAM BUFFERS.**

**3-7.2 APPLICABILITY.** (A) Requirement. Stream buffers shall be required along all perennial streams within the Salem Lake Watershed as shown as a solid blue line on the most recent version of USGS 7.5 minute (1:24,000 scale) topographic maps. Said streams shall also be indicated on the *Watershed Map and Official Zoning Maps*, with limited exemptions.

## **Article V. Erosion Control.**

### **5-5 - GENERAL REQUIREMENTS.**

#### **5-5.1 PLAN AND PERMIT REQUIRED.**

No person shall initiate any land disturbing activity upon a tract which requires a permit under Section C.5-16 without having an erosion control plan approved by the Stormwater Director or his/her designee and without having purchased the applicable permit through the Inspections Division office.

#### **5-5.2 PROTECTION OF PROPERTY.**

Persons conducting land disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity, including protected floodway fringe areas specified in Section C.2.

**5-7 - MANDATORY STANDARDS FOR LAND DISTURBING ACTIVITY –** Standards enumerated herein.

**5-8.2 HIGH QUALITY WATER ZONES –** Standards for high quality water zones enumerated herein.

### **5-9 - STORMWATER OUTLET PROTECTION.**

### **5-9.1 POST CONSTRUCTION VELOCITY.**

Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity.

### **5-15 - EXISTING UNCOVERED AREAS.**

#### **5-15.1 SITES SUBJECT TO CONTINUED ACCELERATED EROSION.**

All uncovered areas which exist on the effective date of this section of the Ordinance as a result of land disturbing activity on a tract requiring a permit under this Article, which are subject to continued accelerated erosion, and which are causing off-site damage from sedimentation, shall be provided with a groundcover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

### **5-16 – PERMITS.**

#### **5-16.1 REQUIRED; EXCEPTIONS.**

No person shall undertake any land disturbing activity subject to this Ordinance without first obtaining a permit therefor from the Stormwater Director or his/her designee, with some exceptions.

### **5-18 - EROSION AND SEDIMENTATION CONTROL PLANS.**

#### **5-18.1 PREPARATION.**

An erosion control plan shall be prepared for all land disturbing activities on a tract requiring a permit under this Article.

### **5-20 - COMPLIANCE WITH PLAN REQUIREMENTS.**

#### **5-20.1 VIOLATION.**

Any person engaged in land disturbing activities who fails to file a plan in accordance with this Ordinance, or who conducts a land disturbing activity except in accordance with provisions of an approved development plan shall be deemed in violation of this Ordinance.

### **5-22.2 CRIMINAL PENALTIES.**

Any person who knowingly or willfully violates any provision of this section of the Ordinance, or rule or order adopted or issued pursuant to this section of the Ordinance, 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).

## **CHAPTER D SUBDIVISION REGULATIONS.**

### **1. - GENERAL PROVISIONS AND ADMINISTRATION.**

**(F) Penalties for Transferring Lots in Unapproved Subdivisions.** Any owner or agent of any owner of land located within a subdivision controlled under any section of these regulations who transfers or sells land by reference to, or exhibition of, or by other use of a deeded parcel of land or parcel of land on a plat before the deed or plat has been approved by the Planning Board or Planning staff in accordance with these regulations, shall forfeit and pay a penalty as provided by law for each lot which has been duly recorded or filed in the office of the Register of Deeds.

**(M) Violation of the Subdivision Regulations.** Violations of the Subdivision Regulations shall be enforced through the provisions established in B.9-3.

● **9-3 - SUBDIVISION REGULATIONS** Any person who, being the owner or agent of the owner of any land subject to the Subdivision Regulations of Forsyth County and the City of Winston-Salem, thereafter subdivides his or her land in violation of the Subdivision Regulations or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such Regulations and recorded in the Register of Deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The respective unit of government may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the Subdivision Regulations. Building permits may be denied for lots that have been illegally subdivided. In addition to other remedies, the unit of government may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

**3. - MINOR SUBDIVISIONS** – Standards for approval enumerated herein.

**4. - MAJOR SUBDIVISIONS** – Standards for development and approval enumerated herein.